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**MINUTES  
VILLAGE OF LOS RANCHOS  
Planning and Zoning Commission  
6718 Rio Grande Blvd. NW  
Warren J. Gray Hall  
September 8, 2015  
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 Seligman called** the meeting to order at 7:05  
17 p.m.

18  
19 **A. ROLL CALL** - Commissioner Craig, Commissioner Riccobene,  
20 Commissioner Brawley, Commissioner Seligman, Commissioner Phillips,  
21 Commissioner Colman, Commissioner Tourville.

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

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

26  
27 **Chairman Seligman** asked Planner McDonough if there were any changes  
28 to the agenda.

29  
30 **Planner McDonough** stated there were no changes.

31  
32 **Chairman Seligman** asked if there was a motion to approve the agenda as  
33 presented.

34  
35 **MOTION: Commissioner Colman** moved to approve the agenda as  
36 presented.

37  
38 **SECOND: Commissioner Tourville** seconded the motion.

39  
40 **VOTE:** The motion carried unanimously (7-0).

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42  
43 **2. PUBLIC COMMENT PERIOD**

44  
45 **Chairman Seligman** asked if there was anyone present who was here for  
46 public comment. Then asked the audience member to come forward and  
47 state her name and address for the record.  
48

1 **Carol Overturf** 8203 Guadalupe Trail NW stating she was there to discuss  
2 the mistaken approval of the sign permit for Taylor Middle School that the  
3 Planning and Zoning department gave. Outlining what they discussed with  
4 the Principal for the school.  
5

6 **Chairman Seligman** asked if there were any questions from the  
7 Commissioners.  
8

9 **Commissioner Colman** stated she is total agreement with Ms. Overturf  
10 especially in the night sky ordinance. And asked for some research and to  
11 make this an agenda item. Because she thinks this is very important.  
12

13 **Chairman Seligman** asked if there were any other comments. And  
14 recognized Commissioner Craig.  
15

16 **Commissioner Craig** asked Planner McDonough if they have a sign  
17 ordinance.  
18

19 **Planner McDonough** stated there is a sign ordinance and there has been a  
20 long discussion with APS, who think they do not fall under our code. And  
21 discussed what the sign ordinance does entail with electronic signs.  
22

23 **Chairman Seligman** recognized Commissioner Phillips.  
24

25 **Commissioner Phillips** stated for the record that he lives across the street  
26 from Taft Middle School and at first there was a problem when the sign went  
27 in, but not any more because the sign is turned off at 7:00 p.m.  
28

29 **Chairman Seligman** asked Attorney Chappell is there anything in the  
30 ordinances that state that APS is not under Village ordinances?  
31

32 **Attorney Chappell** stated there is a split in authority as to whether or not a  
33 school is a state agency. And discussed what state law had to say about  
34 schools and it depends upon the circumstances and that is the status of the  
35 law.  
36

37 **Chairman Seligman** asked Planner McDonough if this could be put on the  
38 agenda.  
39

40 **Planner McDonough** stated he did not see, especially with the negotiations  
41 that are proceeding, for the reason why it needs to go on the agenda.  
42

43 **Chairman Seligman** stated that maybe they should pursue this because the  
44 Village should be part of the negotiations if they are violating our ordinances.  
45

46 **Planner McDonough** stated that it could be put on the agenda.  
47

48 **Chairman Seligman** recognized Ms. Overturf.  
49

50 **Carol Overturf** stated they wanted some sort of formal declaration from the  
51 Village so they have some sort of recourse for the next principal. The current

1 Principal is really kind and understanding. They just want something in writing  
2 somewhere that says that these are the rules for the Village and we don't  
3 have to face this with every new administrator. That is their request.

4  
5 **Chairman Seligman** asked if there were any other comments.

6  
7 **Commissioner Colman** stated she wanted to go on record that this is a fight  
8 worth fighting. That with all the money that they are pouring into  
9 redevelopment of the 4<sup>th</sup> Street corridor that it is extremely unfair. Asking  
10 businesses to invest in 4<sup>th</sup> Street it's actually a very important point to at least  
11 get clarified.

12  
13 **Chairman Seligman** recognized Commissioner Craig.

14  
15 **Commissioner Craig** asked if there were any violation of the Village  
16 ordinances.

