

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 MONDAY THE 28th OF AUGUST 2017 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 ALLEGENCE**
- 4. APPROVAL OF AGENDA**
- 5. APPROVAL OF MINUTES:**
August 14, 2017
- 6. PUBLIC COMMENT 3 MINUTE PRESENTATIONS:** If more time is needed for presentation, please ask to be scheduled on the next agenda.
- 7. DISCUSSION**
Fencing and Landscape Ordinance
Alley next to Rotillio's
- 8. INFORMATIONAL ITEMS**
 - a. Communication from the Commission and Staff
- 9. ADJOURNMENT**

RESPECTFULLY SUBMITTED

/s/
Lisa R Miller
Planning & Zoning Administrator

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact 505-966-2746 at least one week prior to the meeting.

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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MAYOR PRO-TEM

CITY OF BELEN
PLANNING & ZONING COMMISSION MEETING
MINUTES
AUGUST 14, 2017

Chairman Steve Etheridge called the regular meeting of the Belen Planning and Zoning Commission meeting to order at 6:02 p.m.

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

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

OTHERS: David E Lake, self
Erin Padilla, 517 Gabaldon Rd.
Ben Sais, self
Helen Torres, self
R. Lopez, self
Lawrence Griego, 811 La Luz
Margie Griego, 811 La Luz
Carmel Robinson, self
Judy Jew, 310 & 312 W Chavez Ave
Roland Sanchez II, MD, 711 S Mesa Rd
Mark Buski, self
Shannon Barba, self
John Barba, self
Tom Greer, Hub City Brewing Co
Valerie Sanchez, 711 S Mesa Rd
Clarissa Chavez-Rivera

PLEDGE OF ALLEGIANCE

Chairman Steve Ethridge led the Pledge of allegiance.

APPROVAL OF AGENDA:

Steven Tomita introduced the new Commissioner to the Commission. Jim Lardner was approved by the City Council at their last meeting.

Commissioner Claudine Montano moved to approve the Agenda.

Commissioner Gordon Reeves seconded the motion.

Motion Carried.

APPROVAL OF MINUTES:

Vice Chair Pete Armstrong moved to approve the minutes of July 31, 2017.

Commissioner Claudine Montano seconded the motion.

Motion carried.

PUBLIC COMMENT

None.

PUBLIC HEARING WITH POSSIBLE ACTION

- A. REQUEST FOR A ZONE CHANGE FROM A-R TO C-1: ROLAND & VALERIE SANCHEZ. LEGAL DESCRIPTION:** Township 5 North, Range 1 East, Section 13, Tract 267-B-3 and a six (6) foot strip of Tract 267-B-1-A, containing .4032 acres, located on the corner of Mesa Rd and Camino Del Llano, aka 701 S Mesa Rd., Belen NM 87002.

Steven Tomita brought up Google Earth on the Computer Wall and showed the Commission the location of the area of the request.

Lisa Miller informed the Commission that a copy of her case report is included in their packet. The existing Zone on the property is A-R and explained that the whole strip of properties up to the ditch are also zoned A-R. They are surrounded by R-1 and R-1A. Paradigm Physical Therapy is located in an R-1A Zone. The requirements for setbacks and parking are, in a residential use the front is 20 ft., side is 15 ft., and rear is 15 ft., and if in a Commercial use, in a commercial zone they would be 6 ft. front, 5 ft., side, and 15 ft. rear. If it is in use as a residential home it requires a minimum lot size of 7,000 sq. ft. Photos were provided. She explained that Camino Del Llano is considered an Arterial Rd. from Main St. to the I-25 on and off ramps. Mesa Rd., is considered a major collector road from the I-25 By Pass all the way down to Camino Del Llano. A collector road is self-explanatory and an arterial road is a main corridor road. There are a few businesses in the area which include Paradigm on the east side of them and then up the road on the west is an RV & Mobile home park, the nursing home, the News Bulletin and now the Loves truck stop.

Roland Sanchez II MD informed the Commission that their plans are not to change the outside appearance of the home. Their intentions are to open up a dental laboratory and would be used for storage and wax up's and dental splinting.

Vice Chair Pete Armstrong asked if they were expecting a lot of traffic coming in and out of the area as it relates to the business.

Dr. Sanchez said that it will have at most three vehicles. There will be three employees and no public traffic because it will not be for public use.

Vice Chair Pete Armstrong asked staff if the setback on the North West front side of the home acceptable in a Commercial Zone. There is no sidewalk there and if the City, in the future, installs a sidewalk would there be enough room.

Steven Tomita said there is enough room for a sidewalk. There is about 8 feet from the back of the curb to that area.

Dr. Sanchez said that there is a sidewalk on the east side of the property. The lot on the west side of the home is what is going to be used for parking.

Chairman Steve Ethridge asked if the property was posted for the request and the neighbors notified of the hearing.

Lisa Miller said that they were and the property was posted.

Chairman Steve Ethridge asked if, in the future, they might add on to the existing structure.

Dr. Sanchez said that they had no plans to do that. This would be a dental laboratory to make the removable dental supplies for our dental office.

Chairman Steve Ethridge asked if there were any public safety concerns and have they checked with the police department and the fire department to see if there are any concerns for them.

Lisa Miller said that there are none.

Steven Tomita said that some of the procedures will be changing after this point. When an application with documentation comes in they will be meeting with him and Lisa to make sure that the information for the Commission is complete. He would deem this application incomplete because you are going from an agricultural zone to a commercial zone. The business to the east of this is not zoned properly and is a non-conforming use. When you go from an agricultural zone to a commercial zone you need to include a narrative. The narrative included with the application did not explain everything that is going on around them and explain why you are going from a very low intensity use to a commercial use. We have not asked this in the past but will in the future. He will cover that now. Camino Del Llano is an arterial road which is a major corridor for major traffic. It has a narrow right-of-way and does not mean that as traffic may continue to

increase to a point where Camino Del Llano cannot handle the traffic that it is designated to hold. Sometime down the road it will need to be widened. Mesa Rd. is a major collector road and it is anticipated to be widened in the future. MRGCD is the agency that has done a traffic study of this area. Belen does not have a lot of collector roads or arterial roads. These roads include Main St., Mesa Rd., Camino Del Llano, Reinken from Main east to the river, Delgado because of the High School, Aragon Rd., and Bernard down to First St. then up Baca Ave. to Main St. This intersection at Mesa and Camino Del Llano is a significant future intersection. It is a good possibility that a lot of this whole area along Camino Del Llano will become a higher density and commercial area. On an intersection like this it is typically commercial offices.

Vice Chair Pete Armstrong said that the traffic in that area is a lot higher volume than he thought it would be. There is a lot of traffic going through that intersection.

Lisa Miller asked Dr. Sanchez what section of the home would be turned into the lab.

Dr. Sanchez said that the home itself would be used as the lab and the small apartment would be used for storage.

Commissioner Gordon Reeves asked if the other building is a part of the property also.

Dr. Sanchez said yes, it is all under one roof. It is a little 900 square foot apartment that we will use for storage and personal use.

Commissioner Gordon Reeves said as he (Dr. Sanchez) received his work, are his supplies brought in by UPS or regular mail and are his finished products delivered by the same source.

Dr. Sanchez said they are brought in by UPS and the finished products are delivered by their own vehicle, since his office is on Christopher.

Ms. Helen Torres said that she lives on Jude Court, which is right behind 701 S Mesa Rd. and said her only concern is with her back yard. Her back yard is on a lower level than his back yard and the six foot fence that she has put up is only three feet tall on Dr. Sanchez's side. She wants to be able to enjoy her back yard. She would like to know what Dr. Sanchez's plans are for some kind of fencing in that back yard.

Chairman Steve Ethridge asked if she was requesting that Dr. Sanchez place a fence in his back yard.

Ms. Torres said that if sometime in the future they expand it will affect her. It is going to affect her now because of the difference in ground levels.

Chairman Steve Ethridge said that if they expand he is expecting another visit with the Planning & Zoning Department for that expansion.

Steven Tomita said that once it is rezoned anything can be done on the property that is allowed in that zone. All Planning & Zoning would do would be to review any building plans for setbacks, etc.

Ms. Torres said that she would like to keep her privacy.

Commissioner Gordon Reeves asked if there would be any occupancy in the building other than during the day during regular business hours.

Ms. Torres said that she is at her home during the day also. She is retired. It was a residential home and was used as such. With a business you will have curious people wandering around and she wants to keep her privacy.

Chairman Steve Ethridge asked Dr. Sanchez if he would be opposed to putting up a fence.

Dr. Sanchez said no. He understands that she wishes to keep her privacy. We could even use vegetation as a form of fence. Maybe a set of trees or shrubs are an option also. He understands her point. He does not plan on moving or selling for a long time and does not plan on changing the use of the property to anything such as building or working on motor vehicles, which would cause a privacy issue for her.

Steven Tomita said that the Commission can place a condition on the zone change.

Vice Chair Pete Armstrong said that it could be landscaping, fencing material or a lot of different things.

Commissioner Claudine Montano said a cinder block fence would be nice.

Chairman Steve Ethridge said landscaping is nice.

Dr. Sanchez said that it would be during the summer but in the fall and winter there would be nothing and then there would be an issue of leaves, etc. falling not only on his property but on the neighbors.

Commissioner Claudine Montano said a cinder block fence always looks nice. They are also good for noise control.

Vice Chair Pete Armstrong said that there are evergreens that can be used. It can provide the neighbor with privacy and stay green all year long.

Chairman Steve Ethridge said that it sounds like they are willing to work together on this issue. He would suggest that a motion be made with the stipulation of an agreement between the two parties.

Commissioner Claudine Montano moved to accept Mr. & Ms. Sanchez's request from A-R to C-1 with the condition that a fence be put up for the neighbor's privacy.

Commissioner Gordon Reeves seconded the motion.

Motion carried.

Vote was as follows:

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

Mr. Barba asked to speak on this.

Chairman Steve Ethridge asked if it could be re-opened so that Mr. Barba could speak.

Mr. Bob Graves also lives behind them and he is having a lot of problems with the elm trees. He cuts his down but there are more on the empty area of 701 S Mesa Rd. These elm trees are a big problem.

Steven Tomita said that was an issue that could be taken to our Code Enforcement Officer.

Mr. Barba said that the Commission did not allow anybody else the change to speak up on this issue.

Vice Chair Pete Armstrong moved to re-open the request.

Commissioner Gordon Reeves seconded the motion.

Motion carried.

Mr. Bob Graves said that his family moved here from Alaska and he loves Belen and the people in Belen. He is still getting used to the heat here. He would like to see the elm trees gone. He would like to know what could be used to kill these trees.

Vice Chair Pete Armstrong said round up would kill them.

Mr. Graves said that there is a chain link fence on one side and a wooden fence on his side. He would like some help on removing the trees that are intertwined with the chain link fence and on the property at 701 S Mesa Rd.

