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MINUTES
VILLAGE OF LOS RANCHOS
Planning and Zoning Commission
6718 Rio Grande Blvd. NW
Warren J. Gray Hall
March 11, 2014
7:00 P.M.

9 **Present:**

10
11 **STAFF**

12 **Administrator:** Kelly Ward

Attorney: Bill Chappell

13 **Planning Staff:** Tim McDonough, Director

14
15
16 **1. CALL TO ORDER – Chairman Hannah** called the meeting to order at 7:02
17 P.M.

18
19 **A. ROLL CALL** - Commissioner Lewis, Commissioner Seligman,
20 Commissioner Craig, Commissioner Hannah, Commissioner Gollis,
21 Commissioner Albert, Commissioner Tourville.

22
23 **Chairman Hannah** stated there was a quorum present for the meeting.

24
25 **B. APPROVAL OF THE AGENDA**

26
27 **Chairman Hannah** asked the Planning Director if there were any changes to
28 the agenda.

29
30 **Planner McDonough** stated the only change was the postponement of Item
31 B

32
33 **MOTION: Commissioner Lewis** moved approval of the agenda as
34 amended.

35
36 **SECOND: Commissioner Tourville** seconded the motion.

37
38 **VOTE:** The motion carried unanimously (7-0).

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40 **2. PUBLIC COMMENT PERIOD**

41 There were no public comments.

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43 **3. CONSENT AGENDA**

44
45 **A. APPROVAL OF CONSENT AGENDA**

46
47 **Chairman Hannah** asked the planning director if there were any changes to
48 the consent agenda and said he had one spelling correction on Page 7, Line
49 2, base music should be changed to bass music.

1 **MOTION: Commissioner Craig** moved approval of the consent agenda as
2 amended.

3
4 **SECOND: Commissioner Gollis** seconded the motion.

5
6 **VOTE:** The motion carried unanimously (7-0).

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8 **4. PUBLIC HEARINGS AND APPLICATIONS**

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10 **Attorney Chappell** swore in those present who would be speaking before
11 the Commission.

12
13 **A. V-14-01** A request by Stephen and Pamela Cox for a Variance from
14 §9.2.7(H)(5) no solid wall or fence located within the side or rear setback
15 area shall be more than six (6) feet in height to allow for a six foot 8 inch
16 (6'8") height in the A-1 Zone of the Village West Character Area. The
17 property is at 1704 Dietz Place and is legally known as Lot number seven (7)
18 in Block number (3) of Rio Grande Meadows, Bernalillo County, New Mexico,
19 as the same is shown and designated on the plat filed in the Office of the
20 County Clerk of Bernalillo County, New Mexico on June 29, 1965 in Volume
21 C6, Folio 74. The property contains .8 acres more or less.

22
23 **Planner McDonough** said the owner had an existing fence that was aging
24 and rundown, he replaced the fence. At the same time or prior to that, there
25 had been a house built next door during a period of time when the setback
26 was only 10-feet and the house was built up to that 10-foot setback line and
27 built a back porch. Over time, there was a lot of activity at that back porch
28 and fairly bright lights. Wishing to block the bright lights and noise, the
29 owner built the fence 8-inches higher at that end. It mentions that it is an
30 inclining fence and, at one end, it is closer to 6-feet and the other end is
31 about 6'8" tall as it approaches the neighbor's house. The owner was not
32 aware that a fence permit was required. The neighbor called to make the
33 Village aware of the fence being built. The Village went on-site and talked
34 to the owner. He subsequently applied for the fence permit and an
35 application for a variance. Per the findings and citations, the Village's
36 Planning Department recommends approval of the variance.

37
38 **Chairman Hannah** said Planner McDonough indicated everything was
39 done with the house prior to the Village's ordinance and current setback.
40 He asked Planner McDonough to remind everyone what the current setback
41 distance is required.

42
43 **Planner McDonough** said the current setback requirement is 15-feet.