17  
18 **Planner McDonough** stated it is in violation of the sign ordinance. It is a  
19 bigger issue on how the public school system complies with the code. And  
20 reiterated that they could put it on the agenda and come up with a plan.

21  
22 **Chairman Seligman** recognized Administrator Ward.

23  
24 **Administrator Ward** stated that what we can do is have our legal  
25 department talk to their legal department and see if they want to either accept  
26 our ordinances or not and actually see if we have a fight on our hands.

27  
28 **Chairman Seligman** recognized Attorney Chappell.

29  
30 **Attorney Chappell** stated that they do not think they are bound by the  
31 ordinances.

32  
33 **Chairman Seligman** asked Attorney Chappell what was the proper  
34 procedure.

35  
36 **Attorney Chappell** explained the procedure would lead to a court  
37 appearance and let the court determine if they were bound by Village  
38 ordinances.

39  
40 **Chairman Seligman** stated before they do that can they put this as new  
41 business at the next meeting and contact APS to see what they have to say.

42  
43 **Attorney Chappell** stated that the only way that will work is to send them a  
44 citation noting the violation and wait for them to appeal it. It can get messy  
45 and it might go to district court and then we are back where we started.

46  
47 **Chairman Seligman** recognized Commissioner Brawley.

48  
49 **Commissioner Brawley** suggested that they first form a cultural relationship  
50 before they go to court. So it doesn't become contentious. It is a big problem  
51 and it will touch on other issues. If they can get the present Principal to agree

1 to do the same thing as the other sign they can build on that. And then if they  
2 have to pull a more onus rabbit out of the hat then they do that. They need to  
3 start out on a friendlier basis.  
4

5 **Attorney Chappell** stated a compromise at this point does them no good for  
6 the other violation. It all matters on timing. He suggests getting in touch with  
7 the Chief counsel for APS and out line a question of enforcement and ask if  
8 they believe they are bound by the ordinances and if he says they are not  
9 bound by them then they have a basis to go before the APS Board and ask if  
10 they will agree to comply with the ordinances. If they don't then we can take  
11 them to the court of appeals, but then you are looking at 24 to 38 months.  
12

13 **Commissioner Brawley** stated his concern is that the neighbors have the  
14 sign in their face. If there is someway to get it mitigated or shortened. One  
15 that solves the immediate problem and one that is a longer-term solution.  
16 Notify them and begin to act accordingly.  
17

18 **Commissioner Seligman** stated it should be negotiated, but at the same  
19 time a Village ordinance has been violated then recognized Commissioner  
20 Craig.  
21

22 **Commissioner Craig** stated it really falls to the Planning Director to get  
23 together with the neighbors and the Principal to work out a solution.  
24

25 **Planner McDonough** stated what he heard was currently there was a  
26 compromise that was negotiated with the new Principal.  
27

28 **Chairman Seligman** asked Ms. Overturf to return to the microphone so they  
29 could get her comments on the record.  
30

31 **Carol Overturf** stated that the sign had not been turned on yet so they don't  
32 know. All they have is the Principal's word and they are accepting that.  
33

34 **Planner McDonough** stated that some of the process has already been  
35 done. He met with the previous Principal, but was not able to meet with the  
36 current group. The initial compromise appears to be in place now. They will  
37 see once they turn the sign on. We can talk to APS and their attorney based  
38 on those answers where to go from there. They were there at the initial time  
39 and will continue to be involved in the issue. He will report to them on the  
40 monthly reports if they'd like. And if you think the Commission should get  
41 involved they can put it on the agenda.  
42

43 **Chairman Seligman** thanked Planner McDonough and moved on to the next  
44 item.  
45

46 **3. CONSENT AGENDA**

47  
48 **A. APPROVAL OF CONSENT AGENDA-** Approval of minutes – August  
49 11, 2015 meeting  
50

1 **Chairman Seligman** asked if there were any changes or corrections to the  
2 Minutes of the August 11th meeting.

3  
4 **Chairman Seligman** asked if there was a motion for approval of the consent  
5 agenda.

6  
7 **MOTION: Commissioner Phillips** moved approval of the consent agenda  
8 as presented.

9  
10 **SECOND: Commissioner Brawley** seconded the motion.

11  
12 **VOTE:** The motion carried unanimously (7-0).