Commissioner Claudine Montano said are they going to have Mr. Sanchez build all the fences now. That is too much.

Mr. John Barba said that he not very concerned about this, because he is a little farther away than the other two are. It is a residential area. He loves the idea of businesses coming to Belen and suggested that a block wall be placed all the way around the property.

Chairman Steve Ethridge said they need to re-vote on this.

Commissioner Claudine Montano moved to accept the request from Mr. & Ms. Sanchez for a zone change from A-R to C-1 with the condition that a block wall be placed along the back for Ms. Torres privacy.

Commission Jim Lardner said that it should be left up to the two parties for the type of fence.

Steven Tomita said that a footing would be required for a block fence and would take substantial excavation to stabilize a block wall.

Commissioner Claudine Montano amended her motion to approve the request from A-R to C-1 with the condition that a fence be placed between Dr. Sanchez and Ms. Torres that is agreed upon by both parties.

Vice Chair Pete Armstrong said that the Planning & Zoning Commission has been working on the fencing Ordinance and the fencing is going to significantly change in the very near future.

Commissioner Gordon Reeves seconded the motion.

Motion carried.

Motion was as follows:

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

B. REQUEST FOR A ZONE CHANGE FROM R-1 TO C-2: CITY OF BELEN.

LEGAL DESCRIPTION: Township 5 North, Range 1 East, Section 13, Map 100, a portion of Tract B-1, B-2 & D, Land of the Estate of Beulah Mae Reid, containing 12.48 acres, located on the South side of the Belen High School on Christopher Rd.

Steven Tomita informed the Commission that this rezone was initiated by the City of Belen. He showed the Commission where it was located. The recent rezone of the property just north of this was done and left this island of R-1 zoned property. It was discussed when the rezone for the other property took place and it was said that this property was no longer in conformance with everything else along Christopher Rd. It was his recommendation to the Commission, that if the owner was willing, the City would initiate a zone change to bring all of Christopher Rd into compliance. The owner was willing to do this. The purpose of this is to zone it C-2 to match the same zoning that was granted to the property on the north side and brings it into being compatible with the rest of Christopher Rd. There is heavy traffic on Christopher Rd. and this is not going to change. The City, in the future will take Christopher Rd. behind the High School and next to the high school on the west side all the way to Aragon Rd.

Commissioner Claudine Montano asked if the hospital was planned for the east side on Christopher Rd.

Steven Tomita said that it was. Right across from the Urgent Care Center.

Vice Chair Pete Armstrong said to make it clear, all the property on the north side of Christopher Rd. will become C-2 if this is passed.

Steven Tomita said yes.

Chairman Steve Ethridge asked if anyone in the audience wished to speak.

None did.

Lisa Miller said that they were provided with a copy of her case study and it pretty much said the same thing that the last one did for the property just north of this.

Vice Chair Pete Armstrong moved that the property be rezoned from R-1 to C-2.

Commissioner Claudine Montano seconded the motion.

Motion carried.

Vote was as follows:

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

C. REQUEST FOR A ZONE CHANGE FROM R-1 TO R-2: JUDY JEW, for the purpose of bringing a non-conforming use into compliance. LEGAL DESCRIPTION: Township 5 North, Range 2 East, Section 18, Map 100, Lots 21, 22 & E ½ of 23, Block 10, BTS Addition, aka 310 & 312 W Castillo Ave., Belen NM 87002.

Lisa Miller informed the Commission that the surrounding area is zoned R-1. On the north, east & west it is all single family homes and on the south is Anna Becker Park. She went over the requirements for an R-1 zone and an R-2 zone. She informed them that the required sq. footage for the lot size was 6,000 for R-1 and 7,000 for the R-2 zone. Both zones have the same setbacks of 20 ft. in the front, 15 ft. on the rear, and 5 ft. on the sides. Parking for both zones is two spaces per dwelling unit. There are two units located on this lot, one homes and one duplex unit. It is a non-conforming use with its present zone of R-1 and does not meet any of the setback regulations. She did a study in the surrounding area from Reinken Ave. to Aragon Rd. and from the Railroad yard to Main St. This study was done to find out how many duplex units were located within that R-1 zone. This study showed that 4% of the parcels had multiple units. There is a small area on the east side that is zoned R-2. This area goes from the east side of Third St. down to the west side of First St. with a smaller area continuing down to the rail yard. A zone map was provided. The closest commercial zone is Noblin Funeral Home. The rest of the area is residential (R-1). The zone change to an R-2 would bring the amount of structures on the lot into compliance but they would still not be able to meet the setbacks.

Steven Tomita said that the zone change only accomplishes part of what the applicants attempt is and that is that if anything happens to any of the structures, it can be replaced.

In a non-conforming use if any damage occurs it has to be brought into compliance. In other words they would not be able to rebuild if anything happened to one of their buildings. The R-2 zone would solve that problem but the applicant would still not be able to build back in the same place. They would have to comply with the setbacks before they could rebuild. If they wanted to place the structures in the same place they would have to come back in for a variance on the setbacks. The staff has a problem with a zero lot line in a residential area. That is what the existing buildings are at this time.

Ms. Judy Jew informed the Commission that the lot has had those structures since the 60's and she would like to bring it into compliance with its current use. The other issue is that the roof of one of the structures may need to be repaired and they could not acquire a loan to do this if the zoning is not in compliance with the use. She could also not sell it in its present zoning. It has to be in compliance with its use. She has done a lot of work on it already. It was not in very good condition when she acquired it. She would like to continue this work but is constrained by the zoning. Since there are more units in the area that contain multiple units, she will not be the only one requesting this zone change.

Commissioner Jim Lardner asked, since it was a non-conforming use with non-conforming setbacks, staff if it was a fixable issue.

Steven Tomita said that she could replace a roof but she is unable to get financing to do this. It is not easy to do but it can be done. If it is re-zoned and one of the buildings is torn down or burnt down she would still have to comply with the setbacks.

Judy Jew said that she understands that.

Commissioner Jim Lardner asked if it could be grandfathered in because it is there.

Steven Tomita said no. She could come in for an S-U zone but there are hurdles with that one to. The other option would be to come back in and ask for a variance on the setbacks and the fire department and other would have a problem with that.

Judy Jew said that if there was a fire or the building needs to be replaced, she would bring it into compliance.

Vice Chair Pete Armstrong said that he has seen the work that has been going on there. It looks a lot better than it did.

Commissioner Claudine Montano said it does look a lot better than it did.

Chairman Steve Ethridge asked if the setbacks were non-conforming now.

Steven Tomita said that is correct.

Lisa informed the Commission that they are zero along the alley, 1.8 ft. on the east side and two feet on the west side. The front setback is fine.

Chairman Steve Ethridge asked if staff has heard anything from the Fire Department of any other departments in the City.

Lisa Miller said that it has an alley behind it.

Commissioner Claudine Montano said the lot next to it is vacant.

Steven Tomita said that the concern would be if something did go onto that empty lot. If it rezoned and the buildings stay as they are, it stays as it is. Once anything happens to one of the buildings it has to be brought into compliance.

Chairman Steve Ethridge said that even with the rezone it would still not be in compliance.

Steven Tomita said correct.

Chairman Steve Ethridge said that he read in Chapter 17.52 010 of the Municipal Codes, which the intent of the Nonconforming uses and structures is to allow these uses to continue until they are removed, but not to encourage their survival.

Ms. Clarissa Chavez-Rivera asked when the City zoning went into effect.

Lisa Miller said in 1975.

Ms. Chavez-Rivera, Ms. Jew's real estate agent, said that the property existed, according to the Valencia County Assessors' office, in 1960 and then zoning went into effect where the City just arbitrarily color coded where they wanted to. She and Ms. Jew are trying to make it as close to the correct zoning that it should be which R-2 is. The setbacks are not going to be correct because they are zero lot lines and that won't change whether it is R-1 or R-2. By tying her hands in an R-1 zone, if anything should happen to some or all of her units, she would be restricted to having only one structure on the lot. They are trying to sell it and they have run into problems because it is in an R-1 zoning. In order to get a mortgage, your zoning and your property use have to be correct. It existed before zoning existed and asks that they grant the R-2 zoning.

Commissioner Gordon Reeves moved that the zone of R-2 be approved for 310-312 W Chavez Ave.

Commissioner Claudine Montano seconded the motion.

Motion carried.

Vote was as follows.

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

Lisa Miller informed the participants that requested a zone change will be heard by the Council for the final decision. She will notify them when the hearing for the Council will be the same way she notified them of the Planning & Zoning Commission hearings.

D. REQUEST FOR A VARIANCE TO ESTABLISH THE USABLE REAR AND SIDE YARD: LAWRENCE & MARGIE GRIEGO. LEGAL DESCRIPTION:
Township 5 North, Range 1 East, Section 19, Lot 4, Luz Sanchez Addition, aka 811 La Luz Dr., Belen NM 87002.

Lisa Miller informed the Commission that there is an actual physical hardship on this property. It is surrounded by roads on three sides. This gives that property three front setbacks which limits the use of most of the property. According to our Ordinances this property has three fronts and must abide by the front setback on those three sides. They essentially do not have a back yard. This is located within a residential area. It will not cause any significant hazards or inconvenience to the surrounding neighbors. It will not change the character of the neighborhood. It is basically to distinguish a back yard. A variance is permanent.

Steven Tomita said that this was something they were looking at when they were trying to come up with changes to the zoning ordinance. Typically in most communities, once you establish your address point and your driveway, which becomes the front of your property. Under our Ordinance everything is a front on this issue except on the west side. The owners have no back yard or any opportunity for privacy or adequate use because of our Ordinance. This Ordinance has put a physical burden on the owners by not allowing them the full use of their property.

Lisa Miller also informed the Commission that part of the existing block wall is a retaining wall. The yard on this property is higher than the road or the neighbors' yards on the south side.

Mr. Lawrence Griego said that all they want to do is to put up a privacy fence around the back yard. He would like to take down part of the existing wall a build a higher privacy fence in the back and he also plans on using part of the back yard to park his RV.

Vice Chair Pete Armstrong asked him what he was going to be using as materials to build the fence up with.

Mr. Griego said that it would be wood, decorative wood. It will also have a gate so that he can get his RV in and out.

Commissioner Gordon Reeves asked if he would be able to go up to the six foot height.

Steven Tomita sad correct.

Mr. Griego said that the existing wall is leaning and that is the reason he would like to remove some of it and replace it with wood. The existing wall cannot handle any more block.

Commissioner Gordon Reeves said that with the variance you would be able to start your fence twenty feet back from the northeast corner of the front area of the property. This is just to let you know.

Vice Chair Pete Armstrong asked if it would require a variance on the side also.

Lisa Miller said that the variance would distinguish what is the side and back yard.

Mr. Joe Corrasco asked where the RV was going to be parked. The reason he is asking is because it is parked in the front driveway now and it extends over the sidewalk and you cannot see traffic coming.

Mr. Griego said that he will be parking it on the east side of the home.

