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**CITY OF BELEN
PLANNING & ZONING COMMISSION MEETING
MINUTES
AUGUST 25, 2014**

Chairman Tom Greer called the regular meeting of the Belen Planning and Zoning Commission meeting to order at 6:30 p.m.

PRESENT: Chairman Tom Greer
Commissioner Steve Ethridge
Commissioner Selma Martinez

CITY STAFF: Steven Tomita, Planning & Zoning Director
Lisa Miller, Sr. Code Enforcement Officer

ABSENT: Vice-Chair Gordon Reeves
Commissioner Rod Storey

OTHERS

APPROVAL OF AGENDA:

Lisa Miller presented the Commission with a letter received concerning three of the action items on the agenda. Mr. Ulibarri has requested that his Zone Change requests be postponed until the P & Z September meeting due to the fact that they had to admit his father into the hospital and he would not be able to attend tonight's meeting.

Commissioner Selma Martinez moved to approve the agenda as amended.

Commissioner Steven Ethridge seconded the motion.

Motion carried.

APPROVE OF MINUTES:

The Minutes of June 28, 2014, were reviewed.

Commissioner Selma Martinez moved to approve the minutes with the few spelling corrections done.

Commissioner Steve Ethridge seconded the motion.

Motion carried.

ACTION ITEM

- A. **REQUEST FOR A VARIANCE ON FENCE HEIGHT RESTRICTIONS: MICHAEL & LORRAINE SHIPLET. Legal Description:** Township 5 North, Range 2 East, Section 18, Map 100, Mrs. Horacio Trujillo Subdivision, Lots C, AKA 304 S Second St, Belen NM 8700

- B. **REQUEST FOR A VARIANCE ON FENCE HEIGHT RESTRICTION: VIDAL GARCIA. Legal Description:** Township 5 North, Range 2 East, Section 18, Map 100, Mrs. Horacio Trujillo Subdivision, Lot B, AKA 302 S Second St., Belen NM 87002.

- C. **REQUEST FOR A VARIANCE ON FENCE HEIGHT RESTRICTIONS: RICK GONZALES. Legal Description:** Township 5 North, Range 2 East, Section 18, Map 100, Lots 4 & 5, Block 47, BTS Addition, AKA 303 S Second St., Belen NM 87002.

Chairmen Tom Greer explained that at last month's P & Z Meeting a discussion and hearing was heard concerning Action Items A, B, & C. All three of these residences are on the same street in the same area.

Lisa Miller informed the Commission that she has received extra information from Mr. Gonzales and has provided the Commission with a copy of this information. In this is a letter with even more explanation and a copy of the type of fence that Mr. Gonzales plans on placing at his home, as requested by Commissioner Rod Storey.

Chairman Tom Greer said that the fence high variance is being requested for the front based on the circumstances in the neighborhood and the fact that there was an existing fence at 304 S Second St. at one time, that was six feet high.

Mr. Gonzales explained to the Commission the type of fence and the materials he plans on using.

Steven Tomita suggested that if there is anyone attending this meeting that was not present at the last meeting, the Commission should explain the situation to them and the reasons for the requests.

Chairman Tom Greer asked the audience if there was any one attending that would be impacted by this discussion and ruling.

There was no one.

Chairman Tom Greer asked Lisa Miller if the packets were complete, due to the fact that some information was not provided at the last meeting.

Lisa Miller informed the Commission that each individual packet is complete and has been provided to the Commission in its meeting packet.

Commissioner Steve Ethridge asked if these can be done in one motion or does it need to be three separate motions.

Steven Tomita informed the Commission that since they are listed separately they need to be done separately.

A

Commissioner Steve Ethridge moved to grant the variance request for Mr. & Mrs. Shiplet, which is item A on the agenda.

Commissioner Selma Martinez seconded the motion.

Motion carried.

B

Commissioner Steve Ethridge moved to grant the variance request for Mr. Garcia, which is item B on the agenda.

Commissioner Selma Martinez seconded the motion.

Motion carried.

C

Commissioner Steve Ethridge moved to grant the variance request for Mr. Gonzales, which is item C on the agenda.

Commissioner Selma Martinez seconded the motion.

Motion carried.

Chairman Tom Greer suggested that all of them, and anyone else who may be having these kind of issues, stay in touch with the Police Department, stay in touch with Code Enforcement, and Planning & Zoning. We do not want you to feel like a stranger in your own neighborhoods and will do the best that we can to help you.

D. REQUEST FOR A CONDITIONAL USE PERMIT: DALLAS HAWKES for the purpose of having a temporary caretaker residence on the property. Legal Description: Township 5 North, Range 2 East, Section 17, Tract 9-A, containing .45 ac. AKA 546 Gabaldon R., Belen NM 87002.

Lisa Miller explained to the Commission that this came up during her inspections and informed them that the petitioner was not present. A letter was submitted by one of the neighbors who could not attend and a copy of this letter has been provided for you. The neighbor next to him, Mr. Madrid, phoned into the office and informed her that the person residing there has been burning a lot. Mr. Hawkes wanted someone to stay there, in an RV, and that is when I started in with my involvement. He was told that he would need a conditional use permit if he wanted that caretaker to reside there while repairing the home. The one who is there has done some clean up in the back of the home, has done some repair work on the inside of the home, and has told me that he has done some re-wiring in the home and is having an inspection so that this could be connected.

Sabrina Botts informed the Commission that there is no electricity going to that home.

Mr. Madrid informed the Commission that there is no electrical meter on the home.

Sabrina Botts informed the Commission, that as a neighbor, she would like the City to address the issue that it is evidently uninhabitable at this time. There are no utilities. The person who is there does burn fires often and there is an RV in the back. She would like to know what kind of zoning that the property would receive.

Lisa Miller explained that it was not a zone change that it was a Conditional Use for a certain amount of time to reside in the RV while repairing the home.

Sabrina Botts informed the Commission that they are not living in the RV. They are living in the house and there are more than one of them.

Chairman Tom Greer informed Ms. Botts that they can burn as long as they have a burn permit from the City and then they can only burn weeds and branches.

Sabrina Botts informed the Commission that she has taken photos of this and a few other things that she has witnessed.

Lisa Miller asked her to provide a copy of these photos to her so that she may add them to the file and use them as evidence.

Sabrina Botts said that after you address the inhabitation of the RV, and make sure he is in the RV and not living in the home, maybe they can accept that. She does not see how he can stay in the home and work on it without any utilities at all.

Chairman Tom Greer said that the issue is living in the home without utilities and the only way that they can do this Conditional Use permit is to have them reside in the RV and not the home.

Mr. John Madrid informed the Commission that the home has been repeatedly broken into and this gentleman has moved into the home. He has been there for approximately a year. He has been burning all summer long and he needs permits to be doing this.

Chairman Tom Greer moved to deny the conditional use permit until some of the other issues are seen to.

Commissioner Selma Martinez seconded the motion.

Motion carried.

DISCUSSION/REVIEW

Sound Ordinance Update

Lisa Miller told the Commission that they were instructed to send any suggestion, comments and changes they wanted incorporated into the Ordinance. She said that the definition for daytime and nighttime needs to be clarified. The audience was informed as to what this discussion concerned. The City is to have a separate Noise Ordinance making it more substantial than what is in place and also making the enforcement of the Ordinance more solid.

Chairman Tom Greer asked if the Ordinance has been made available online.

Steven Tomita informed the Commission that until the Commission has given their opinions and comments and made changes, it will be at that time when the Ordinance goes public for their comments.

Sabrina Botts asked the Commission if this would mean that if you wanted to have a party with a band or karaoke, etc. that you would have to get a permit.

Steven Tomita said that is in existence now, but the problem with the existing Ordinance is that is simply states if there is unreasonable noise and that is it. We are trying to have a

more defined Ordinance. That is why we are adding definition and decibel readings for each zone. The reason for the daytime hours and the nighttime hours is the fact that during the day you will have more traffic and activities going on than you would during the nighttime hours and therefore the decibel readings would be different. The noise levels are also different for a commercial area, which is more active, than a residential area.

Chairman Tom Greer said that the main thing trying to be addressed is the fact that at 2 o'clock in the morning is an inappropriate time to have a live band or DJ, etc. going on around you. The continuing issues that are going on day in and day out that are inappropriate in that area and how we as a city can help to manage this. They are working on a good draft of the Ordinance for public comment. This will be put to the public for comment on this.

Steven Tomita said the reason why it has not gone public at this time is that we have accumulated several different Ordinances from different places and are trying to consolidate that into a single document that makes sense so that we can get input from other sources.

Lisa Miller informed them that they could help with this process any time they wish and that they would welcome this help.

The question was asked from a the audience that concerned the use of yard equipment along with a radio jamming, while they mowed the lawn, and wanted to know if the new Ordinance would affect this.

Chairman Tom Greer said that it is not a question of how loud it is where you are working but how loud it is on the property line. There will be criteria.

A gentleman from the audience asked if this would also include dogs.

Chairman Tom Greer said that was a different issue.

Lisa Miller informed him that there was a section in the Ordinance that does address the dog issue.

Steven Tomita said that the Ordinance would not solve everything. The Ordinance sets general parameters and then when you get into some of the land uses under zoning it will have additional rules and restrictions. If you wanted to place a home near an industrial area you would be required to put up a sound retaining wall just as the industry will be required to put up a sound retaining wall if it was going up next to a residential area. Some of the things that we are trying to address in this Ordinance are, we have had an ongoing problem with places that are doing things like fixing cars all day long in their yard with power equipment in a residential area. These are some of the things that we are trying to address.

Sabrina Botts asked if the property located directly behind you is in the County would these Ordinances apply to them.

Steven Tomita said that the City could not enforce a City Ordinance on a County resident.

Commissioner Steven Ethridge informed the audience that he was glad they were there and appreciated the participation in the discussion and would like to see more of that. He told them that if they had any suggestions to write them down and get them to Lisa. You may have another view on this.

Chairman Tom Greer said that with them being out in the areas they may have a different perspective on things and wants the public more involved with them. The Commission is more than happy to have working relationships with the public, not just for the different requests that come before the Commission, but to help us with different views on things. We all live here and we all care about the City.

OPEN COMMENTS/REQUESTS

Sabrina Botts told the Commission that she owns a Commercial lot next to City Hall and would like to know if there was any rezoning of the Commercial-Residential areas.

Lisa Miller informed them that it was zoned commercial and that a residence can be in a commercial zone.

Sabrina Botts said that if she wanted to run a business there and also live in this building, would it be allowed.

Lisa Miller informed her that it can be done in a commercial zone.

Rick Gonzales informed the Commission of the issues that are occurring in his residential area and wanted to know information about having a vacant home being lived in without utilities.

Lisa Miller informed him that the police have been informed of this issues and she has also informed the bank that has control of this property.

Chairman Tom Greer informed him that he is aware of issues of this type happening all over and not just in this city. He said that the public needs to be aware that the police department is understaffed, the fire department is also understaffed, the City has only one Code enforcement officer for the whole city and the public needs to use their eyes and ears to help bring these issues to their attention.