13  
14 **4. PUBLIC HEARINGS AND APPLICATIONS**

15  
16 **Attorney Chappell** swore in those present who would be speaking before  
17 the Commission.

18  
19 **A. CU-15-02** A request for a Conditional Use Permit for a Brewpub, in  
20 accordance with the Statutes of the State of New Mexico Alcohol and  
21 Gaming Division as permitted by a Small Brewers License in the C-1  
22 Zone of the Fourth Street Commercial Corridor and Character Area. The  
23 property is located at 7222 Fourth St. NW, and is legally known as Tract  
24 B Plat of Tracts A & B La Esquina de Los Ranchos, situate within the  
25 Elena Gallegos Grant, Section 21, T11N, R3E, N.M.P.M., Village of Los  
26 Ranchos de Albuquerque, Bernalillo County, NM Filed 9/29/2008. The  
27 property contains 1.226 acres more or less. This was deferred from the  
28 August 11, 2015 meeting.

29  
30 **Chairman Seligman** asked Planner McDonough for his planning report.

31  
32 **Planner McDonough** gave the background on this conditional use for a  
33 brewpub with recommendations of approval with findings.

34  
35 **Chairman Seligman** asked if there were any questions for Planner  
36 McDonough. Then recognized Commissioner Phillips.

37  
38 **Commissioner Phillips** asked if he knew what was in that space prior?

39  
40 **Planner McDonough** stated that he believes it was a beauty salon.

41  
42 **Commissioner Phillips** then asked if there was anyone who knows what  
43 businesses were prior to that.

44  
45 **Commissioner Craig** stated he knew what it was prior.

46  
47 **Chairman Seligman** called on Commissioner Craig to give the answer.

48  
49 **Commissioner Craig** stated it was a salon called the Blue Door Salon and  
50 prior to that it was an art gallery.

1 **Planner McDonough** stated after that it was a church.

2  
3 **Commissioner Phillips** asked if they know what is intended for the property  
4 up front?

5  
6 **Planner McDonough** stated that is probably a good question for the  
7 applicant.

8  
9 **Commissioner Phillips** stated if it had a beer and wine restaurant it also  
10 would be a conditional use.

11  
12 **Planner McDonough** stated that you could have a restaurant with a beer  
13 and wine license without a conditional use. To have a full bar it would be a  
14 conditional use.

15  
16 **Commissioner Phillips** stated but a brewpub has to have a conditional use  
17 where a restaurant with a beer and wine license would not have to have one.

18  
19 **Planner McDonough** affirmed that statement.

20  
21 **Chairman Seligman** asked if there were other questions. Then stated she  
22 had a couple of questions. She read part of the code involving the Conditional  
23 Uses and stated given those they have the ability to impose certain  
24 conditions to protect the safety and welfare of the Village. So is there going to  
25 be any injury to the adjacent property?

26  
27 **Planner McDonough** stated it is a commercial property and anything that is  
28 a permissive use on this property does not have to go through a conditional  
29 use including a restaurant with a beer and wine license.

30  
31 **Chairman Seligman** stated that did not answer her question.

32  
33 **Planner McDonough** stated that is part of his answer. How do you define  
34 injurious? In his mind it would be something that is beyond what is a  
35 permissible activity or a permissible level of activity. The concept of food and  
36 beer seems to be permissible in other applications, but not in this. It is hard to  
37 say that this in a C-1 zone and it is harmful beyond what other permissible  
38 activity in a C-1 zone would be.

39  
40 **Chairman Seligman** stated that this body if they choose to can impose  
41 reasonable conditions on the use of the property based on sub-Section B.

42  
43 **Planner McDonough** stated that was correct.

44  
45 **Attorney Chappell** stated that they could make recommendations on  
46 conditions then those would go to the Board of Trustees.

47  
48 **Chairman Seligman** stated that was correct and asked if there were any  
49 more questions and then asked for the applicant to come forward and to state  
50 their name and address for the record.