Mr. Mark Buski said that the City of Belen is going to start doing some work on San Lorenzo and La Luz and wanted to know when that would start so that Mr. Griego does not waste any of his money putting up a fence just to have to take it down or move it.

Steven Tomita said that it has not been decided. The City will not be building the fence.

Mr. Buski said that he understood that there would be a four foot sidewalk put in, all around.

Steven Tomita said there have been changes to that. When pulling the plats for those roads it was determined that there is not sufficient right-of-way available, so the City may not be able to put the sidewalks all the way around as was planned. The City Council, last month, approved the termination of the CDBG Grant that was given to do the roads and sidewalks in that area. That grant would have required that we go the full 50 foot right-of-way when there is only 35 feet there now. We would have had to take away driveways and fences all along those roads. The City will be coming in and repaving the street.

Chairman Steve Ethridge asked staff if the property was posted, where there any concerns from the neighbors notified, and were there any public safety issues.

Lisa Miller said that it was posted and she has not heard anything from the neighborhood. There is no public safety issues concerning this property.

Vice Chair Pete Armstrong moved that the requested variance be granted for 811 La Luz.

Commissioner Jim Lardner seconded the motion.

Motion carried.

Vote was as follows:

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

E. REQUEST FOR A CONDITIONAL USE TO INCREASE ALLOWABLE FENCE HEIGHT: ERIN PADILLA AGENT for the purpose of a six foot high front fence height, aka 517 Gabaldon Rd., Belen NM 87002. LEGAL DESCRIPTION:
Township 5 North, Range 2 East, Section 17, Tract C, Land of Clarence Gabaldon, containing .34 ac.

Lisa Miller informed the Commission that there was an existing six foot chain link fence. There was a medical issue that happened to the owner and the home was broken into many times. The family then decided to replace the damaged chain link fence with a six foot wood fence. The surrounding area is single family residential. The area is zoned R-1. The fence is back from Gabaldon Rd. approximately 7 ½ to 8 feet. When you are coming out of the property you can see north at least 373 feet before the road starts to curve and looking south you can see at least 509 feet before the road starts to curve. There are no intersections next to the fence so there is not an issue with clear view in that respect. There are several neighbors that have a six foot fence.

Steven Tomita said that the Commission has made a decision that the use of a conditional use would be used for situations like this. In the past a variance was used. It was decided that a conditional use is better suited for these types of issues because this is not a physical hardship. Lisa has reviewed the Ordinance and there is no time constraint, except in very specific criteria, on how long a conditional use can be granted for. There will be an agreement that the owner and the City will be signing. This document will include what was requested and what was granted and the conditions that were placed on it. That agreement will become evidence of what was approved.

Commissioner Claudine Montano asked if the fence goes all around the property,

Lisa Miller said no, just in the front.

Vice Chair Pete Armstrong said that what was done was they changed out the chain link fence and replaced it with a wooden fence.

Steven Tomita said that they have already done that. Basically, they are applying after the fact.

Lisa Miller said that the family did not understand that the fence was not in compliance to begin with and the family felt that since they already had a six foot chain link fence, that they could just replace it with a six foot wood fence.

Ms. Erin Padilla said that they would have asked for permission to do this if they had known that the original fence was not in compliance. They replaced it with wood so that it would deter people from jumping over it or damaging the fence. Before they replaced the fence the home was broken into five or six times. A couple of the police reports have been provided. Since we replaced the chain link with the wood fence, there have been no new break ins.

Commissioner Claudine Montano said it was a safety issue.

Ms. Padilla said it was a big safety issue, yes. The traffic going down Gabaldon Rd. is moving fast, there is a lot of people walking along Gabaldon Rd. at night. She has little children. They have broken into the vehicles at night, even when they were home. With the wooden fence in place, nothing has happened since. She hopes it stays that way.

Chairman Steve Ethridge said this is a Conditional Use Permit and the conditions need to be spelled out. The conditions here are that crime is an issue. He asked if it was posted correctly, and the neighbors notified, and public safety issues.

Lisa Miller said that it was properly posted and the neighbors were notified. She has received no correspondence, but one neighbor did call and say that she would attend the meeting.

Chairman Steve Ethridge said that Gabaldon Rd. is a raceway and you wish you see farther down the road but that is not the applicants fault. He asked how long of a time period should they consider for this.

Steven Tomita said it is up to the Commission. They could even grant it indefinitely but they can put conditions upon that, such as if the fence comes down the owners would need to come in to renew the Conditional Use to allow that same fence type. Fence Maintenance can be included in the conditions also.

Ms. Carmel Robinson, next door neighbors landlord, and her tenant called her with safety concerns because they cannot see south turning out of the driveway. You cannot see turning north either due to the curve in the road. Coming out of the driveway, they use the south side driveway because you cannot see coming out of the other one, and you have one second to make a decision to turn. This accounts for both directions. Gabaldon Rd. is a dangerous road, and a fast road and you have to bring your vehicle nose out onto the road to see. She has no problem with the fence but it needs to be set back another three or four feet so that we can see traffic coming. She agrees with the neighbors about having the fence. Gabaldon Rd has a lot of thefts and there is even a sex offender located in that area. She would like to have the City place a speed bump on Gabaldon Rd. right at the her north property line and another closer to Jose Gallegos Park, to slow this traffic down.

Commissioner Jim Lardner asked what the posted speed limit is on that area of Gabaldon Rd.

Ms. Robinson said it is 25 MPH. The City was asked to put up signs saying Deaf Children at Play in the area. The City did this and it has had no effect on the slowing down of the traffic. There were deaf children in the area.

Steven Tomita said that if they could get the surrounding neighbors to agree and sign a petition and then bring it in to the City and apply for a speed bump.

Ms. Padilla said that there is actually a petition on facebook for speed bumps on Gabaldon Rd.

Chairman Steve Ethridge said they need to encourage that and have everybody sign a petition. A solid piece of signed paper brought to the City has a lot of weight on getting what is needed.

Steven Tomita said that there is an application form and Lisa can provide that for you. Bring in the completed application and we can start the process for the installation of speed humps. These speed humps are a little flatter on top so that they do not tear up the emergency responders axels on their vehicles.

Commissioner Gordon Reeves asked Steven Tomita to pan over to the adjoining fence at 519 Gabaldon Rd. with Google Earth. He asked Ms. Robinson how high her fence was.

Ms. Robinson said it is about six feet.

Commissioner Gordon Reeves said that if you are viewing from the corner of your property down Gabaldon Rd. it looks like your fence sticks further out than hers does.

Ms. Robinson said that when the chain link fence was in place you could see further down the road but with the solid fence you cant. You have to put the nose of your car out onto the road whether you like it or not.

Steven Tomita said that the wall that extends further out than the wood fence looks like the bigger obstruction.

Commissioner Gordon Reeves said that the new white fence that was placed at 517 Gabaldon Rd. sits farther back than the fence at 519 Gabaldon Rd. The wood fence was placed in the same place as the chain link fence was. The fence that protrudes out is her main obstruction.

Ms. Robinson said correct but the wood fence further down blocks the view south on Gabaldon Rd. There wasn't a problem with the view when the chain link fence was in place. There is only one second to enter Gabaldon Rd.

Steven Tomita said that he was stumped because Ms. Robinsons' fence sticks out farther than the wood fence.

Ms. Robinson provided photos of her driveway looking out from a car as if you were trying to enter Gabaldon Rd. She is willing to remove that corner post that sticks out farther than the other fence.

Commissioner Gordon Reeves said that would help with the obstruction. He asked Ms. Padilla if she would be willing to remove a pole also. There is one that is in front of her fence that looks like it might have been an old telephone pole. It is only about five feet high and has an old tire around it.

Ms. Padilla said that that pole has been there all along. They just put the fence where the chain link fence was.

Vice Chair Pete Armstrong said that it sounds like the real solution for this issue is to get the traffic to slow down on Gabaldon Rd. That can be done with speed humps at a minimal cost to the City and seeing that would meet the requirements. That changing fences would not slow the traffic down.

Chairman Steve Ethridge said that Gabaldon Rd. is a State road so there may be other issues that need to be addressed. He doesn't think it is a City road.

Steven Tomita said that he thinks it is County Rd.

Commissioner Gordon Reeves asked Ms. Padilla if she was opposed to moving the fence back a little. Farther towards the house. The reason he is asking is because of the new fence Ordinance that the Commission has been working on which would require them to move the fence all the way back to the corner of the house.

Ms. Padilla said that the house is set way back on the property plus the labor and cost that went into putting the wood fence up. If they would have known it would be a problem they would have come in sooner.

Commissioner Claudine Montano moved to approve the Conditional Use for 517 Gabaldon Rd. indefinitely with maintenance a requirement.

Steven Tomita said suggested that they discuss the conditions they would like to place on this before they vote on this.

Vice Chair Pete Armstrong said that he does not have an issue with the fence. I feels that one of the conditions should be that there are some speed enforcement on Gabaldon Rd.

Commissioner Claudine Montano said that the Gabaldon Rd. is a separate issue from the Conditional Use.

Vice Chair Pete Armstrong said he understands that but the issue of traffic was brought up due to the fact that she is having problems getting out of her driveway due to speed issues along Gabaldon Rd.

Steve Tomita said that in this type of case what you could do is to have one of the conditions be that she endeavor to obtain residents signature for speed humps and apply for their installation along Gabaldon Rd. if possible. He also recommends that the fence needs to be maintained and in good condition and if the fence gets destroyed she will need to come back for the conditional use to be reconsidered. The indefinite time period is fine because you are placing conditions on this approval.

Chairman Steve Ethridge suggested that if the fence is taken out by some force that the fence be moved back maybe 5 feet.

Commissioner Gordon Reeves moved that the Conditional Use for 517 Gabaldon Rd. be approved as it is now, with the conditions is be maintained and if something should happen to the fence it has to be brought back in to be reconsidered.

Commissioner Claudine Montano seconded the motion.

Motion carried.

Vote was as follows:

Commissioner Claudine Montano	Yes
Commissioner Gordon Reeves	Yes
Commissioner Pete Armstrong	Yes
Commissioner Jim Lardner	Yes

F. REQUEST TO CONTINUE THE CONDITIONAL USE: HUB CITY BREWING CO AT THE RAIL CAFÉ/TOM GREER AGENT, for the purpose of brewing and distributing Beer and a C-R Zone. LEGAL DESCRIPTION: Township 5 North, Range 2 East, Section 18, Tract 46, map 99, containing .83 acres, aka 202 De Soto Ave., Belen NM 87002.

Lisa Miller informed the Commission that the surrounding area, on the east side is zoned R-1A and consists of residential lots. On the west side is the rail road yard. There has been no significant hazards in the neighborhood since they first applied for it in 2007. They had it in conjunction with the Rail Café from the time period of 2007-2012. In 2013 they came back in and changed it to a brewery with the packaging and distribution. Some problems came up when he started having the bands playing on Saturday nights. He does have a Special Events Permit that expires at the end of August.