44
45 **Stephen Cox**, 1704 Dietz Place, said he and his wife have lived at their
46 current residence for 12 years and the Village for 15 years total. He
47 apologized for increasing the height of the fence. He said summer before
48 last; they did a re-roof renovation by converting their roof from a flat roof to
49 a pitched roof and went through the permit process without issue. He said

1 when he increased the height of the fence, he made sure it was not
2 obtrusive or that it did not impinge on the neighbor's view of the mountains.
3 The intent was to block the view of their back porch from his master
4 bedroom window. They then added a big den on the back of their house in
5 the early part of the year 2000. This caused them to shift their porch on the
6 southeast side of their property. He said this is when they started
7 experiencing the noise from their property.
8

9 **Chairman Hannah** said the maximum height of his fence appeared to be
10 towards the front street and the shorter height is towards the back. He
11 asked Mr. Cox how the height was measured.
12

13 **Stephen Cox** said by the height of the pickets.
14

15 **Chairman Hannah** asked if his neighbor's property slopes the same way
16 Mr. Cox's property does.
17

18 **Stephen Cox** said it did not really slope the same. He said there was a built
19 up area on the southwest end of his property and it is higher back in that
20 area.
21

22 **Chairman Hannah** asked if the fence is roughly 6-feet high all the way
23 along.
24

25 **Stephen Cox** said yes, he thinks so.
26

27 **Commissioner Gollis** thanked Mr. Cox for providing a letter in support of
28 his application for a variance, saying that it was very responsive to the
29 requirements of the zoning ordinance, with respect to requests for
30 variances. He said it was helpful in considering his request. He asked Mr.
31 Cox about page 2 of his letter, he indicated that it says in order to vindicate
32 the hardships; an 8-inch decrease in height of the pickets was specified. He
33 asked him to explain the fence height and how this came about.
34

35 **Stephen Cox** said that Scott's Fencing took the measurements and
36 provided the estimate for the increase. Scott's Fencing held up a picket and
37 Mr. Cox said he went into his bedroom and looked out towards his neighbor,
38 at which time he was communicating with Scott's Fencing about lifting up
39 the picket more and more until his neighbor's porch was no longer viewable.
40

41 **Chairman Hannah** said there were two letters sent to Village Hall that
42 were in favor of the application for a variance. He asked Planner
43 McDonough if the Village received any letters that were opposed to it.
44

45 **Planner McDonough** said there was one note received that was not
46 signed and the Village is unaware of who sent it.
47

1 **Chairman Hannah** asked if the note specifically explains if they were in
2 support of it or opposed to it.

3
4 **Planner McDonough** said it did not specifically take a position.

5
6 **Chairman Hannah** said that he did see the notice of the variance
7 application posted. There were no comments from the immediate neighbors.

8
9 **MOTION: Commissioner Seligman** moved approval of the request for
10 variance from §9.2.7(H)(5) no solid wall or fence located within the side or
11 rear setback area shall be more than six (6) feet in height to allow for a six
12 foot 8 inch (6'8") height in the A-1 Zone of the Village West Character Area
13 with the following findings:

14
15 A) The variance is in conformance with the goals and policies of the
16 Village Master Plan. The Master Plan goals in section 4.5.1 Noise
17 Mitigation Goal. The goal is to create and maintain an environment
18 within the Village, which is semi-rural in nature, conducive to peace
19 and tranquility and prevent excessive sound and vibration except on a
20 limited accepted basis. Master Plan goal section 4.6.1 Dark Skies
21 Goal. The goal is to maximize the preservation of the rural valued
22 character of the Village and to minimize light pollution for the
23 enjoyment of citizens in the Village.

- 24 1) It is not contrary to the public interest and,
- 25 2) Only to special conditions; a literal enforcement of this
- 26 section will result in unnecessary hardship.

27
28 B) For purposes of this section, enforcement of the section shall be
29 deemed to cause unnecessary hardship if to when compared to other
30 land in the vicinity, subject to the same provisions, the parcel was
31 exceptional by reason of condition for use of the parcel or of other
32 land in the vicinity which conditional use existed when the provisions
33 were adopted. The neighbor's porch addition was constructed in
34 2001, prior to the adoption of Ordinance 183, which allowed for 10-
35 foot setbacks and established sidewall heights.

36
37 The development posed in the variance differs from that allowed in
38 this ordinance only enough to lead to an alleged hardship. The
39 alleged hardship is just that they believe this is justifiable, in
40 accordance with the goals and policies in the Master Plan; therefore
41 the variance meets 8.1, 8.2, B.2.5, and B.2.6.

42
43 **SECOND: Commissioner Lewis** seconded the motion.

44
45 **Chairman Hannah** said it seems like there should be somewhere that the
46 variance can legally be hung on because variances stay with the land and do
47 not have to do with the people. He said the issue becomes people asking
48 why certain properties are different than others.

1
2 **Attorney Chappell** said anytime you deal with variances, they could be
3 difficult. In most contexts, there are not circumstances that are specifically
4 outlined in the basis for giving variances. For these cases, there is some
5 discretion with respect to variances, which are not substantive and there are
6 no objections, but if it was ever taken to appeal, documentation would be
7 needed. He said he has a continuing concern that if all variance requests are
8 granted, then at some point, you wind up with only variances and the
9 standard is no longer clear.

10
11 **VOTE:** The motion passed unanimously (7-0).
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14 **B. SDP-13-02** A request by Christine Rodriguez for Preliminary Site
15 Development Plan approval for new commercial development in the
16 Gateway District Zone of the Fourth Street Commercial Character Area. The
17 property is located at 8312 and 8318 4th Street NW and is legally known as
18 Plat of Lots A-1 and A-2, Villa Christina, bring a replat of Tract "A" Paraiso
19 Escondido within the Town of Alameda Grant, Projected Section 16, T11N,
20 R3E, N.M.P.M., Village of Los Ranchos de Albuquerque, Bernalillo County,
21 New Mexico as the same is shown and designated on the Plat filed in the
22 office of the County Clerk of Bernalillo County, New Mexico on February 24,
23 2010. The property contains 1.1939 acres more or less. **POSTPONED**
24 **UNTIL THE APRIL 8, 2014 MEETING.**

25
26 **5. OLD BUSINESS--NONE**

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28
29 **6. NEW BUSINESS**

30 **A.** Adoption of Resolution 2014-1-P&Z (Open Meetings Act)

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32 **MOTION: Commissioner Lewis** moved approval of the adoption of
33 Resolution 2014-1-P&Z (Open Meetings Act)

34
35 **SECOND: Commissioner Tourville** seconded the motion.

36
37 **VOTE:** The motion passed unanimously, 7-0.

38
39 **B.** Adoption of Resolution 2014-2-P&Z (Rules for the Transaction of Business)

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41 **MOTION: Commissioner Craig** moved approval of the adoption of
42 resolution 2014-2-P&Z (Rules for the Transaction of Business)

43
44 **SECOND: Chairman Hannah** seconded the motion.

45
46 **VOTE:** The motion passed unanimously, 7-0.

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48 **C.** Election of Officers 2014
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1 **MOTION: Commissioner Craig** moved approval of the Election of Officers
2 2014.

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4 **SECOND: Commissioner Lewis** seconded the motion.

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6 **VOTE:** The motion passed unanimously, 7-0.

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8 **7. REPORTS**

9
10 **A. PLANNING DEPARTMENT REPORT**

11
12 **Planner McDonough** said he is in week 2-1/2 in his new position as Planning and
13 Zoning Director. He commended the Planning and Zoning Assistant, Marcy Bissell,
14 and the previous Planner, Linda Seebach, with organizing the department procedures
15 and records. He said he trained with Linda for four days. Then only 1-week with
16 Marcy, but she broke her wrist and has been out since then. He said there have been
17 two new house-building permits submitted – one in Prado and the other off Pueblo
18 Solano. There has also been a conditional use request, a zone certification request,
19 and a couple of demolition permits. He said he also met with Attorney Chappell and
20 Administrator Ward to discuss Special Use Zones, Special Use Permits, and what that
21 will look like moving forward.

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23 **9. COMMISSIONER’S INFORMAL DISCUSSION-NONE**

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25 **10. ADJOURNMENT**

26 **MOTION: Commissioner** moved to adjourn the meeting at 7:38 p.m.

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28 **SECOND: Commissioner** seconded the motion.

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30 **VOTE:** The motion passed unanimously, (7-0).

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32
33 **APPROVED by the Planning and Zoning Commission of the Village Los**
34 **Ranchos de Albuquerque this _____ day of _____, 2014.**

35
36 **ATTEST:**

37
38 _____
39 Samuel D. Gollis, Secretary
40 Planning and Zoning Commission
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