1 **Matt Meyers** 1401 Central Ave. Albuquerque, NM 87104 stating he is here  
2 for Jim Shull the applicant and Betty Blea, who is the owner of the property.  
3 The test is in conformance to the Master Plan and not injurious to adjacent  
4 properties. They have complied with the public notice regulations. They look  
5 to the Village's ordinances that are in place to demonstrate they will not  
6 violate the noise ordinance, the dark skies ordinance, and as for parking,  
7 customers will only be able to park in the commercial zone. He feels there are  
8 ordinances in place that will ease the neighbors concerns. And they have  
9 limited the amount of hours of operation. Also, per state statute the brewpub is  
10 allowed to sell other beer brewed in New Mexico they don't want it to sound  
11 like Mr. Shull is only selling his beer. Then he talked about the pictures of the  
12 property and the layout that Mr. Shull handed out to the Commission.

13  
14 **Chairman Seligman** asked if there were any questions and recognized  
15 Commissioner Brawley.

16  
17 **Commissioner Brawley** asked about the process of brewing their own beer  
18 so they can consider the reason for the conditional use because it is atypical  
19 use. They don't see brew pubs often.

20  
21 **Matt Meyers** stated he would have Mr. Shull answer this question and he can  
22 assure them on one particular thing and that is there are no obnoxious fumes  
23 coming from the brewing nor are there any unusual noises.

24  
25 **Jim Shull** 1634 Rancho Guadalupe Trail NW stated at this time he will not be  
26 brewing at this location. He has set up a brewery in the Nob Hill area and he  
27 will have beer available from there which will be delivered in kegs. It is a  
28 small operation what you are doing is selling other breweries beer in hopes  
29 that they will sell yours in their establishments. At the 4<sup>th</sup> Street location there  
30 will not be any brewing, bottling, or semi-trucks delivering.

31  
32 **Commissioner Brawley** stated what he is hearing is the operation then at  
33 this time is there will not be any brewing at this location. So why not just have  
34 a permissive use of a restaurant serving beer and wine. Wouldn't that be an  
35 easier way to do it?

36  
37 **Jim Shull** stated that the State requires with a beer and wine license you  
38 have to serve 60% food. The State had allowed fast food in, but recently they  
39 changed that and now they require entrees and you can only serve until  
40 10:30 at night so there are a lot more restrictions. With a brewery you can sell  
41 growlers with beer and wine you can't do that.

42  
43 **Commissioner Brawley** thanked Mr. Shull.

44  
45 **Chairman Seligman** recognized Commissioner Phillips.

46  
47 **Commissioner Phillips** asked if he was going to use the patio area on the  
48 south side of the building.

49  
50 **Jim Shull** stated there is a patio on the west side of the building that they will  
51 use.

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**Commissioner Phillips** stated the next two questions are for Mr. Meyers. And asked about Tract A of the property and what use will it be.

**Matt Meyers** stated that right now Mr. Shull has it under contract to lease the property if the microbrewery is granted. And if so then he has the option to rent Tract A, which he wants to put his wife's beauty salon in the front building that is his goal.

**Commissioner Phillips** stated that part of the property is zoned R-2.

**Matt Meyers** stated that the undeveloped land in the back of the building to his understanding is that it is zoned R-1.

**Commissioner Phillips** asked for clarification of the R-2 zoning on the property.

**Planner McDonough** stated he stands with the R-2 zoning.

**Commissioner Phillips** asked if there were any plans to develop that part of the property?

**Chairman Seligman** asked Mr. Shull to speak into the microphone so as to get it on the record.

**Jim Shull** stated that he does have plans for that he is hoping to grow hops there have been two farms that have been successful, one in Bosque Farms and the other in Abiqui. The Bosque Farms has since quit. He is still trying to figure it out right now. And as for his wife's salon her lease is up at the first of the year.

**Chairman Seligman** asked if there were any more questions and recognized Commissioner Craig.

**Commissioner Craig** stated that the buildings are really beautiful and the previous businesses were not the best use of the buildings. This area he thinks it is zoned wrong and he thinks it should have been zoned M-1. There is light manufacturing, tank farm that is scary, and a plumber so it is a good commercial area and a brewpub would be perfect for the area and a good opportunity.

**Chairman Seligman** stated she is all for it, but wants it to blend in with the neighbors and with the use of the patio if it has music how are they going to contain the bass music to the confines of the property line.

**Jim Shull** stated that it will only be background music and if they have to they will turn off the music in the patio area an hour before closing to help mitigate this. It would be nice but not overwhelming he doesn't know how it would get past the 200' feet and the 6' foot high wall.