Mr. Tom Greer said there is a new one that goes till the end of September.

Steven Tomita said that a letter that was sent to each Commissioners by Mr. French. It was also sent to the Mayor. Mr. French is located at 203 Arizona Ave. He was complaining about the music and that it was excessive noise so he (Mr. French) was requesting that the Conditional Use not be approved. He has explained to the Mayor and the City Manager, which he will explain to the Commission. The complaint is a completely different issue from the Conditional Use. The Conditional Use is for the brewery and the Special Event Permit was issued by Risk Management and it looks like all the signatures were not obtained, which they should have been, regardless, there was not an issue on it other than, with a type of permit like that, you need to identify potential impacts that could incur from the music. One is how the speakers/sound are directed towards the impact area. The music has nothing to do with the Conditional Use. It ties together in as much as if you grant the Conditional Use that is something that does need to be addressed.

Vice Chair Pete Armstrong said he would like to confirm what was said and it is two different permits.

Steven Tomita said correct. He asked Lisa, because of the complaint, to go out and take some sound reading with a meter that he borrowed. He was surprised at the results of the readings and we need to figure out what happened. They are going to be surprised at the readings she took.

Lisa Miller said that she went out, by request, a copy has been given to them.

Mr. Tom Greer said that she came on the night that we had a heavy metal band playing.

Steven Tomita said that it does not make any difference. Music is music.

Lisa Miller informed the Commission on the three locations. These locations are one on the North corner of the fence, one in the center by the gate, one on the south corner of the fence, one at the corner of De Soto and the Rail Runner parking lot, one at the fence between the residents of 203 and 205 Arizona. She tried to contact Mr. French so that she could take a reading at the fence in the back yard, but he was not home. She took a reading when a train was coming in, before the bank started playing. The train was coming in on the farthest tract from the Brewery and its reading was 100 dbs.

Steven Tomita said what puzzles him on this one is that the applicant has the speakers directed out towards the parking lot of the Rail Runner station and not towards Mr. French's home. Either there is a back feed on those speakers or there is a bounce back from somewhere for it to get the reading of 84 dbs. at the residence. Something strange is happening with the speaker system used to get that high of a value of sound.

Mr. Tom Greer said that every band brings their own sound system. This was by far the loudest band that has been there.

Chairman Steve Ethridge asked if the City had an existing sound ordinance.

Steven Tomita said no. Our Ordinance just states unreasonable noise. There are definitions of what the significance of what those sounds are and this is where the Commission is going to have to decide whether it is excessive, unreasonable or whatever. 80 dbs. is defined as loud music or an alarm clock and if you get up to 90 dbs. it is a diesel truck or a power lawn mower.

Vice Chair Pete Armstrong said that 80 dbs. is a lot of noise.

Lisa Miller said that when Steven Tomita was speaking, just a minute ago, he was reaching 70-75 dbs.

Steven Tomita said that he was providing this for their information. The City, at one time, was receiving complaints on Mr. Lardner's business, which is Travertine, and the noise coming from that business, so the City went out and took readings and found there were no grounds to pursue this complaint. When the Commission looked at this they were going to try to keep the sound levels at the property line to 55 dbs. With all the equipment going and the doors open, at the property line of the person complaining it was at a level of 55dbs. Typically a non-intrusive sound level is at 55 to 60 dbs.

Mr. Tom Greer said that it was interesting that at his property line the train has a reading of 100 dbs. These issues are two entirely different things. You can dwell on the sound issue forever, and it is not what this hearing is about. This one property owner has never come and talked to me about this. He himself has tried to get in touch with him, with no response.

Lisa Miller said that when she was coming back from taking a reading at the Arizona address she noticed that a lot of the neighbors on that street were out on the front patios listening to the music.

Mr. Tom Greer said that he had a neighbor who keep hearing the music sound and kept following that sound until he found us and stayed to listen to the band that was playing that night. The neighborhood finally has a place to go. I am not surprised that there are about 25 to 30 houses within the radius of my brewery and there is only one complaint.

Steven Tomita said that they are dealing with a conditional use, which brings up discussions, you have to look at other factors also. That neighbors complaint about the noise can be one of those issues that the Commission has to somewhat address. Does it have to be controlled, are there steps that need to be taken to address this. If the applicant is going to continue with the music, and we hope that he does, what steps must be taken to shield this from the neighbors.

Mr. Tom Greer said that no band since this started, has been or will be louder than the one that was playing the night that Ms. Miller took her readings. If we want to get technical about it we need to take readings when the band at next Saturday's band is playing and see what shows up. If you are going to make decisions about this you need to have evidence that the unit taking the readings is calibrated correctly, but he is requesting a continuation of his Conditional Use and not the issue of a noise nuisance.

Steven Tomita said that he agrees but it is a Conditional Use and you are doing more than just brewing beer.

Vice Chair Pete Armstrong said that he agrees with Mr. Greer that they are two different issues.

Chairman Steve Ethridge asked what the original request involved. Was it just for the brewing of beer or was it also for distributing beer also.

Mr. Tom Greer said it was for brewing and distributing beer. You can carry out sealed containers. They actually manufacture the beer on site, through the state permit and the Department of Treasury of the US Government.

Chairman Steve Ethridge asked what his license was called. The specific title.

Mr. Tom Greer said it is a brewer's license.

Chairman Steve Ethridge asked what the difference between that and someone who has a bar and what are the conditions if any.

Mr. Tom Greer said that they manufacture alcohol. They can only sell beer and wine and it has to be products made in New Mexico. These restrictions are more restrictive than a regular liquor license. I can only sell my product and those made in New Mexico.

Chairman Steve Ethridge asked how it was different that a regular bar.

Mr. Tom Greer said that they were not a bar but a tap room. There is no hard liquor and small kids are allowed on the premise as long as they are accompanied by an adult.

Steven Tomita said that the Chairman is trying to ask is what is the difference when you are able to serve beer and wine and you do not have to have a restaurant also, which is what the state usually requires with a beer and wine license.

Mr. Tom Greer said that he manufactures alcohol and a regular beer and wine license is not for the manufacturing of beer and wine. It is something completely different and I can only have beer or wine that is manufactured within the state of New Mexico. This is the third time he has been before the Commission to renew his permit and it would be nice if they would talk about extending the time period because it costs \$150.00 every time. It would be nice to not have to do this every year.

Commissioner Claudine Montano said that, since it involves the sale of alcohol, that it should be renewed every year.

Chairman Steve Ethridge said the application says it is to continue the use of a conditional use for the purpose of brewing and distributing beer in a C-R Zone.

Commissioner Jim Lardner said that when they first came in for a conditional use it was with the idea that you taste and purchase and now it seems to have become a destination just like a bar would be and he feels that this needs to be addressed.

Mr. Tom Greer said that the Commission needs to go back and read the letters from the P & Z Department for the Conditional Use because they do spell out the entire conditions. The letters say to serve, manufacture and distribute beer. It says on and off presence consumption of beer.

Commissioner Jim Lardner asked if this was the first year that they have had bands.

Mr. Tom Greer said yes. They are not expanding but just renewing what was approved last year. They are requesting to continue the Conditional Use.

Vice Chair Pete Armstrong said that he understood that this is to continue the Conditional Use but another issue has come up.

Chairman Steve Ethridge said that the other issue is a consideration that needs to be taken into account. They can set other conditions to this renewal.

Mr. Tom Greer said that he had a special events permit for the bands. He just got a new one to last through September. He has a copy of it on file and all the signatures are on it. He did not bring any of that along with him because this is about the Conditional Use and not the special events permit.

Steven Tomita said he understands but the neighbor did raise the issue about the noise.

Mr. Tom Greer said that he was fine with that and said that the neighbor can come and talk to him any time. It would have been nice if the neighbor would have attended this meeting.

Steven Tomita said that he was told and the mayor was told, as we have gone through the trainings of the NMML, that when somebody submits a letter, that person should be present at the hearing to present that letter and be available for questions by the Commission and for the applicant to be able to address the issue and the complainant to be able to give feedback. If they do not show up there is not as much importance placed on the complaint letter. The complainant and the mayor were advised on this matter.

Mr. Tom Greer said that he would be more than willing to meet with Mr. French to solve this issue. He has never come to him with this issue. The last band was loud. The majority of the sound goes to the parking lot and the rail yard. If more readings were taken when one of the regular bands were playing they would be much different.

Steven Tomita said that the readings were taken to see what was happening and it was unusual that this level was located behind the band. He just wanted to raise the issue because it is a conditional use. He is not saying, do not hold these events, it is just that the sound needs to be considered.

Mr. Tom Greer said that the last band was loud but the others were not as loud. Another reading needs to be done when those types of bands are playing.

Steve Tomita said that if we did that we would have to take readings on all the bands. He is just saying that an effort needs to be taken to control the noise level.

Commissioner Gordon Reeves moved to extend his Conditional use for a two year period.

Commissioner Jim Lardner seconded the motion.

Motion carried.

Vote was as follows.

Commissioner Claudine Montano	Nay
Commissioner Gordon Reeves	Yes
Vice Chair Pete Armstrong	Yes
Commissioner Jim Lardner	Yes

COMMUNICATIONS FROM THE COMMISSION AND STAFF

Steven Tomita said that Loves is under construction now. Bernie's fabric is being torn down and understand that is where Dominos Pizza will be. Tractor supply should be signing the lease shortly and once that is signed they will be moving in. There is a lot going on in Belen now. He said the mayor commented that he hasn't seen so much construction going on in Belen in 25 years.

Commissioner Gordon Reeves asked if there was an issue with the storm drainage that is located on the lots that Circle K is proposing to build on. Is it going to have to be relocated?

Steven Tomita said that it does not necessarily need to be re-located. It can be vaulted. Circle K is deciding whether they want to re-locate it or vault it.

Commissioner Claudine Montano said that there used to be a gas station at the corner of Main and Reinken, where Bernies was and asked if it has been cleaned up or not.

Steven Tomita said that he did not know if it had been mitigated or not. Where Circle K is going was a bad area but it has been mitigated.

Commissioner Gordon Reeves said that a letter was sent to him concerning the alley next to Rutillios and he would like it placed on the next agenda. This has been an issue for nine years. It is a big issue. It is his opinion that this issue has been dropped.

Steven Tomita said that he would have the Judge attend the next meeting so that the Commission can be sworn in.

Commissioner Jim Lardner said that he was looking forward to working with the Commission.

Chairman Steve Ethridge said that Keter has poured the foundation for their new building out by Solo cup. He said that the Trembley building and the Thompson building look nice. He likes that they are placing potted plants along the sidewalk in front of these buildings. The F & E building has LED lights on it and is the brightest intersection in the City now. He welcomed Mr. Lardner to the Commission. He said that Willie Chavez Park has an empty dumpster that needs to be filled up. He said that any volunteers to help clean up the park are welcome. The dumpster needs to be filled up because Waste Management is wanting their dumpster back.

Lisa Miller said that Mr. Green from F & E Plaza, will be removing the stucco off of the building. He will start on the North side then work his way around to the back yard. He wants to restore the signage that is on the outside of the old building.

Steven Tomita said that he found old photographs of the F & E building that show the old advertising on the structure. He wants to restore that. He is on an ADHOCK committee with MRCOG dealing with the positive control systems that go on trains to help them automatically stop in situations where it is needed. It was supposed to be in place in 2018 and there is no money to do that. The Rail Runner cannot afford that at this time. The committee is trying to get this stalled. They have submitted an application for a variance on that based on the fact that the Rail Runner has only 12 trains, which also includes two Amtrak trains. This was rejected. One option is to put it in place and the other option is to shut it all down. They are again trying to get the variance. The reason it was rejected is because the trains have to be in the same service/condition as a freight train. If we slowed down the Rail Runner to 25-35 mph they would have approved it. That is not going to happen, it would take all day just to go to Santa Fe. A safety study is being done to show that these trains are not a risk not having that positive control system in place. This variance would give us just enough time to get the funding put together to install these systems. This is not just happening here, it is happening nationwide.

ADJOURNMENT

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

Commissioner Claudine Montano seconded the motion.

Motion carried.

The regular meeting of the City of Belen Planning & Zoning Commission adjourned at 8:35 pm.

Chairman Steve Ethridge

ATTEST: _____
Steven Tomita, Economic Development Director

Chapter 17.54 - LANDSCAPE REGULATIONS

Sections:

[17.54.010 – Intent of regulations](#)

[17.54.020 – Applicability](#)

[17.54.030 – Landscaping plan](#)

[17.54.040 – Landscaping requirements](#)

[17.54.050 – Maintenance standards](#)

[17.54.060 – Administrative review and fee](#)

17.54.010 - Intent of regulations.

The intent of these regulations is to provide visually attractive landscaping for commercial and industrial developments, to encourage the conservation of water through the use of drought-tolerant plantings and xeriscaping principles, to provide shade in pedestrian and parking areas, and to reduce the erosion of soils and contamination of surface waters caused by stormwater runoff.

(Ord. 1998-28 § 1)

17.54.020 - Applicability.

These regulations shall apply to the following:

- A. All new commercial and industrial development as defined and permitted in this title.
- B. Expansion of existing commercial and industrial development in which the square footage of land area, floor area, lot coverage or parking area is increased by fifty percent or more.

(Ord. 1998-28 § 2)

17.54.030 - Landscaping plan.

All applicants for a building permit for construction of new commercial or industrial development, or for expansion of existing commercial or industrial development applicable to these regulations, shall submit a landscaping plan. **The Planning and Zoning Department shall review and determine compliance.** ~~with a required administrative review fee to the City Planning and Zoning officer who shall determine compliance with these regulations.~~ The landscaping plan shall include:

- A. A site map drawn to scale showing topography in the form of finished contour lines and areas proposed to be landscaped upon completion of the building construction project;
- B. Common or botanical names of the plants to be used, indicating plant size, location and spacing shown on the site map;
- C. The location, type and size of any underground or overhead utility lines, **including but not limited to lights, poles & signs**, on the site with reference to the landscaped areas;
- D. Type and layout of the irrigation system, if required, for landscaped areas indicating connections to the water supply source;

- E. A stormwater drainage plan for the site shall be attached or referenced in accordance with the city drainage regulations for commercial and industrial development.

(Ord. 1998-28 § 3)

17.54.040 - Landscape requirements.

All landscaping created pursuant to these regulations shall be planned, designed, and installed in compliance with the following requirements:

- A. A minimum of five percent of the total site area shall be landscaped in a manner that will meet the intent of these regulations. Landscaping shall consist of, **but not limited to, trees (2 caliper (2" diameter) in the Downtown Master Plan area, 1 caliper (1" diameter) for the remaining areas)**, shrubs (1 gal), ground-cover, or other low-growing plants, and may include natural or manufactured materials such as rocks, walls, pavements for walkways or patios, works of art, and outdoor furniture.
- B. Drought-tolerant plantings are encouraged in all landscape designs. **Upon request** The City Planning and Zoning **officer Department** will provide a list of drought-tolerant plants ~~for the area to be landscaped.~~
- C. To the extent possible, healthy existing trees and shrubs should be preserved, especially if drought-tolerant, and incorporated into the landscaped area.
- D. Trees shall be planted as a landscape border along all abutting roadways and may be planted as an interior landscape border within vehicle parking areas. Spacing of trees in a landscape border shall be no greater than forty (40) feet apart.
- E. Vegetation may be used to satisfy a screen requirement in accordance with this title to visually separate the land use on the commercial or industrial development site from an abutting residential land use.
- F. Landscaping shall not create a physical or visual obstruction to vehicular traffic whether on or off public rights-of-way.
- G. Placement of new trees shall avoid locations where future tree growth might interfere with utility lines or cause structural upheaval of pavements or buildings.
- H. All landscape areas should make use of stormwater catchment and retention on site for purposes of flood control, water pollution abatement, prevention of soil erosion, and increased soil moisture for vegetation. On-site stormwater retention structures shall be designed to ensure public health and safety, during and following storm events.

(Ord. 1998-28 § 4)

17.54.050 - Maintenance standards.

All landscaping installed in compliance with these regulations shall be **installed and maintained in compliance with these regulations**, ~~as long as the commercial or industrial land use remains an active facility.~~ The following maintenance standards are required:

- A. Any plant material in areas of required new landscaping that does not survive will be replaced with an equivalent size and species of plant within three months.
- B. Plants shall be pruned as necessary to control size or shape, but not to endanger its health, in order to prevent visual and physical obstructions to pedestrians or vehicles.



Queen Creek Zoning Ordinance



Original adoption January 6, 1999. Updated April 19, 2017, Ordinance No's 628-17 through 636-17.

Amendments

Standards within this Ordinance may be amended, altered, modified, and repealed by the Town when judged to be necessary to promote the health, safety, and general welfare of the residents of the Town.

*Date is of Town Council Approval. Effective date of Ordinance is thirty (30) days from the date listed.

Amendment	Date	Ordinance
Sign Regulation Text Amendments	October 20, 1999	173-99
Public/Quasi Public Zoning Ordinance	December 12, 1999	179-99
Accessory Uses Text Amendments	July 5, 2000	184-00
Fencing Amendments	August 2, 2000	186-00
Use Categories Text Amendments	November 1, 2000	190-00
Driveways Text Amendments	December 6, 2000	192-00
Legal Front Line Text Amendments	December 6, 2000	194-00
Ham Radio Text Amendments	January 17, 2001	193-00
Flag lot Text Amendment	December 5, 2001	213-01
Supplemental Use Regulations Regarding Development / Construction Temporary Uses Text Amendments	March 6, 2002	218-02
Repeal of Article 5 Section 5.2, Flag lots	March 20, 2002	217-02
Flag Pole Text Amendments	May 1, 2002	219-02
Front Porches/Courtyards Text Amendments	May 15, 2002	220-02
Temporary Signs Text Amendments	August 7, 2002	223-02
Parking Standards Text Amendments	November 6, 2002	227-02
Tennis Courts Text Amendments	October 16, 2002	229-02
Front Porch Amendment	December 18, 2002	233-02
Residential Fence Standards	February 19, 2003	240-03
Detached Accessory Dwelling Units	March 5, 2003	241-03
Accessory Building Electrical Meters	June 18, 2003	263-03
Regulations for Real Estate Signs Text Amendments	February 18, 2004	279-04
Uses for Religious Assemblies Text Amendments	March 3, 2004	283-04
Williams Gateway Airport Overlay District	August 18, 2004	292-04
Landscaping, Screening, and Buffer Yard Standards	September 15, 2004	296-04
Specific Zoning District Performance Criteria	November 3, 2004	301-04
Superstores and Big Box Retail Uses	November 3, 2004	301-04
Use Regulations, Table 4.6-1	November 3, 2004	302-04
Group Care Homes	November 3, 2004	302-04
Residential Architectural Design Standards	May 18, 2005	315-05
Lot Coverage Dimensional Standards, Table 4.7-2	April 19, 2006	347-06
Lot Coverage Definition	April 19, 2006	347-06
Neighborhood Meeting Notification	April 19, 2006	350-06
Indoor Amusement, Table 4.6-2	May 17, 2006	355-06
Religious Institutions	October 18, 2006	370-06
Solid Fence/Wall Standards	April 4, 2007	382-07
Animal Regulations and Equestrian Privileges	May 16, 2007	385-07
Open Space Percentages	June 6, 2007	388-07
Site Plan Review Process	July 18, 2007	391-07
Solid Fence and Landscaping Standards	December 19, 2007	415-07
Parking, Loading and Bicycle Storage Standards	April 16, 2008	420-08
Sign Regulations	April 16, 2008	427-08
Legal Non-Conforming Uses	May 21, 2008	430-08
Flagpoles	June 18, 2008	432-08
Pawn Shops & Payday Loan Businesses	September 17, 2008	437-08
Temporary Uses/Fireworks Sales & Display	December 1, 2010	490-10
Medical Marijuana Dispensaries & Cultivation	December 1, 2010	492-10
Temporary Use and Special Event Signs	December 1, 2010	493-10
Off-Site Temporary Real Estate Signs	November 16, 2011	504-11
Political Signs	November 16, 2011	505-11
Home-Based Occupations	June 6, 2012	512-12
Temporary Real Estate Signs & Model Home Complex Definition	July 18, 2012	515-12
Complete Zoning Ordinance Modernization	July 15, 2015	573-15
Miscellaneous Textual Errors	January 20, 2016	587-16
Residential Design Review Application/Approval Process	January 20, 2016	588-16
Open Space Requirements for Commercial & Industrial Districts	January 20, 2016	589-16
Group Care Homes	January 20, 2016	590-16

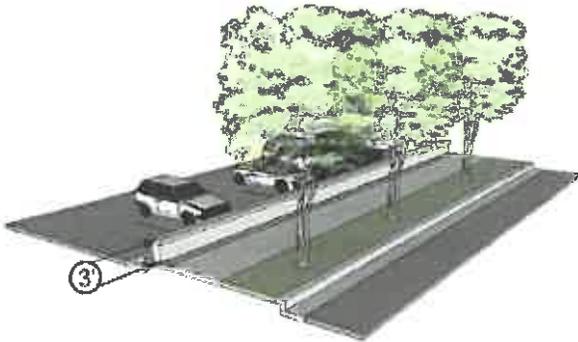
Equivalency Table

Through the update process, some topics have been moved. The below table shall serve as a guide to navigate the modernized Town of Queen Creek Zoning Ordinance.