1 **Chairman Seligman** stated that what she is hearing is background music  
2 and not talking about live music, bands, and that is all she is concerned  
3 about. She is talking about ambient music that is contain on the property  
4 area.

5  
6 **Jim Shull** stated that he had talked about this and thought that maybe three  
7 times a year they may have something large like a harvest festival. And he  
8 knows he has to talk to the Village about that so as to give several weeks  
9 warning to people.

10  
11 **Chairman Seligman** stated that if they put a limitation of back ground music  
12 that would be contained within the property. Would that be a condition that  
13 you would not go with. Other than the big festivals.

14  
15 **Jim Shull** stated he thought that was fine. He didn't think that background  
16 music would be that loud. At night he didn't think that would be an issue.

17  
18 **Chairman Seligman** recognized Commissioner Craig.

19  
20 **Commissioner Craig** asked the Planning Director if they are getting beyond  
21 the Planning & Zoning Commission authority when we start putting  
22 restrictions on sound levels. We are basically to comply with the Village  
23 ordinances. We keep repeating that the Commission needs to comply with  
24 what the ordinances state. It's more of a trustee issue to establish sound  
25 levels.

26  
27 **Attorney Chappell** stated they needed to keep in mind that they are giving  
28 recommendations to the Board of Trustees. So you will not establish what is  
29 not in the ordinance. He will just point out that recommendations need to be  
30 clear and perhaps enforceable. So if you have sound that must be contained  
31 on the property that is hard to do. If there is a specific recommendation then  
32 the Board can do something. But then again you can recommend anything  
33 you want to recommend. And if there is a change it will be done by the Board  
34 of Trustees.

35  
36 **Chairman Seligman** asked about hours of operation.

37  
38 **Jim Shull** stated he wanted to be open until 1:00 a.m. on weekends, 10:00  
39 p.m. Monday through Wednesday, 11:00 p.m. on Thursday and 10:00 p.m.  
40 on Sunday. The last thing you want to be is the last place open.

41  
42 **Chairman Seligman** asked if he had discussed this with the neighbors.

43  
44 **Jim Shull** stated that it was part of the compromise. If he had a beer and  
45 wine license he could legally stay open until 2:00 a.m. Beer would have to  
46 quit being served at 10:30 p.m. It all depends on what is happening that night  
47 if you have a late football game on then you may have to stay open a little  
48 later until the game ends, but if there is nothing going on you may close early.  
49 He doesn't want to pay anyone to just stand around. You have to guess what  
50 you want your business doing two years from now or even five years. You

1 hate to restrict so much because you are competing against all the other  
2 brewpubs in town. He just hates hindering yourself right from the start.

3  
4 **Chairman Seligman** asked if there were any more comments and  
5 recognized Commissioner Phillips.

6  
7 **Commissioner Phillips** asked for clarification of a question.

8  
9 **Attorney Chappell** stated his legal assistant just corrected him if there is no  
10 appeal on the decision of the Planning & Zoning Commission on the  
11 conditional use the decision is final. So if it is not appealed whatever  
12 conditions you set are final.

13  
14 **Commissioner Phillips** stated that answered the question he was going to  
15 raise. If they were to further his request without any restrictions the decision  
16 is set and the appeal process then happens or if we do set conditions and if  
17 there was an appeal either way if we make a decision and there is an appeal  
18 it goes to Board of Trustees.

19  
20 **Attorney Chappell** stated any decision they make is appealable by one party  
21 or the other. They have fifteen (15) days to file an appeal and would be  
22 scheduled for the next Board of Trustees meeting.

23  
24 **Commissioner Phillips** thanked Attorney Chappell for the information.

25  
26 **Matt Meyers** apologized for interrupting stated he wanted to make sure they  
27 are all on the same page then clarified what he understood about the appeal  
28 process and stated that the Commission are the decision making body.

29  
30 **Attorney Chappell** stated it becomes final unless it is appealed.

31  
32 **Matt Meyers** thanked Attorney Chappell.

33  
34 **Attorney Chappell** stated a zone change would have to happen if the  
35 conditional use becomes final.

36  
37 **Matt Meyers** thanked Attorney Chappell.

38  
39 **Chairman Seligman** recognized Commissioner Colman.