Topic	Zoning Ordinance Section prior to June 2015	Zoning Ordinance Section Beginning June 2015
Planning Department and Planning Administrator	2.1	2.2
Board of Adjustment	2.2	2.5
Planning Commission	2.3	2.4
Town Council	2.4	2.1
Violations and Enforcement	2.5	2.6
General Plan Amendment	3.3	Deleted
Site Plan Review	3.6	3.3
Development Agreements	3.8	Deleted
Public Improvements	3.9	Deleted
Planned Area Development (PAD)	4.10	4.11
Floodplain District	4.11	Deleted
Critical Areas	4.12	Deleted
Manufactured Housing Overlay District (MHR)	4.13	4.12
Transfer of Development Rights	4.14	4.13
Williams Gateway Airport Overlay District	4.15	4.14
Outdoor Storage and Display	5.7	4.6
Standards for Noise, Odor, and Other Circumstances	5.8	Town Code Chapter 9
Architectural Design Requirements	5.9	Removed and placed in Town of Queen Creek Design Standards
General Site Planning Requirements for all Commercial Uses	5.10	
Residential Architectural Design Standards	5.11	
Bed and Breakfast	6.3	4.6
Campgrounds	6.4	4.6
Cluster Developments	6.5	Deleted
Farming-Related Business	6.6	4.6
Group Care Homes	6.7	6.3
Home-Based Occupations	6.8	6.4
Heavy Equipment and Industrial Storage Lot	6.9	4.6
In-Vehicle Service Facilities	6.10	6.5
Massage Establishments	6.11	6.6
Mini-Warehouse	6.12	4.6
Outdoor Sales	6.13	4.6
Public and Quasi-Public Uses	6.14	4.6
Sexually Oriented Businesses	6.15	6.7
Sign Regulations	6.16	Article 7
Superstores and Big Box Retail Uses	6.17	6.8
Wireless Telecommunications Towers and Antennas	6.18	6.9
Temporary Uses	6.19	3.6
Religious Institutions	6.20	Deleted
Pawn Shops and Check Cashing/Payday Loan Businesses	6.21	6.10
Medical Marijuana	6.22	6.11
Continuation of Non-Conforming Uses	7.1	2.7
Expansion or Enlargement of Non-Conforming Uses	7.2	2.7
Certificate of Non-Conforming Use	7.3	Deleted
Vested Rights Determination	7.4	Deleted
Expiration of Development Approvals	7.5	3.8
Appendix A Definitions	A	1.14
Appendix C Specifications for Documents to be Submitted	C	Removed and placed on file with the Town's Development Services Department

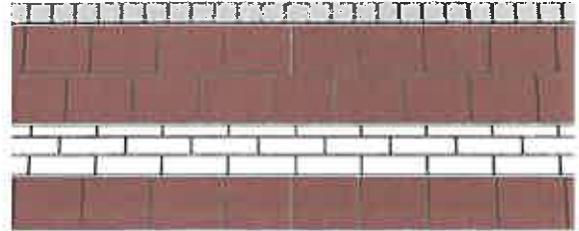
ARTICLE 5 – SITE IMPROVEMENT STANDARDS

2. A fence constructed on a side or rear property line shall not exceed a height of six feet (6') from highest finished grade adjacent to the fence, nor more than eight feet (8') from the lowest grade adjacent to the fence. Any fence of more than six feet (6') in height on the low side shall use berming, landscaping, fence offset(s) or similar enhancements to mask height differences, and when adjacent to single or multi-family residential the fence height shall not exceed eight feet (8').
3. Parking areas adjacent to the required front yard shall provide a decorative screen wall or landscape berm or combination thereof to a height not to exceed three feet (3') in order to adequately screen the undercarriages of the parked vehicles. Parking lot screen walls shall also be subject to the design provisions set forth in Section 5.2.A.15 & 16 above.



4. Six inch (6") wide Interlocking Blocks: Six inch (6") wide concrete masonry blocks designed in accordance with the approved Town of Queen Creek design specification are permitted for internal lot line and privacy fences.
5. Six inch (6") wide Non-Interlocking Blocks: All perimeter subdivision fences adjacent to open space or arterial and collector rights-of-way shall be constructed of a 6" block provided the fence system is designed by an Arizona registered structural engineer and approved by the Town.
6. Eight inch (8") wide Non-Interlocking Blocks: 8" non-interlocking block is

permitted in all areas of the subdivision provided it is designed and installed in accordance with the Town of Queen Creek design specification or an Arizona registered structural engineer.



7. *Solid Perimeter Fence Standards.* Solid fencing use along arterial and collector streets on the perimeter of residential projects addresses individual property concerns regarding noise, light, privacy, and safety. Because solid fence use affects the image, character, safety, and privacy of the community, design upgrades such as material choices and additional buffering to offset the reduction in project openness and reduce the impact of solid fencing is required.

5.3 Landscaping Standards

- A. *Purpose.* The purpose of this Section is to implement the goals of the Queen Creek General Plan in regard to providing landscaping and buffering standards for landscaping that will capitalize on the Town of Queen Creek's agricultural character and identity while preserving natural resources, native plants, and scarce water supplies. These requirements will be applied to all new development, redevelopment or building expansion (greater than twenty-five (25%) of the gross building area) projects including streetscaping of rights-of-ways. Landscape plans, complete with irrigation plans, shall accompany any application for development approval. These minimum landscaping requirements will:
 1. Establish a landscape theme including street trees and streetscape design to be used throughout the Town to promote the overall Town and neighborhood character and identity;

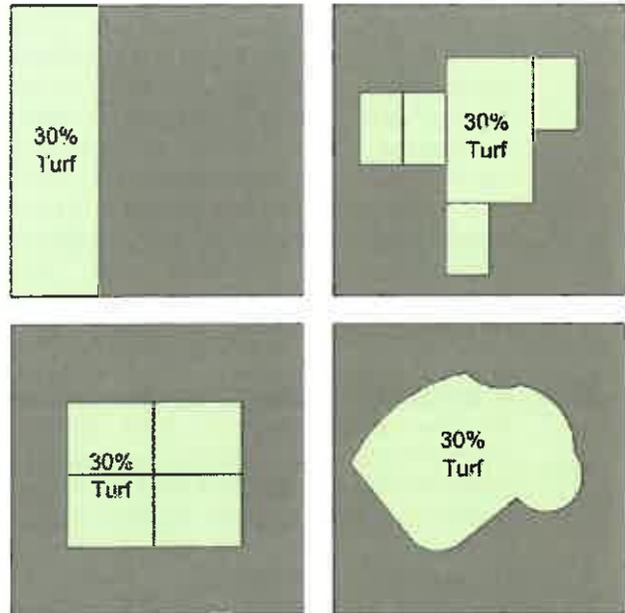
ARTICLE 5 – SITE IMPROVEMENT STANDARDS

Town of Queen Creek Design Standards for front yard landscaping options.

3. *Minimum Plant Size.* The minimum allowable plant size for new installations shall be as follows:

- a. The minimum size shall be fifteen (15) gallons, six feet (6') in height, and a caliper of one inch (1") measured four inches (4") above the soil line. Fifty percent (50%) of the required number of street frontage trees are to be twenty-four inch (24") box size or larger, six feet (6') in height, and a caliper of one and a half inch (1 1/2") measured four inches (4") above the soil line.
- b. Shrubs shall measure a minimum of five (5) gallon size upon installation.
- c. Organic ground covers shall be a minimum of one (1) gallon size upon installation.
- d. Inorganic ground covers shall be used and shall consist of decomposed granite (minimum size half-inch (1/2") minus or screened, except quarter-inch (1/4") minus shall be used on all equestrian trails) or turf. Where boulders are used one-third (1/3) of the boulder shall be buried.

4. All plant material shall meet the minimum standards contained in the most recent edition of the Arizona Nursery Association's Growers Committee Recommended Tree Specifications which document is hereby incorporated by reference as if set forth in its entirety herein, as to size, condition and appearance. *Acceptable Frontage Landscaping.* A minimum of thirty percent (30%) of all frontage landscaped areas shall be covered with vegetative or organic ground cover consisting of turf, not to exceed fifty percent (50%) of the minimum requirement, or other living plant materials characterized by horizontal growth which generally do not exceed eighteen inches (18") in height.



5. *Common Area Landscaping Requirements.*

- a. In any single family residential district, a minimum of two (2) trees per dwelling unit shall be required, which may include street trees. In any multifamily district, a minimum of one (1) tree per dwelling unit shall be required, which may include street trees and perimeter landscaping. A minimum of twenty-five percent (25%) of required trees shall be twenty-four inch (24") box or larger.
- b. Office and commercial developments shall be landscaped not less than fifteen (15%) of the developed parcel and industrial developments not less than ten percent (10%) of the developed parcel.

6. *Landscape Buffer Setbacks.*

ARTICLE 5 – SITE IMPROVEMENT STANDARDS

minimum in depth, river run rock, or expanded shale.

- c. Trees shall not be planted under outdoor lighting structures. Landscape plant material shall be arranged in a manner not to obstruct security lighting. Where a conflict arises between landscape elements required under this Ordinance and security lighting, the Planning Administrator shall make the final determination.

- d. Plant material installed within the site triangle at roadway intersections shall not exceed twenty-four inches (24") in height at maturity. Tree canopy height shall not be less than six feet (6'). The site triangle at an intersection shall be calculated according to Chapter 9, Section 9.2 of the Maricopa County Department of Transportation Roadway Design Manual. The Town of Queen Creek's official reference for roadway design standards.

- e. All plant materials used in public right-of-way, medians, or parking lot islands shall come from the Arizona Municipal Water Users Association Low Water Use Plant List.

9. *Site Stabilizations.* The applicant shall revegetate the graded and / or disturbed land where any construction activity has occurred in order to prevent erosion by water, wind or subsidence, as follows:

- a. Revegetate the construction area with native species or with revegetation seed mixes. Revegetative native plants include: desert trees, desert shrubs and grasses, large specimen cacti or seeding of the same.
- b. Weedy species such as Russian Thistle, Telegraph Plant, Desert Broom, Pigweed or Burrow Bush shall be weeded to prevent growth and spread of such species onto adjacent properties.
- c. Slopes steeper than three to one (3:1), where revegetation and plant material alone will not hold soil in place, shall be held in place with turf, retaining walls, rip-rap, or shall be developed with a

system of terraces or diversions to ensure slope stability, control surface water runoff and encourage rapid vegetation establishment, or any method deemed appropriate by the Town.

10. *Dust Control.* During grading and until revegetation is established, the applicant shall use the following methods to reduce and mitigate the production of dust and such methods shall be addressed in the grading permit prior to commencement of construction.

- a. Dust palliative approved by Town Engineer;
- b. Watering during grading;
- c. Use of decomposed granite or other decorative landscape material as a groundcover for non-slope and vehicular/pedestrian areas; and,
- d. The use of motor oil, oil treatment, sodium chloride, or any other palliative method that cause adverse effects on human, animal or plant life or that may cause property damage shall be prohibited.

- D. *Prohibited Plants.* The "Swan Hill Olive" and the "Wilson Hill Olive" varieties may be used due to their non-flowering non-pollen status and are exempt from the prohibited plants list:

1. Olive Trees (*Olea Europaea*) are prohibited for reasons of their profuse production of allergy producing pollen except for the two (2) varieties as mentioned above;
2. Fountain Grass (*Pennisetum Setaceum*) is prohibited as a defined weed with the potential to spread throughout the Town and become a fire hazard;
3. Common Bermuda grass (*Cynodon Dactilon*) is prohibited as a defined weed and for its profuse production of allergy producing pollen. (For clarification purposes, non-allergenic species are permissible as approved by the Town); and,

ARTICLE 5 – SITE IMPROVEMENT STANDARDS

1. All private retention basins in single residence, duplex, multifamily, commercial, or industrial projects, or districts shall be landscaped. Such basins shall not exceed more than fifty percent (50%) of the linear street frontage.
2. Retention basins shall be contoured and designed as an integral part of any frontage landscaping and shall not take on the appearance of a ditch or basin.

H. *Native Plant Preservation and Landscape Plan Standards.*

1. *Purpose.* The purpose of these standards is to protect native plants and to ensure appropriate re-vegetation for all development projects. The standards provide for in-place preservation protection of existing plants and the transplanting of native plant materials indigenous to the area such as: varieties of Acacia, Mesquite and Cercidium trees, Ocotillo, Cholla, Bursage and mixed Palo Verde-Cacti Community, Hedge Hog Cactus and Barrel Cactus, shrubbery and succulents typical of the Sonoran Desert Region. These standards protect the public health, safety and general welfare by:

- a. Preserving organic and inorganic characteristics of the Sonoran Desert Region;
- b. Preserving desert wildlife habitats and food sources;
- c. Requiring protection re-vegetation of native plants, disturbed during land development;
- d. Encouraging the use of native plants that are drought tolerant and require low maintenance and minimal groundwater after establishment; and,
- e. Reducing the potential for erosion by water, wind, or subsidence.

2. *Standards.*

- a. All existing native plants shall be preserved in their original location except within those areas permitted to be graded. Large and / or unique

native plants within areas proposed for grading shall be preserved in place.

- b. In no case, shall native plants be removed, destroyed, or relocated from an existing stand of native plants which is to be preserved in place.
- c. Protected native plants (as defined by the Arizona Department of Agriculture) determined to be transplantable shall be salvaged and relocated on-site when they are located within areas designated to be graded. Salvaged plants may be maintained in a temporary nursery pending relocation in accordance with the approved landscape plan. All temporary nurseries shall:

- 1) Provide automatic drip irrigation system.
- 2) Provide fertilizer to promote plant health.

- d. Native plants are to be transplanted on-site and shall be used within those areas designated as "common area" or landscaped area that has been graded as part of the approved grading plan and within the front yards of residential lots.
- e. Mistletoe infestations shall be removed from all salvaged plants prior to relocation.

3. *Determination of Salvageability.*

- a. Salvageability shall be indicated on the Landscape Plan submittal during the site plan process.
- b. All plants receiving a "high" rating shall be preserved in place or salvaged and transplanted within on-site landscaped areas. All "medium" and "low" rated plants shall be placed in a salvage pool from which fifty percent (50%) of the plants shall be used on site or replaced on a two to one (2:1) basis with nursery stock.

High: A "high" rating will be assigned to plants meeting the following criteria:

ARTICLE 5 – SITE IMPROVEMENT STANDARDS

1. The applicant, property owner, and / or subsequent or successor owners and their agents shall be responsible for maintenance of landscaping on the property on a continuing basis for the life of the development as specified in this Section. All required landscaping shall be maintained in a neat and orderly manner at all times. This shall include, but not be limited to, mowing, edging, pruning, fertilizing, watering, weeding, and other activities common to the maintenance of landscaping.
2. Landscaped areas shall be kept free of trash, litter, weeds and other materials or plants not a part of the landscaping.
3. All required plant material shall be maintained in a healthy, growing condition as is appropriate for the season. Plant materials which exhibit evidence of insect pests, disease, and / or damage shall be appropriately treated, and dead plants promptly removed and replaced within the next planting season after installation. If replacement is necessary, all plants and other non-living landscape materials shall be equal in size, density and appearance as originally required at the time of the approval of the development order or development permit.

the proposed development corresponding the zoning district as set forth in Columns "B" and "C" in Table 5.4-1 hereto.

Table 5.4-1 Required Open Space

(A) Zoning District	(B) Total Open Space	(C) Active Open Space
Rural Residential (A-1, R1-190, R1-145, R1-108)	0%	0%
Estate Residential (R1-54 R1-43)	0%	0%
Suburban Type-A (R1-35)	5%	10%
Suburban Type-B (R1-18, R1-15, R1-12)	7.5%	15%
Urban Residential (R1-9, R1-8, R1-7, R1-6, R1-5, R1-4, R1-3, MDR, and HDR)	20%	30%
Commercial (B1, C-1, C-2, C-3, MU, AT and TC)	15%	N/A
Industrial (EMP-A and EMP-B)	10%	N/A

1. **Active Open Space.** Active Open Space shall be provided as referred in Table 5.4-1 may include, but shall not be limited to: recreational activities as golf courses, sport courts / fields, picnic areas, playgrounds and trails as defined in Section 1.14. Additional active amenities and reduction in active open space may be approved by the Planning Administrator.
2. **Passive Open Space.** Open Space not defined as Active maybe considered as Passive Open Space as defined in Article 1, Section 1.14 of this Ordinance.

5.4 Open Space

- A. All new development in the Town of Queen Creek shall provide Open Space as provided herein and designed as required in Chapter 6 of the Town of Queen Creek Subdivision Ordinance.
- B. **Community Trails System.** The applicant shall provide a community open space network and / or trails system, which system shall be integrated with the *Parks Trails and Open Space Master Plan*, which is hereby incorporated by this reference as if set forth in its entirety herein. The trails shall be maintained by the applicant.
- C. **Required Open Space.** Required open space shall be reserved for any development in the zoning districts types forth in Column "A" of Table 5.4-1, below, based upon the percentage of net acres in

ARTICLE 5 – SITE IMPROVEMENT STANDARDS

b. Retention areas or detention basins which are required as part of this Ordinance or the Subdivision Ordinance shall not qualify as an open space area unless fifty percent (50%) or more of the active and usable area is above the twenty-five (25) year storm and is designed for multiple area(s) conforms to the requirements of subsection (1) and (2) below. This standard shall not apply to non-residential developments which shall be permitted to calculate the retention and detention area as part of the required open space area.

1) Retention or detention areas shall be an integral part of the subdivision either as a greenbelt, or as a single basin. Retention areas shall be improved so as to be useable and accessible. Site and architectural amenities, such as armadas or benches shall be provided. "Tot lots", playground equipment, and sport courts equipment shall be elevated above the bottom of the basin for uninterrupted use.

2) Retention or detention areas shall be given a natural character and shall be constructed of natural materials. Terracing, berming and contouring is required in order to naturalize and enhance the aesthetics of the basin. Basin slopes shall not exceed a three to one (3:1) slope.

c. Open space areas shall be landscaped and the majority of the area shall be visible from at least one (1) adjoining arterial, collector, or local street.

F. *Preservation of Open Space.* Open space areas shall be maintained so that their use and enjoyment as open space are not diminished or destroyed. Open space areas may be owned, preserved, and maintained as determined by the Town Council by any of the following mechanisms or combinations thereof:

1. Dedication of open space to the Town, an appropriate public agency, or a non-profit entity if there is a public or non-profit agency willing to accept the dedication and financially capable of maintaining such open space. The Town may not

accept the dedication of open space unless such dedication is part of a linked open space or trails system included in the Queen Creek Open Space and Trails Plan. Dedication of Sonoqui and Queen Creek washes may be required along with rezoning and / or plat approval if the Town demonstrates that impacts of the development on stormwater discharge, public recreation, or water quality are proportionate to the amount of wash area being dedicated. The applicant for plat approval or rezoning may consent to said dedication, pursuant to Section 3.4 of this Ordinance or as a condition of development approval, and said consent shall be deemed to waive any and all constitutional challenges to said dedication requirement;

2. Common ownership of the open space by a homeowner's or neighborhood association which assumes full responsibility for its maintenance except for lands dedicated to the Town. The restrictive covenants shall provide that, in the event that any private owner of open space fails to maintain same according to the standards of this Ordinance, the Town may, following reasonable notice and demand that deficiency of maintenance be corrected, enter the open space to maintain same. The cost of such maintenance shall be charged to those persons having the primary responsibility for maintenance of the open space and shall constitute a lien upon the property and buildable lots of the subdivision or development site; and,

3. Payment of a fee in lieu of dedication of open space, if:

a. The Town Council establishes an Open Space Acquisition Trust Fund for the receipt of fees and other financial commitments for the acquisition and development of public open space.

b. The Town Council adopts an ordinance establishing a fee in lieu or dedication of land for open space. The ordinance shall include the following:

1) The fee amount per residential dwelling unit or equivalent residential dwelling unit;

Vice Pete Armstrong said that this would form a partnership between the City and the applicant. He would also like to see the draft reflect out different zone districts.

Steven Tomita explained some of the zoning districts for Queen Creek and said that Lisa would go through them and compare them to distinguish which of ours correlate with theirs. He also explained the different costs associated with housing densities. He said that as they work on the Comprehensive Plan, new categories will likely be added to deal with things like tiny houses. The trend that is happening now is smaller lots with smaller homes.

OPEN COMMENTS/REQUESTS

Commissioner Gordon Reeves informed the Commission and public that the alley next to Rutilio's was brought before the Commission for abatement. He asked if staff had read from the daughter of the person who made the request, had contacted us or not. He feels that it has been dropped.

Lisa Miller informed him that she has not contacted her concerning this issue.

Commissioner Gordon Reeves said that was the same as what was said the last time and wants to get Code Enforcement involved to address this and if there is still no response then it needs to advance to the next step. It needs to be addressed. They either need to move forward with an abatement request or get it cleaned up. It needs to be completed.

Steven Tomita said that Code Enforcement will be notified.

1
RECORD OF LONG HISTORY
OF ALLEY WAY TO CLEAR
AND BE FUNCTIONABLE
FROM PICARD AVE. TO
CHAVEZ AVE.



RONALD M. TORRES
MAYOR
JEFF TRINVELL
ALDERMAN
SALLY G. GARBER
CITY MANAGER

CITY OF BELEN
100 SOUTH MAIN STREET
BELEN, NEW MEXICO 87001
505-864-8227 • 505-864-7272
FAX 505-864-8438

A. TERESA OLIVARRA
CITY COUNCILOR
DAVID A. LOPEZ
CITY COUNCILOR
RUDY JARAMILLO
CITY COUNCILOR

August 8, 2008

Norbert Moya
455 North Main Street
Belen, NM 87002

Dear Mr. Moya:

This letter is to officially advise you that the City of Belen shows that the alley adjacent to your property located on Main Street as never being abandoned. The City has no record indicating that this alley was ever vacated to the property owners.