40  
41 **Commissioner Colman** wanted to go on record that Mr. Shull sounds like he  
42 has given a lot of thought into what he needs for it to work. And it would be a  
43 plea to the body that they place as few restrictions on his business as is  
44 possible. She thinks that if they want to attract businesses to come to 4<sup>th</sup>  
45 Street they have to say that businesses can be open within reason. She  
46 doesn't want someone to come in and run over everybody. But, Mr. Shull  
47 seems very sincere in his efforts to try and do the right things and be a real  
48 member of the community. And it would be her plea that they put no  
49 restrictions on the conditional use.

50  
51 **Chairman Seligman** recognized Commissioner Riccobene.

1 **Attorney Chappell** stated to Chairman Seligman that it sounds like they are  
2 discussing the motion not just the application, not just questions. The  
3 applicant should speak then the audience and then the motion. Then they  
4 can debate the motion.

5  
6 **Chairman Seligman** asked Commissioner Riccobene if he had any  
7 questions.

8  
9 **Commissioner Riccobene** stated he had no questions.

10  
11 **Chairman Seligman** stated Mr. Shull if he remembers what restrictions they  
12 had on his last application she doesn't remember.

13  
14 **Jim Shull** stated at the time they were going to build a patio between the  
15 Taco Bell drive thru and there was a lady that lived on Sandia View who was  
16 concerned about being able to hear the drive up so they proposed building a  
17 wall on the south side of that patio so she would not get any noise from that  
18 direction.

19  
20 **Chairman Seligman** asked him if he had considered a block wall for this  
21 property.

22  
23 **Jim Shull** stated the patio is on the west side of the building there is an  
24 adobe building between them and the Homan's house there is also two  
25 hundred (200') feet between the building and the Homan's house and the  
26 Homan's have a six foot solid wall. Having another solid wall is an  
27 economical restriction and he thinks not fair. They did talk about the three  
28 hundred foot (300') rule. And there should no be any traffic past that and they  
29 will have a chain or something that will not let people over flow into the rear of  
30 the property. There is a drainage problem on that side and he is fine with  
31 restricting the access.

32  
33 **Chairman Seligman** asked Mr. Shull to show her on the pictures what he  
34 stated, which he then complied with the request.

35  
36 **Chairman Seligman** asked about the access.

37  
38 **Jim Shull** pointed it out on the pictures.

39  
40 **Chairman Seligman** asked if he had an issue with the three hundred foot  
41 (300') line.

42  
43 **Jim Shull** stated he had no issue with that.

44  
45 **Chairman Seligman** asked if there were any other questions for the  
46 applicant. Then asked if there was anyone here who wanted to speak in favor  
47 of the application. Seeing none then asked if there was anyone who wanted  
48 to speak in opposition. She then asked the audience member to state her  
49 name and address for the record.

1 **Mary Homan** 7318 4<sup>th</sup> Street NW and also owner of 7320 and 7324 4<sup>th</sup> Street  
2 NW stating that she would not say she was totally in opposition she would  
3 like to discuss some conditions to the suggested property use. They gave a  
4 statement as to what they would like to happen on the property.  
5

6 **Chairman Seligman** asked if there were any questions for Ms. Homan. Then  
7 thanked Ms. Homan for her statement then recognized Commissioner  
8 Brawley.  
9

10 **Commissioner Brawley** asked Mr. Shull if closing off the patio during the  
11 winter months would help mitigate the sound problem.  
12

13 **Jim Shull** stated it probably would. It depends on the architecture of the  
14 building part is covered part is not. If they were to expand the patio between  
15 the two buildings it would be better covered because it's square. And where  
16 they can add heaters on those chill evenings. He thinks that would help and  
17 again reiterated his position on the sound traveling through the adobe  
18 building.  
19

20 **Commissioner Brawley** stated what he was thinking was in January when  
21 he has clients indoors they are not going to hear anything outside. There are  
22 four months that are the problem. The C-1 ordinance requires a fifteen-foot  
23 (15') buffer to residential. What he sees is some opportunities for Mr. Shull to  
24 have landscaping at the access to the rear property. Wondering if the  
25 restriction to the rear property, which would be beneficial to Mr. Shull could  
26 be landscaping.  
27

28 **Jim Shull** stated that having a padlocked gate there would prevent access  
29 and once he starts growing the hops being able to look out and not see a  
30 wall, but the hops was the idea behind it.  
31

32 **Commissioner Brawley** stated he is thinking it's not the noise from the  
33 building, but the noise from the parking lot. And having some barrier there so  
34 people understand you can't have access to the rear would keep them a  
35 good eighty feet (80') away from the three hundred foot (300') line.  
36

37 **Jim Shull** stated he agrees with that.  
38

39 **Chairman Seligman** asked if he had any problems with reducing the hours  
40 of ambient noise.  
41

42 **Jim Shull** stated he had no problem with that.  
43

44 **Chairman Seligman** asked what would be reasonable.  
45

46 **Jim Shull** stated about an hour prior to closing, which he thinks is  
47 reasonable.  
48

49 **Chairman Seligman** clarified one hour prior to closing.  
50

51 **Jim Shull** replied yes.

1 **Chairman Seligman** recognized Commissioner Craig.

2  
3 **Commissioner Craig** stated he is uncomfortable in dictating to businesses  
4 as Planning and Zoning Commissioners their hours and the Planning  
5 Director's duties, which is the enforcement of the noise ordinance. He thinks  
6 they are getting into enforcement, which is not the Commission. This site is  
7 one of the most industrial sites in the Village. Brewpubs the one's he has  
8 been to are family oriented there's kids and dogs and it is all very benign.

9  
10 **Attorney Chappell** stated procedurally these comments should come after  
11 the motion is on the floor and seconded.

12  
13 **Chairman Seligman** recognized Commissioner Phillips.

14  
15 **MOTION: Commissioner Phillips** moved to approve the conditional use  
16 permit of the brewpub without any additional restrictions.

17  
18 **SECOND: Commissioner Tourville** seconded the motion.

19  
20 **Chairman Seligman** asked if there was any discussion and recognized  
21 Commissioner Riccobene.

22  
23 **Commissioner Riccobene** stated they need to strike a balance between the  
24 neighbors and the commercial developments. ~~They need to give businesses~~  
25 ~~breathing room to operate it well.~~ **They need to give Mr. Shull the freedom**  
26 to operate it well. If he doesn't operate it well they have the ordinances not  
27 followed and the mitigation is he loses his business license. He is not in favor  
28 of putting restrictions he agrees with the motion. It's up to him to operate his  
29 business within the confines of his lot and also be a good neighbor.

30  
31 **Chairman Seligman** recognized Commissioner Tourville.

32  
33 **Commissioner Tourville** agreed with Commissioner Riccobene stating  
34 brewpubs are great community with dogs and with kids. And all have  
35 restrictions on how much you can drink. It is something they want here in the  
36 Village for sure and growing hops in the back goes with the Village agriculture  
37 aspects and he agrees there should be no restrictions.

38  
39 **Commissioner Seligman** asked if there were any other comments. Then  
40 commented they have to look at the health and welfare of the Village  
41 residents. Mr. Shull has been more than cooperative. She thinks that there  
42 should be reasonable conditions, which he has agreed to and we should  
43 require that some type of barrier at the commercial property line to any kind  
44 of vehicular traffic and the other condition is the ambient noise. He has  
45 agreed to turn off the music one hour prior to closing. His hours are not  
46 outrageous. She asked that those restrictions be put in place. Then  
47 recognized Commissioner Colman.

48  
49 **Commissioner Colman** asked that there is a motion on the table should they  
50 vote on it. And if it doesn't pass then have a discussion.

1 **Attorney Chappell** stated procedurally there are a couple of things that can  
2 happen if someone wants to make a motion to amend the motion adding  
3 conditions and ask for a second if there is no second then it dies for lack of a  
4 second. Then they proceed to vote on the main motion. If there is no motion  
5 to amend they go directly to the main motion.  
6

7 **MOTION: Commissioner Seligman** moved to amend the approval of the  
8 application to include vehicular traffic be contained to the C-1 zone and the  
9 ambient noise on the patio be turned off one hour before closing each night.  
10

11 **Attorney Chappell** stated the person who motioned and the person who  
12 seconded the motion must agree to the amendment if they don't agree to the  
13 amendment then they vote on the amendment.  
14

15 **Chairman Seligman** asked if the amendment was agreeable.  
16

17 **Commissioner Phillips** stated no.  
18

19 **Commissioner Tourville** responded in the negative.  
20

21 **Attorney Chappell** asked if there was a second to the amendment.  
22

23 **Chairman Seligman** stated it dies now they will vote on the motion to  
24 approve the conditional use with no restrictions. She then called for a vote.  
25

26 **VOTE:** carried by a vote of (6-1) with Commissioner Seligman voting nay.  
27

28 **Chairman Seligman** stated for the record the result of the vote.  
29

30 **Mary Homan** asked if she could ask Planner McDonough if the approval was  
31 based on the hours stated. So if the hours were to changed would they have  
32 to come back to change them?  
33

34 **Jim Shull** stated he put the hours on the application.  
35

36 **Matt Meyers** stated Mr. Shull stated if for the record and they are fine with  
37 those hours.  
38

39 **Chairman Seligman** stated she doesn't mind opening up the microphone  
40 again, but she needs him to make sure it is on the record.  
41

42 **Attorney Chappell** stated the hours were in the recommendation in the  
43 planning report it is his understanding the motion was to approve the  
44 application under the recommendation in the planning report so that would  
45 make the hours part of the approval.  
46

47 **Chairman Seligman** asked if they needed to go back and amend the motion  
48 to state that specifically or are they all clear that is what was on the planning  
49 report recommendation.  
50

1 **Attorney Chappell** stated that when Planner McDonough gives the final  
2 decision notification he will make sure that is noted.

3  
4 **Chairman Seligman** stated that was fine and then moved onto the next item  
5 on the agenda.

6  
7 **5. OLD BUSINESS**

8  
9 **A. Resolution No. 2015- 3- P & Z** a resolution concerning Planning and  
10 Zoning Commission closed sessions in quasi-judicial hearings.

11  
12 **Chairman Seligman** asked Planner McDonough if he had any opening  
13 remarks on this resolution.

14  
15 **Planner McDonough** gave a quick report on how he used the Open  
16 Meetings Act to set up the language and how to motion for the closed session  
17 and then was open for questions.

18  
19 **Chairman Seligman** asked if there were any questions for Planner  
20 McDonough and then asked Attorney Chappell if he had read the resolution.

21  
22 **Attorney Chappell** stated he had reviewed the resolution to make sure that it  
23 was legally correct.

24  
25 **Chairman Seligman** asked if there was a motion.

26  
27 **MOTION: Commissioner Phillips** moved to approve Resolution No. 2015-  
28 3- P & Z a resolution concerning Planning and Zoning Commission closed  
29 sessions in quasi-judicial hearings.

30  
31 **SECOND: Commissioner Riccobene** seconded the motion.

32  
33 **VOTE:** the vote was unanimous (7-0).

34  
35 **6. NEW BUSINESS**

36  
37 **7. REPORTS**

38  
39 **A. PLANNING DEPARTMENT REPORT**

40  
41 **Planner McDonough** gave a quick report on the following.

- 42  
43
- 44 • Stormwater Management and attending the Brew Fest and manning the  
Stormwater booth and no they were not allowed to imbibe while in the booth.
  - 45 • Weed letters and the problems with no one mowing the large fields of alfalfa.
  - 46 • Landscaping company using his property as a contractors yard. Which may  
47 come to the Commission for a zone change.
  - 48 • Code enforcement for some properties that have been accumulating too much  
49 junk.
  - 50 • Building permits and business reports.

1                   **Chairman Seligman** asked if there were any questions for Planner McDonough. And  
2 told him he should be commended for not imbibing.

3  
4                   **9. COMMISSIONER’S INFORMAL DISCUSSION**

- 5  
6                   • Notification if there was an appeal lodged for the conditional use.  
7                   • Open Meetings Act

8  
9                   **10. ADJOURNMENT**

10  
11                   **Chairman Seligman** asked if there was a motion for adjournment.

12  
13                   **MOTION: Commissioner Brawley** moved for adjournment at 9:03 p.m.

14  
15                   **SECOND: Commissioner Craig** seconded the motion.

16  
17                   **VOTE:** the vote was unanimous (7-0).

18  
19  
20                   **APPROVED by the Planning and Zoning Commission of the Village Los**  
21                   **Ranchos de Albuquerque this \_\_\_\_\_ day of \_\_\_\_\_, 2015.**

22  
23                   **ATTEST:**

24  
25  
26                   \_\_\_\_\_  
27                   Tim Tourville, Secretary  
28                   Planning and Zoning Commission