If no documentation can be provided, we would ask that you move the existing fence east to your own property line and remove all equipment and materials stored in this alley. The City of Belen will allow ten (10) days in which to remove the fencing and articles, so that we may obtain clear utility and road access of this alley.

If you require any assistance from the City or you need clarification on this letter, please contact me at your earliest convenience.

Sincerely,

Julie Baga
Community Services Director

COPY



RONNIE M. TORRES
MAYOR
JEFF TREMBLY
MAYOR PRO TEM
SALLY G. GARLEY
CITY MANAGER

CITY OF BELEN
100 SOUTH MAIN STREET
BELEN, NEW MEXICO 87002
(505) 864-8221 • (505) 864-7476
FAX (505) 864-8408

A. TERESE ULIVARRI
CITY COUNCILOR
DAVID A. LOPEZ
CITY COUNCILOR
RUDY JARAMILLO
CITY COUNCILOR

August 8, 2008

Eddy Peter
P.O. Box 49
Belen, NM 87002

Dear Mr. Peter:

This letter is to officially advise you that the maps of the City of Belen show that the alley adjacent to your property located between Main Street and Lala Avenue as not being closed. The City has no record indicating that this alley was ever vacated to the property owners.

Attached herewith please find a copy of a letter written to Mr. Norbert Moya asking for any formal documentation by the City, and if not provided that he be given ten (10) days in which to remove the fencing and articles in the alley.

If you should have any questions regarding this letter, please contact me at your earliest convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Baca".

Julie Baca
Community Services Director

COPY



RONNIE M. TORRES
MAYOR
JEFF TREMBLY
MAYOR PRO TEM
SALLY G. GARLEY
CITY MANAGER

CITY OF BELEN
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CITY COUNCILOR
DAVID A. LOPEZ
CITY COUNCILOR
RUDY JARAMILLO
CITY COUNCILOR

August 8, 2008

Norbert Moya
455 North Main Street
Belen, NM 87002

Dear Mr. Moya:

This letter is to officially advise you that the City of Belen shows that the alley adjacent to your property located on Main Street as never being abandoned. The City has no record indicating that this alley was ever vacated to the property owners.

If no documentation can be provided, we would ask that you move the existing fence east to your own property line and remove all equipment and materials stored in this alley. The City of Belen will allow ten (10) days in which to remove the fencing and articles, so that we may obtain clear utility and road access of this alley.

If you require any assistance from the City or you need clarification on this letter, please contact me at your earliest convenience.

Sincerely,

Julie Baca
Community Services Director

10-21-08

Dear Julie,

It has now been approximately 73 days since your notice was sent to clear alley, with no results.

Objects to be removed to make useable:

- a) Concrete block walled trash waste structure.**
- b) Alley way used for auto parking lot.**
- c) Fenced-in portion of alley used as storage lot.**

**Waiting for alley way to be cleared for use,
Eddy Peter**

COPY



RONNIE M. TORRES
MAYOR
JEFF TREMBLY
MAYOR PRO TEM
SALLY G. GARLEY
CITY MANAGER

CITY OF BELEN
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A. TERESE ULIVARRI
CITY COUNCILOR
DAVID A. LOPEZ
CITY COUNCILOR
RUDY JARAMILLO
CITY COUNCILOR

August 8, 2008

Norbert Moya
455 North Main Street
Belen, NM 87002

Dear Mr. Moya:

This letter is to officially advise you that the City of Belen shows that the alley adjacent to your property located on Main Street as never being abandoned. The City has no record indicating that this alley was ever vacated to the property owners.

If no documentation can be provided, we would ask that you move the existing fence east to your own property line and remove all equipment and materials stored in this alley. The City of Belen will allow ten (10) days in which to remove the fencing and articles, so that we may obtain clear utility and road access of this alley.

If you require any assistance from the City or you need clarification on this letter, please contact me at your earliest convenience.

Sincerely,

7-6-09


Julie Baca
Community Services Director

Dear Julie,

It has now been approximately 332 days since your letter of demand was sent to clear alley, with no results thus far.

Same obstructions still in place, which makes alleyway unpassable for common use.

Please enforce your demand request as soon as possible to make alleyway useable.

Sincerely,

Eddy Peter

COPY

LAW OFFICES
Norman McDonald, P.A.
10TH & DELGADO- P.O. BOX 949
Post Office Box 949
Belen, New Mexico 87002

TELEPHONE (505) 864-3333
FAX (505) 864-1949
Email: mcdonaldnorm@cs.com

COPY

December 10, 2009

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

Norbert Moya
455 N. Main Street
Belen, NM 87002

Dear Mr. Moya:

Despite repeated requests by the City of Belen, through Julie Baca, and the City of Belen through this office as City Attorney, requesting that you remove the existing fence and equipment and materials stored within the fence from the City's alley located west of Main Street between Chavez and Picard, you have failed to take any action to remove the fence and materials.

The City has received demand from counsel from an adjoining property owner that it intends to hold the City liable for your failure to honor the City's request that you remove the obstructions to the alley.

As you have previously been informed, there is no documentation of record indicating that the City ever vacated the ally.

The City of Belen as owner of the alley right of way hereby renews and issues its final demand that you remove the fencing and materials stored within the fence from the City's alley within thirty days from the date of this letter.

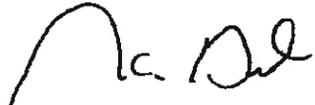
This is the final notice that you will receive.

Failure by you to remove the obstruction from the alley within the time frame set forth above will result in the City initiating legal proceedings to compel you to do so. In addition, the City will seek attorney's fees and court costs in being required to take this action.

By copy of this letter, I am requesting the Belen City Manager to advise this office thirty days from the date of this letter whether or not you have complied with the terms of this letter.

December 10, 2009

Very truly yours,

A handwritten signature in black ink, appearing to read "Norman McDonald". The signature is fluid and cursive, with a large initial "N" and "M".

Norman McDonald

Cc: Sally Garley

Norbert Moya (by first class mail)

JERAH R CORDOVA
MAYOR
JAY RUYBALID
CITY MANAGER



CITY OF BELEN
100 SOUTH MAIN STREET
BELEN, NEW MEXICO 87002
(505) 966-2730 • FAX (505) 864-8408
www.belen-nm.gov

WAYNE GALLEGOS
CITY COUNCILOR
DAVID CARTER
MAYOR PRO-TEM
DARLEEN ARAGON
CITY COUNCILOR
FRANK ORTEGA
CITY COUNCILOR

TO: Surrounding Property Owners
FROM: City of Belen Planning & Zoning Department
DATE: June 22, 2015
RE: Vacation of Alley

Attached is a copy of the alley located between N Main St. & Lala St. and W Chavez Ave & W Picard Ave. A request has been submitted to vacate this alley.

The Belen Planning & Zoning Commission will have a hearing on this issue on July 13, 2015 to gather information, input, and comments from persons of interest owning contiguous land and utilities within the area. This hearing will be held in the Council Chambers at 100 S Main St., Belen NM 87002 at 6:00 PM

Please plan on attending or responding in writing. All written correspondence can be mailed to the Planning & Zoning Department, 100 S Main St., Belen NM 87002.

The Planning & Zoning Department can also be reached at 505-966-2746.

Sincerely,

Lisa R Miller
Planning & Zoning Administrator

cc: File

JERAH R CORDOVA
CITY CLERK
JAY RUYBALID
CITY CLERK



CITY OF BELEN
100 SOUTH MAIN STREET
BELEN, NEW MEXICO 87002
(505) 966-2730 • FAX (505) 864-8408
www.belen-nm.gov

WAYNE GALLEGOS
CITY CLERK
DAVID CARTER
CITY CLERK
DARLEEN ARAGON
CITY CLERK
FRANK ORTEGA
CITY CLERK

July 9, 2015

Eddy Peter
PO Box 49
Belen NM 87002

RE: Alley Vacation

Dear Mr. Peter;
Thank you for your response and the documentation.

We are requesting that the property owners who are adjacent to this alley inform us, preferably in writing, as to whether they are ok, or not ok with the vacation of the alley and why. Please specify the reasons. Being that Mark Peter and Kenneth Peter, who are the recorded legal owners of the two properties adjacent to the alley, have the same address, please inform them of the contents of this correspondence.

All utility companies have also been notified for their input.

I was unaware of the past proceedings that have occurred concerning this alley. I will address these issues and inform you of the outcome.

Sincerely,

Lisa R Miller,
Planning & Zoning Administrator

cc: File

July 10, 2015

REFERENCE: RETURN RESPONSE

ATTENTION: Ms. Miller

Please clear alley way of all obstacles as for full and clear passage as outlined in response letter to you dated July 6th, 2015.

Mark Peter

Eddy Peter, Personal Representative
of Kenneth Peter

CC: McDonald Law Office

July 6, 2015

FROM: Eddy Peter
PO Box 49
Belen, NM 87002

TO: City of Belen
Planning and Zoning
C/O Lisa R. Miller

REFERENCE: Alley vacation received June 29th 2015

Dear Ms. Miller,

Response with documentation;

Needed alley way to be cleared of all constructed obstructions so as can be used as intended, an access asset for City, utility companies, as well as our property.

Obstructions to be removed;

- A) Alleged, west end of brick building in alley.
- B) Concrete block dumpster holding structure.
- C) Large concrete slab.
- D) Concrete parking wheel stops.
- E) Asphalt paving.
- F) Steel wire fencing across width of alley.
- G) Alleged, buildings' sewer underground structure in alley.

City's mandates to clear alley here-with.

Please send written response of your time-line for resolving this matter.

Sincerely,

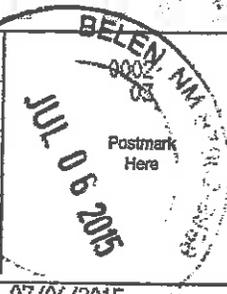
Peter Properties,
Eddy Peter

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only, No Insurance Coverage Provided)

7002 0460 0000 2422 5804

BELEN, NM 87002

Postage	\$	\$3.45
Certified Fee		\$2.80
Return Receipt Fee (Endorsement Required)		\$0.00
Restricted Delivery Fee (Endorsement Required)		\$0.00
Total Postage & Fees		\$6.25



Sent To \$7.67 07/06/2015
 City of Belen, Planning & Zoning
 Street, Apt. No.,
 or PO Box No. 100 S. Main Street
 City, State, ZIP+ 4 Belen, NM 87002

PS Form 3800, January 2001

See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
 CITY OF BELEN
 PLANNING AND ZONING
 ATTN: LISA R. MILLER
 100 S. MAIN STREET
 BELEN, NM 87002



2. Article Number (Transfer from service label) 7002 0460 0000 2422 5804

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee
 B. Received by (Printed Name) C. Date of Delivery
 D. Is delivery address different from item 1? Yes
 if YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes