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**MINUTES
VILLAGE OF LOS RANCHOS
Planning and Zoning Commission
6718 Rio Grande Blvd. NW
Warren J. Gray Hall
October 13, 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** called the meeting to order at 7:03 p.m.

17
18 **A. ROLL CALL** - Commissioner Craig, Commissioner Brawley,
19 Commissioner Seligman, Commissioner Phillips, Commissioner Colman,
20 Commissioner Tourville. Commissioner Riccobene arrived at 7:04 p.m.

21
22 **Chairman Seligman** stated there was a quorum present for the meeting.

23
24 **B. APPROVAL OF THE AGENDA**

25
26 **Chairman Seligman** asked Planner McDonough if there were changes to the
27 agenda.

28
29 **Planner McDonough** stated there were no changes to the agenda.

30
31 **MOTION: Commissioner Brawley** moved approval of the agenda.

32
33 **SECOND: Commissioner Colman** seconded.

34
35 **VOTE:** The motion carried unanimously (6-0).

36
37
38 **2. PUBLIC COMMENT PERIOD – There was no public comment.**

39
40 **3. CONSENT AGENDA**

41
42 **A. Approval of minutes – September 8, 2015 meeting.**

43
44 **Chairman Seligman** asked if there were any corrections or changes to the
45 minutes of the September 8, 2015 meeting. Then recognized Commissioner
46 Riccobene.

47
48 **Commissioner Riccobene** stated he had changes that he reported to Marcy
49 earlier in the day.

1 **Chairman Seligman** asked what those changes were.
2

3 **Commissioner Riccobene** stated page 13 of line 24 I changed “they need to
4 give businesses breathing room” to “They need to give Mr. Shull the
5 freedom”.
6

7 **Chairman Seligman** asked if there was a motion to approve the consent
8 agenda amendments. Then recognized Commissioner Colman.
9

10 **Commissioner Colman** asked Commissioner Riccobene was this statement
11 before the motion.
12

13 **Commissioner Riccobene** stated that it was right after the motion.
14

15 **Chairman Seligman** asked if there were any more questions and was there
16 a motion.
17

18 **MOTION: Commissioner Tourville** moved approval of the consent agenda
19 as amended.
20

21 **SECOND: Commissioner Riccobene** seconded the motion.
22

23 **VOTE:** The motion carried unanimously (7-0).
24

25 **4. PUBLIC HEARINGS AND APPLICATIONS**
26

27 **Attorney Chappell** swore in those present who would be speaking before
28 the Commission.
29

- 30 A. **SDP-15-06** A request by CREI, LLC for a Sketch Site Development Plan
31 Review for a new commercial development in the Fourth Street Commercial
32 Corridor and Character Area. The property is located at 6145 Second St.
33 NW (aka 208 El Caminito NW) and is legally known as A certain tract of land
34 within Projected Section 28, Township 11 N, Range 3 E, N.M.P.M.,
35 Albuquerque, Bernalillo County, New Mexico being identified as Tracts 74B-
36 1-B, and 74B-2-B of the Middle Rio Grande Conservancy Property Map No.
37 29. The property contains 9.977 acres more or less.
38

39 **Planner McDonough** stated that the applicant provided a binder with all the
40 information and hoped that they will survive the sketch, the preliminary and
41 the final. But, if they need to write in them they can replace the sheets that
42 need to be replaced. Then gave his planning report.
43

44 **Chairman Seligman** asked if there were any questions for Planner
45 McDonough. Seeing none she then asked for the applicant to come forward
46 and state his name and address for the record.
47

48 **Matthew Gonzales** stated 216 Wayne Road NW, Albuquerque, NM 87107.
49

1 **Jack Corder** 10312 Leymon Ct NW Albuquerque, NM 87114 stated he is
2 one of the partners of CREI, and his family was one of the founding families
3 of Los Ranchos.

4
5 **Chairman Seligman** asked them to state what they are doing and what they
6 propose.

7
8 **Jack Corder** gave a quick summary of the company's history in the Village.
9 What they wanted to accomplish that even though this is a somewhat
10 industrialize area they want to dress up the area to use as a magnet to draw
11 other business potentially to this area.

12
13 **Chairman Seligman** asked if there were any questions for the applicant
14 from the Commission. Then recognized Commissioner Brawley.

15
16 **Commissioner Brawley** thanked Mr. Corder for a complete submittal. He
17 only had a couple of questions he has a five (5') foot drainage. And he
18 understands from both photos and survey that the property is fenced.
19 Typically, kids get in there and he encourages them to make sure the fence
20 is in good condition so there are no accidents in the future. He noticed on
21 the landscape plan that they developed a buffer between residential on the
22 north and the south. That buffer seems to be made up of deciduous trees
23 and evergreens. Is that correct?

24
25 **Jack Corder** stated that was the proposal. They spent almost \$10,000
26 dollars trimming those trees, but wanted to add to that almost like a shield
27 with the evergreens.

28
29 **Commissioner Brawley** thanked Mr. Corder.

30
31 **Chairman Seligman** asked if there were any other questions of the
32 applicant and then recognized Commissioner Craig.

33
34 **Commissioner Craig** stated he had a question on the Quonset hut. It
35 appears to be encroaching the Gallegos lateral. Has there been any
36 conversation with the Conservancy regarding that?

37
38 **Jack Corder** stated they have not had any conversations with the
39 Conservancy right now it is dead storage. It has been there around forty (40)
40 years and the Conservancy has worked around it.

41
42 **Commissioner Craig** stated that seems to be a problem. A building on the
43 property onto the Conservancy. Is that something you looked at to adjust.

44
45 **Chairman Seligman** recognized Planner McDonough.

46
47 **Planner McDonough** stated he had not looked at that in detail and he will
48 caution Commissioner Craig about using the GIS system for Bernalillo
49 County as being exact on those property lines they drift. He could not speak
50 on whether or not it is encroaching on the lateral or not.

1 **Commissioner Craig** stated it shows it encroaching substantially.

2
3 **Jack Corder** stated the Conservancy has not expressed any issues or any
4 reservations with them going forward. They certainly can sit down and have
5 a conversation with them about that if you like. It's a military Quonset hut
6 used primarily for storage. To take it down would probably be more
7 expensive than what it is worth.

8
9 **Chairman Seligman** recognized Attorney Chappell.

10
11 **Attorney Chappell** stated one of the complications when they look into this
12 our research indicated that most of these laterals do not have recorded title
13 it is only a prescriptive easement for use of the ditch. So the question of who
14 owns what is not something this Commission needs to get involved with. We
15 cannot look at it because of that title issue. That is totally between the
16 owners and the Middle Rio Grande Conservancy District (M.R.G.C.D.).

17
18 **Chairman Seligman** asked if there are any other questions and recognized
19 Commissioner Riccobene.

20
21 **Commissioner Riccobene** stated this question is for Planner McDonough
22 would any other buildings or uses on the property have to come before him
23 at that time about the drainage.

24
25 **Planner McDonough** stated that is true any new building would be an
26 amendment to the site development plan depending on the size. If it's 20%
27 of the square footage of the approved site development plan, we could
28 handle that administratively. If it's over 20% it would come to the
29 Commission and go through the process and at that time they would
30 address landscaping, grading and drainage for any additional area of use.

31
32 **Chairman Seligman** asked if there were any more questions for Planner
33 McDonough. Then thanked Mr. Corder for their application and asked if
34 there was anybody in the audience who wanted to speak in favor of the
35 application. Seeing nobody asked if was there anyone who wanted to speak
36 in opposition of the application. Seeing no one, closed the floor on public
37 comment. Then asked if there were any comments or questions from the
38 Commission and recognized Commissioner Tourville.

39
40 **Commissioner Tourville** stated that the plan looks well thought out and
41 looks aesthetically pleasing. Seeing improvement of this industrial,
42 commercial property is a plus for the Village. The business they are bringing
43 in he thinks it's a real plus for the Village.

44
45 **Chairman Seligman** asked if there were any other comments. Seeing there
46 were none they could move on to the next item of business and asked
47 Planner McDonough if that was correct.

48
49 **Planner McDonough** stated that they just need to summarize for the
50 applicant. He didn't hear any real concerns with anything on the plan and
51 they will see them next month with their preliminary and they will be looking

1 for a recommendation to forward the plan to the Board of Trustees. Then
2 thanked them.

3
4 **Chairman Seligman** thanked the applicants for a complete format it was
5 very helpful to them.

- 6
7 B. **SDPa-15-07** A request for an Amendment to the Site Development Plan for
8 the Los Poblanos Inn and Cultural Center, SU-1 (Special Use Zone). The
9 property is located at 4803 Rio Grande Blvd. and is legally known as Tract
10 A1, Lands of Albert Simms III, Filed 7/6/67. Vol. B4 Folio 97 and Warranty
11 Deed Filed 9/16/78 Vol. D14A Folio 811-813 and Plat of Tracts A2A and A3A,
12 a replat of Tracts A2 and A3, Lands of Albert Simms II, Village of Los
13 Ranchos de Albuquerque, New Mexico, December, 1998. The property
14 contains 25.6371 acres, more or less.

15
16 **Chairman Seligman** asked Planner McDonough for his planning report.

17
18 **Planner McDonough** gave his planning report with recommendation to
19 forward to the Board of Trustees.

20
21 **Chairman Seligman** asked if there were any questions for Planner
22 McDonough. Seeing none asked for the applicant to come forward and state
23 their name and address for the record.

24
25 **Matthew Rembe** 4803 Rio Grande Blvd. NW stated they are here to answer
26 any questions on the plan explain they had hired architects from Santa Fe
27 called Atkin Olshin Schade they have a lot of expertise in historic planning
28 and preservation with offices in Santa Fe and in Philadelphia. They came
29 forward with what they think is a much greater plan and he will let them
30 answer any questions.

31
32 **Chairman Seligman** asked if there any questions for Mr. Rembe from the
33 Commission. Seeing none, asked that the next speaker state his name and
34 address for the record.

35
36 **Shawn Evins** 1121 North Luna Circle, Santa Fe, 87505 then gave a
37 presentation focusing on the changes that were made.

38
39 **Chairman Seligman** asked if there were any questions and recognized
40 Commissioner Phillips.

41
42 **Commissioner Phillips** asked if he heard Planner McDonough make the
43 statement about the difference in square footage in the portals is that correct?
44

45 **Shawn Evins** stated that was correct absolutely.

46
47 **Chairman Seligman** asked if there were any other comments or questions.
48 Seeing none, she thanked Mr. Evins and then recognized Commissioner
49 Colman.

1 **Commissioner Colman** stated she had followed this for a number of years
2 and reminded them this is a substantial improvement from the last go round.
3 It improves pedestrian, increases circulation and a much better use of the
4 land. It improves the guest's experience of the organic garden. She wanted to
5 commend them for taking what was a good plan and coming up with a great
6 plan.

7
8 **Chairman Seligman** asked if there are any other comments. Then
9 recognized Commissioner Craig.

10
11 **Commissioner Craig** stated when he went over to the site his blood
12 pressure dropped eight (8) points and commends them for everything they
13 are doing. He loves the plan.

14
15 **Chairman Seligman** asked if there were any other comments or questions
16 then recognized Commissioner Tourville.

17
18 **Commissioner Tourville** stated he wanted to say that the plans are very
19 efficient and aesthetically pleasing and the fact they are preserving the older
20 buildings and have this separate from Rio Grande Place. Stating that it's a
21 real gem not only to Los Ranchos, but to the State of New Mexico. People
22 appreciate this space globally and this plan is another step in the right
23 direction. He thinks it's great.

24
25 **Chairman Seligman** asked if there were any other comments or questions
26 then recognized Commissioner Colman.

27
28 **Commissioner Colman** stated her one concern and understanding they
29 have 200 parking spaces. Despite the 25 MPH speed limit, when they are
30 pulling out onto Rio Grande they are waiting and waiting. If the Village should
31 be looking into putting in a 4-way stop sign at the main entrance. It seems to
32 her the amount of guest they are anticipating might help with the traffic and
33 maybe slow the traffic down on Rio Grande. This is just a comment.

34
35 **Chairman Seligman** recognized Commissioner Brawley.

36
37 **Commissioner Brawley** stated he's all for slowing people down he doesn't
38 think a stop sign is a great thing to do. One of the attractions of Rio Grande is
39 the uninterrupted drive and the introduction to the stop signs 8 years ago are
40 a real tragedy. They stop, but by the time they get two (200) hundred yards
41 down the street they are going fifty (50) miles an hour. Because modern cars
42 can go those speeds without the driver even trying and they don't remember
43 it's a 25 MPH. He has to say going slower speeds he was coming by there
44 the other day and his pig jumped out of the back of the pickup and ran down
45 the way and almost to the front yard. Everybody around there in their cars
46 were very good until we captured the pig and put him back in the truck.

47
48 **Chairman Seligman** asked if there were any other questions or comments.
49 Seeing none, thanked Mr. Evins very much. Then asked if there was anyone
50 in the audience who wished to speak in favor of the application.
51

1 **JT Michelson** 5001 Rio Grande Blvd. NW stated having the living units it will
2 be all one inn is a big plus. The changes that the Rembes have come up with
3 are very positive and eliminated the two (2) story aspect of it. He wants to
4 echo what Tim Tourville said the Village and the City of Albuquerque should
5 be proud of what they have done and he wants to add his support.
6

7 **Chairman Seligman** asked if there were any other questions or comments.
8 Seeing none, she asked if there was anyone else who wished to speak in
9 favor of the application. Then asked if there was anyone in the audience who
10 wanted to speak in opposition. Then closed the floor to public comment. Then
11 recognized Planner McDonough.
12

13 **Planner McDonough** stated he wanted to make one comment to clear
14 everything they listed the conditions and the zoning requirements and under
15 number 13 it speaks about the fifteen (15') foot setback from the east
16 property line. It should read the west property line.
17

18 **Chairman Seligman** asked if they should add that to the conditions.
19

20 **Planner McDonough** stated if she feels it's appropriate he says yes, but the
21 Commission is free to add whatever or subtract from that.
22

23 **Chairman Seligman** asked Attorney Chappell if they do this in a form of a
24 motion.
25

26 **Attorney Chappell** stated they do it in the form of a motion and the motion is
27 to recommend or not an approval to the Board of Trustees.
28

29 **Chairman Seligman** asked if there was a motion.
30

31 **Commissioner Colman** stated she would make the motion, but she is not
32 exactly clear what they want her to say.
33

34 **Attorney Chappell** stated there are no magic words it just need to be stated
35 that you move to recommend approval to the Board of Trustees subject to the
36 department recommendations.
37

38 **MOTION: Commissioner Colman** moved to approve the application subject
39 to the department recommendations made on page 2 of 3. Asking if that is
40 correct.
41

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

44 **Chairman Seligman** stated for the record they need to read the conditions.
45

46 **Attorney Chappell** stated is should be a recommendation to the Board of
47 Trustees to approve the application.
48

49 **Chairman Seligman** asked if Commissioner Colman would restate the
50 motion for certification.
51

1 **Attorney Chappell** stated it makes sense to do it and since this is not a
2 zoning matter. It's up to you if you want to read those conditions. It's fine as
3 long as it goes up with the package with the recommendation.
4

5 **Chairman Seligman** asked for a repeat of the statement of the motion.
6

7 **MOTION: Commissioner Colman** moved to make a recommendation to the
8 Board of Trustees to approve the application that was submitted subject to
9 the department recommendations with the following conditions:
10

- 11 1. The future grading and drainage plans meet the stormwater
12 management ordinance and shall be maintained.
- 13 2. Landscaping shall be maintained according to the Landscape Section of
14 the Ordinance.
- 15 3. Dark Skies Section requirements shall be met.
- 16 4. Construction shall meet all current Village, County and State Codes.
17
18
19
20

21 **SECOND: Commissioner Phillips** seconded the motion.
22

23 **Chairman Seligman** asked if there were any comments on the motion then
24 called for a vote.
25

26 **VOTE:** the vote carried unanimously (7-0).
27

- 28 **C. Z-15-01** A request by JJM Properties, LLC for a Zone Change and Zone Map
29 Amendment from R-2 to C-1 in the Fourth Street Commercial Corridor and
30 Character Area. The property is located at 7216 Fourth Street and is legally
31 known as A certain tract of land within Projected Section 21, T11E, R3E,
32 NMPM, Los Ranchos de Albuquerque, Bernalillo County, New Mexico being
33 identified as Tract 157a of the Middle Rio Grande Conservancy District
34 Property Map No. 29. The property contains 1.395 acres, more or less. The
35 requested Zone Change is for the rear (easterly) 395 feet of the named Tract,
36 as the front (westerly) 300 feet is zoned C-1.
37

38 **Chairman Seligman** asked Planner McDonough for his planning report.
39

40 **Planner McDonough** gave the planning report with recommendations to
41 forward to the Board of Trustees for approval.
42

43 **Chairman Seligman** asked if there were any questions or comments for
44 Planner McDonough. Then recognized Commissioner Riccobene.
45

46 **Commissioner Riccobene** asked if it's Planner McDonough's
47 recommendation that all the adjacent properties become C-1.
48

49 **Planner McDonough** stated at this time it's not his recommendation. He
50 thinks they need to do a more thorough job at looking how they want to zone
51 these properties as opposed to this blanket three hundred (300') foot rule.

1 The discussions over the past year have prompted that maybe there is
2 another zone more appropriate for a higher density residential or a mix use or
3 multi-family. There are awkward situations for zoning and land use issues on
4 these lots. This one has a specific issue at hand, but this needs to be studied
5 further with recommendations with a more global solution.
6

7 **Chairman Seligman** recognized Commissioner Phillips.
8

9 **Commissioner Phillips** asked if they reached out to the other neighbors on
10 this.
11

12 **Planner McDonough** stated they had mailed out public notices with a hand
13 delivery for one of the properties.
14

15 **Chairman Seligman** recognized Commissioner Brawley.
16

17 **Commissioner Brawley** stated if it is his understanding that this will trigger a
18 fifteen (15') foot buffer on both sides of the property reducing it from ninety
19 (90') feet to sixty (60') feet.
20

21 **Planner McDonough** stated that is the understanding and he has had that
22 conversation with the applicant.
23

24 **Commissioner Brawley** stated that they had talked about having enough
25 money so they could split that right of way with the M.R.G.C.D. so as to allow
26 access to the rear properties and keep them residential. No one has pursued
27 that because of lack of funding.
28

29 **Planner McDonough** stated he appreciated that comment as legal counsel
30 also made a similar comment with a different approach to solve it.
31

32 **Chairman Seligman** asked if this was now a non-conforming use.
33

34 **Planner McDonough** stated not a legally non-conforming use. They went
35 back and there were years where it was just a vacant lot.
36

37 **Chairman Seligman** stated so it is now a non-conforming lot.
38

39 **Planner McDonough** stated it is non-conforming and in violation of our code.
40

41 **Chairman Seligman** asked if there had been any citations.
42

43 **Planner McDonough** stated it started with a discussion and it came to this
44 action and whatever requirements after this.
45

46 **Chairman Seligman** asked if there were any other questions or comments.
47 Then recognized Commissioner Craig.
48

49 **Commissioner Craig** stated he had been on the property because of the
50 antique store.
51

1 **Commissioner Tourville** asked was it Un Gallo.

2
3 **Commissioner Craig** stated that's next door. He looked at the arbitrary three
4 hundred (300') feet and the R-2 zoning is wrong if they deny this it would be a
5 bad residential area and the request C-1 is much more appropriate. The C-1
6 seems to be the more attractive use and it seems a more natural solution.

7
8 **Chairman Seligman** recognized Commissioner Phillips.

9
10 **Commissioner Phillips** asked what gave Commissioner Craig that solution.

11
12 **Commissioner Craig** stated that they are having a lot of problems with the
13 entire area. The tank farm, which really bothers him and his concern is do
14 they use the Chamisal lateral as the east side for the Commercial Zone. Are
15 we setting precedent or are we looking at the two properties? What do we do
16 It's a nice little property and there are problems with the access especially to
17 the back portion. And he thinks changing the zone would correct the zoning
18 from R-2, which is incorrect zoning and we are showing it in the 2020 Master
19 Plan and with the 4th Street revitalization with everything going all the way
20 back to the Chamisal. Then asked if that was clear as mud.

21
22 **Chairman Seligman** recognized Commissioner Brawley.

23
24 **Commissioner Brawley** stated it's hard for him to swallow that there is an
25 error. It seems to be stretching it a bit. It was only last month they had a
26 serious concern over a resident. So it isn't as if there weren't residents back
27 there. He is struggling whether the argument is made in the recommendation
28 really the argument. He can see it as an arbitrary decision because at the
29 time it was a live/work situation. He would argue that a live/work is not an
30 unheard of or unusual kind of occupation. He is just expressing his concern.
31 The basis of the argument that it's an error that those who in their wisdom
32 determined the three hundred (300') foot did they simply make a mistake or
33 they didn't. He thinks that because it was arbitrary at the time and because
34 many years have gone by. The Village has developed since then that
35 subsequent changes have made that arbitrary decision now made it harder to
36 rationalize. Rather than being an error. He thins it makes more sense than
37 saying they made a mistake.

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

40
41 **Commissioner Colman** stated its totally separate issues to make this once.

42
43 **Commissioner Craig** stated he thinks that this is the challenge from the
44 2020 Master Plan. They inherited this from the county. It doesn't seem to be
45 uniformly administered along 4th Street and because they have the Chamisal
46 lateral that goes somewhat at a diagonal and it terminates. Actually it doesn't
47 terminate it turns into the Griegos lateral.

48
49 **Commissioner Brawley** state that it might be important why the county
50 made that decision. It appears to have been in this area.

1 **Planner McDonough** stated he struggled with that same issue and he
2 landed on the side of error. He thinks it made a very good argument for
3 looking at it slightly different. The combination of an arbitrary number with the
4 situation with 4th Street today suggests that's not appropriate. He certainly
5 wouldn't argue that.
6

7 **Commissioner Brawley** stated that because of the original arbitrary decision
8 and because of passing of time the character of the area has changed. But
9 now re-visiting the arbitrary decision it may be appropriate.
10

11 **Planner McDonough** stated he would absolutely accept that.
12

13 **Chairman Seligman** recognized Attorney Chappell.
14

15 **Attorney Chappell** stated that McDonough and he have had some
16 discussions and he personally would be more comfortable with a change in
17 circumstance decision being to say there is an error in zoning. He doesn't like
18 the next person to say that the C-1 he lives next to was zoned wrong. He
19 would prefer to go the route in the change of conditions or as Planner
20 McDonough has done is to change his recommendation that the error is only
21 on that piece of property. That is something that is raised when they have
22 these kinds of things and so it can be easily dealt with. A change in
23 conditions rather than the argument that the C-1 was in error on the front
24 piece. He stated he would agree to that.
25

26 **Chairman Seligman** asked if there were any more comments. She is with
27 Attorney Chappell that she hasn't seen any evidence of it being an error in
28 zoning. So it's a change in condition than in the character has changed. But
29 the residences around here have her concerned about setting a precedent.
30 She understands they got noticed, but now they've changed the zoning
31 recommendation.
32

33 **Audience member** stated he was resident.
34

35 **Chairman Seligman** stated they will get to him once they are open for
36 comment. So the issues she has with calling it an error. Making a decision
37 right now on this particular piece because it's changed. The residents when
38 they bought based on the three hundred (300') feet so that is her feeling and
39 she would like to hear from them.
40

41 **Attorney Chappell** stated that Planner McDonough pointed out that they can
42 have an error that is not part of the zoning ordinance, but is an error based on
43 that particular piece because it makes it unusable. Change of conditions
44 maybe if the Commission wants to go that route. He thinks the standards for
45 housing, the standards for access to residential pieces based upon
46 emergency services. Access to all those have changed since this was
47 developed 30-40 years ago. There can be changes to development. The
48 housing the access to emergency services, which are conditions. Either way
49 he is jus the technician he doesn't know or care which way it goes. If they go
50 with direction of change that is the better way to go.
51

1 **Chairman Seligman** asked if there is any emergency access to that back
2 piece. Can an emergency vehicle pull in?
3

4 **Attorney Chappell** stated looking at it might be difficult for emergency
5 access for residential. The width of the access route required for residential
6 development it might be difficult to get to the rear piece. That is the point he is
7 making.
8

9 **Chairman Seligman** stated she wants to know if there is an issue. Is there
10 sufficient access if there was a residence back there?
11

12 **Planner McDonough** stated if they look at the property there is no dedicated
13 access to the back part. They just weave through this commercial site.
14 Around the buildings and parking. In it's present state he doesn't know that
15 they could guarantee that there is emergency access to the back without
16 some additional action to create an access way.
17

18 **Chairman Seligman** recognized Commissioner Riccobene.
19

20 **Commissioner Riccobene** stated they have this situation on a lot of
21 properties regardless of the uses back there. Whether it is commercial or
22 residential. It would seem to him that they should have an easement through
23 the forward property that creates access for emergency vehicles to get back
24 there regardless of it's use. Other than agriculture.
25

26 **Planner McDonough** stated that is true, but it is a single tract it's not a
27 separate property and a dedicated access has never been created. They've
28 seen it on other properties like the Newberry property the access easement
29 goes all the way to the back. Other properties have dedicated access to
30 subdivided tracts. This one by virtue of it not being subdivided just does not
31 have that dedicated access.
32

33 **Chairman Seligman** recognized Commissioner Brawley.
34

35 **Commissioner Brawley** stated it is less than an acre.
36

37 **Planner McDonough** stated it is less than an acre.
38

39 **Commissioner Brawley** stated so it could only have one.
40

41 **Chairman Seligman** asked if there were any more questions or comments.
42 Then recognized Commissioner Colman.
43

44 **Commissioner Colman** stated on a completely separate issue. This should
45 be a question for Attorney Chappell. She is wondering if legally a basis if she
46 looks at the front of the property of making some kind of request or condition
47 or granting this zone change to C-1 that the owner of the property comes into
48 compliance with whatever becomes the final of landscaping with trees. Can
49 they say we'll give you this zoning, but in exchange you make the front of the
50 property come into compliance with what they are spending millions of dollars
51 trying to do just down the street from there.

1 **Attorney Chappell** stated that would probably be stretching the tittlement to
2 make conditions like that for profit. He is not requesting the zone change for
3 the property in the front to make that requirement for a different property
4 might be stretching it. His best guess is it's possible.
5

6 **Commissioner Colman** stated she just would like if things went wrong that
7 the 4th Street revitalization would have a short life. What are the chances.
8 She thinks that the Commission needs to take an opportunity each time we
9 look at properties that are fronting 4th Street by requesting things to see if
10 there is some that they would be willing to bring the front of the property to
11 make it more pedestrian friendly and plant some shade trees. So maybe they
12 can't do that in this circumstance, but if Attorney Chappell can investigate
13 more about the kinds of places we could do that because she thinks they
14 ought to be doing that just looking to the future.
15

16 **Attorney Chappell** stated they would have a whole problem with the contract
17 zoning and they are straight zoned to put some of those things in there. That
18 would be borderline that agreement simply for the granting of that zoning.
19 Those things are also suspect. It generally cleaner not to do that as a site
20 development process.
21

22 **Commissioner Colman** asked if there was a way to do an amendment to C-
23 1 zoning that any C-1 zoning in the 4th Street Corridor requires the kind of
24 landscaping that's being done. If they have a C-1 property if they come in and
25 ask for a building permit or road change, we have something legally to refer
26 to them? This is something we need to look in to. She doesn't know when
27 they'll have \$50 million dollars to redo 4th Street. If we could start requiring
28 property owners to come up to code. Overtime one person does it then the
29 next person says that looks pretty good and my customers are commenting
30 about it so I am going to do it also. They could build momentum by doing that.
31 If it's not fit to do it here then fine, but it would be something for the
32 Commission to consider on a one to one basis.
33

34 **Chairman Seligman** stated if they are converting zoning changing to C-1
35 does it comply with all the C-1 requirements. If they are given this new zoning
36 why don't we require complete compliance with the code.
37

38 **Planner McDonough** stated that what he's understood is the change zoning
39 only applies to that area that is currently zoned R-2 and for that portion of the
40 property. They would be expected to meet all the criteria of the C-1 zone.
41 We've talked about the buffering form the residential properties etc... He
42 thinks He thinks that does apply for that portion that is changing from R-2 to
43 C-1.
44

45 **Chairman Seligman** so that is what she is talking about they would have to
46 comply?
47

48 **Planner McDonough** affirmed the statement.
49

1 **Attorney Chappell** stated there is nothing that says that the front part
2 doesn't have to comply with the C-1 zoning. It's already C-1 everything in the
3 C=1 zone you'll find on track.
4

5 **Chairman Seligman** stated she doesn't see an access issue on a C-1
6 property. They would assume that they would have access to the back piece
7 of the property.
8

9 **Planner McDonough** stated correct.
10

11 **Chairman Seligman** asked if there were any other questions for Planner
12 McDonough. Then asked the applicant to come forward and state his name
13 and address for the record.
14

15 **Jerome Maldonado** 436 El Llano Lane, Los Ranchos stated he first wanted
16 to say thanks to Tim for helping him expediting this application. Then gave a
17 quick summary of the company and explained about this property and how he
18 wanted to work with the Commission to do things right. They have put up a
19 block wall on the east side of the property, but put up a ranch fence since
20 they didn't want to take down any of the elm trees. And reiterated he wanted
21 to work with the Commission to do things right.
22

23 **Chairman Seligman** asked if there were any questions of the applicant.
24 Seeing none, asked if there was any one who wanted to speak in favor of the
25 application. Seeing none she asked if there was anyone who wanted to
26 speak in opposition.
27

28 **Doug Copeland** 301 Roehl Road NW, Los Ranchos stated he did not
29 necessarily have an objection provided that certain things can be met. Right
30 now there is no buffer at all. There is a wire fence and there are some big elm
31 trees. Visually it's not good aesthetically. Dust and dirt are the complaints
32 from his tenants. He's okay with change if some sort of wall to block the view
33 and to keep the dirt down.
34

35 **Chairman Seligman** asked the audience member to state his name and
36 address for the record.
37

38 **Don Allison** 12501 Crest Ave NE, Albuquerque stated he is joint owner in
39 301 Roehl Road. Then handed out pictures to the Commission showing that
40 this was not an attractive use of the land. Showing gravel and concrete
41 railroad ties. Stating they are not hostile just want some changes.
42

43 **Doug Copeland** stated he has a duplex and is trying to rent it out everyone
44 likes the front, but once they see the back they are put off.
45

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

48 **Commissioner Colman** stated that they are not against it would a six (6')
49 foot concrete block wall built by the owner help?
50

51 **Doug Copeland** stated it would have to be an eight (8') foot wall.

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Commissioner Colman stated she didn't think eight (8') feet was allowed.

Doug Copeland stated they put up an eight (8') foot wall up against the lateral.

Jerome Maldonado stated that it's six (6') feet to six feet eight inches (6' 8").

Doug Copeland stated that would be fine.

Commissioner Colman stated they don't do an eight (8') foot.

Doug Copeland stated a six (6') foot wall would do.

Commissioner Colman stated she would like to see them satisfied that their issues they are entitled to have those. And for the record they need to state what are their concerns.

Doug Copeland stated he would like to see some sort of wall or attractive fence that would block out the view. He understands there are some really old elm trees in the way and if they can work around it maybe have the wall off a bit.

Don Allison stated he thinks those elms are right on the property line.

Doug Copeland stated it is on their side of the property line.

Commissioner Colman stated so a concrete block wall on the interior of the trees.

Jerome Maldonado stated he's concerned about the elm trees.

Chairman Seligman called Mr. Maldonado to order. Stating if he wished to speak he can come back, but everything has to be on the record.

Doug Copeland stated just for the record they did not lodge the complaint.

Commissioner Colman stated if they are trying to rent it. It becomes an economic issue. So what they need is for the owner to comply so that everyone can move forward.

Doug Copeland stated he agreed with that.

Chairman Seligman asked if they bought the property in 2005 did they think it would become residential.

Doug Copeland stated they did know it was residential although there was no residential activity.

Chairman Seligman stated so they knew it would be residential.

1 **Doug Copeland** stated they knew that though they had no expectations of
2 buying property next to a commercial property.

3
4 **Chairman Seligman** stated that he said there was dust.

5
6 **Doug Copeland** stated there is dust when the trucks are unloading. It's also
7 noisy, but they don't come in very early to do that. His tenant complains a lot
8 about the dust.

9
10 **Chairman Seligman** asked in their opinion a solid wall would help.

11
12 **Doug Copeland** stated he felt it would help, but not completely solve it.

13
14 **Chairman Seligman** asked if there any other questions then recognized
15 Commissioner Phillips.

16
17 **Commissioner Phillips** asked for clarification on which was their property.

18
19 **Doug Copeland** stated there are two structures on the property a house and
20 a duplex.

21
22 **Don Allison** stated there is a single dwelling on the lot to the east. There is a
23 single dwelling to the west between the commercial lot and our residences.
24 The original owner split the acre he had into two ½ acre lots one went to his
25 sister the other they bought.

26
27 **Chairman Seligman** asked if there were any other questions and asked Mr.
28 Maldonado forward.

29
30 **Jerome Maldonado** stated they are fine with putting up some kind of barrier
31 to solve some of their concerns. He thinks a cedar fence could work and look
32 a lot nicer than a concrete wall. They are willing to work with them. The
33 property to the north of them is weedy and over grown with trees. The only
34 time they have activity is in the morning from 7:00 am to 7:30 am. In the
35 evening it's only the employees who do their residential work. Our main yard
36 is off Montano and Edith.

37
38 **Chairman Seligman** asked if there were any questions. Then asked when
39 did he buy the property.

40
41 **Jerome Maldonado** stated in October of 2012.

42
43 **Chairman Seligman** asked if he was aware it was zoned R-2.

44
45 **Jerome Maldonado** stated he wasn't and he went back to the property
46 disclosures. It was not properly disclosed. It was an oversight by him and the
47 reason they didn't question it was the plaster company had all kinds of
48 concrete and other piles of construction materials. They sold off in 2010 and
49 in 2013 when they took over. It was used as a construction yard prior to them
50 buying the property.

1 **Chairman Seligman** asked about the question on the title.

2
3 **Jerome Maldonado** stated it was originally purchased on a real estate
4 contract that is why there is a special warranty deed.

5
6 **Chairman Seligman** asked about the title.

7
8 **Jerome Maldonado** stated they granted to Cisne Azul, LLC a special
9 warranty deed by mistake. They own together other properties and id not
10 notice that they were put on this property by mistake. They own twenty (20)
11 LLC's.

12
13 **Chairman Seligman** asked if Cisne Azul, LLC was one of theirs.

14
15 **Jerome Maldonado** stated no that they have a small state holding company.

16
17 **Chairman Seligman** asked if he bought this property.

18
19 **Jerome Maldonado** stated JJM Properties bought it and he is the only
20 managing member of JJM Properties.

21
22 **Chairman Seligman** asked if they bought this off Cisne Azul, LLC.

23
24 **Jerome Maldonado** stated yes.

25
26 **Chairman Seligman** asked on a real estate contract.

27
28 **Jerome Maldonado** affirmed the statement.

29
30 **Chairman Seligman** asked if they are still on the real estate contract.

31
32 **Jerome Maldonado** stated they are and they are trying to settle on the
33 property and negotiate a contract.

34
35 **Chairman Seligman** stated that the warranty deed is being held in escrow.

36
37 **Jerome Maldonado** affirmed the statement.

38
39 **Chairman Seligman** asked if there any other questions and recognized
40 Commissioner Tourville.

41
42 **Commissioner Tourville** stated the main issue is the fence typically owners
43 negotiate who is going to pay for the fence. What kind of fence is it going to
44 be? CMU for those who don't know what that means is a cinder block wall.
45 But as he was saying he'd have to get rid of the elm trees. Cedar fencing can
46 go right up against the trees. If it's CMU, the trees begin to buckle the wall.
47 Cedar fencing or coyote fencing is easier to repair and more aesthetically
48 pleasing. So this is something they want to work out with the owners.

49
50 **Jerome Maldonado** stated they will. CMU walls can be affected by the roots
51 of the elm trees and cedar is much more aesthetically pleasing.

1 **Commissioner Tourville** stated or he could do a green belt with additional
2 vegetation.

3
4 **Jerome Maldonado** stated that they would have to consider that as well.

5
6 **Chairman Seligman** asked if there were any more questions or comments.
7 Thanked Mr. Maldonado and then closed the floor to further public comment.
8 Asking if there were any comments from the Commission. Then recognized
9 Commissioner Phillips.

10
11 **Commissioner Phillips** stated re-visiting the question they argued before he
12 would be much more strongly in favor of this error rationale simply because it
13 was arbitrary and the error was only discovered by this action. Looking at the
14 two possibilities he would look to using the center motion.

15
16 **Chairman Seligman** stated she had a question for Attorney Chappell are
17 they allowed to add the condition of the fence to the change in zones.

18
19 **Attorney Chappell** stated if the applicant volunteers' that as part of the
20 working with the neighbors that could be done apart from that if they just
21 imposed it now it is a problem. It might be appropriate if they are inclined to
22 approve the zone change is to recommend the verbal as part of the zone
23 change, which has to go to the Board of Trustees. The recommendation only
24 if the applicant is doing the buffering. They can do something like that and let
25 the Trustees make the decision. Since they are not doing the zoning, they are
26 doing the recommendations he thinks they can do that.

27
28 **Chairman Seligman** stated what about the error issue. Was the error the
29 zone or was the error another political entity.

30
31 **Attorney Chappell** stated the standard that is being used here is a cast that
32 specifically dealt with down zoning. Property owners were objecting to down
33 zoning from a C-1 to residential use. The court used that as a basis that had
34 to be shown in order to down zone somebody's property. The test may be a
35 bit different. If not down zoning somebody's property and he thinks the zoning
36 and police powers can be exercised in a court to the Master Plan. Certainly if
37 they are concerned the safest way to go in terms and other things is to meet
38 that criteria. That is not the only time municipalities have rezoned. That is
39 good criteria to follow and perhaps not the sole criteria of the Master Zoning
40 plan.

41
42 **Chairman Seligman** stated this is an up zone not a down zone.

43
44 **Attorney Chappell** stated it is, but they are going to have an argument form
45 adjoining property owner. If they are rezoning an entire area they have to us
46 different criteria.

47
48 **Chairman Seligman** asked if there were any questions or comments and
49 then recognized Commissioner Tourville.
50

1 **Commissioner Tourville** stated going back to what Commissioner
2 Riccobene said this is an old lot and they are going to have challenges with
3 these types of lots. If they look at them the east side is not going to be a
4 problem because they are up against the lateral. On the north side Jim Shull
5 will be putting up his brew pub and his intention of putting up a hops farm at
6 the rear. He doesn't think that's going to be a problem for him. Then
7 corrected himself saying that is actually two lots over. As far as traffic with the
8 commercial zoning. The concern that the neighbors on Pueblo Solano had
9 was that the Fresquez property would have people coming off 2nd Street and
10 that would cause traffic problems. Whereas, Roehl Road if you've ever driven
11 it from 4th Street to 2nd Street there is no traffic coming down. Having
12 residences back there and them having to drive through the commercial lot
13 just doesn't make sense. Having it zone residential makes no sense.
14

15 **Chairman Seligman** asked if there were any more comments. Then stated
16 that she didn't think if fell under change in conditions or the error in zoning.
17 These are all troubling to her because of the combined commercial and
18 residential zoning. She thinks that they need to protect the character of the
19 Village. They do have an applicant who is willing to work with the residents
20 and she thinks that is important. This is an acceptable use for them as long
21 as we have certain criteria. In her opinion they need to condition this. There
22 needs to be a substantial barrier specified. A buffer in place as part of the
23 change in zoning. They should make it clear that they take these case by
24 case because she doesn't want to set a precedent. She doesn't want to
25 someone else coming in and saying look what they did here. This happened
26 on this particular lot because of these particular circumstances. Then
27 recognized Commissioner Brawley.
28

29 **Commissioner Brawley** reiterated that he was still uncomfortable with the
30 error burden. He doesn't think the conditions have changed that much the
31 way he looks at it. He sees residential to the north, south and east. So what's
32 really happening here. The residents to the south did buy with the
33 expectations that the property behind them would remain residential. That's
34 not a guarantee. If they were to create a barrier in addition to a buffer. A
35 fifteen (15') foot buffer is required as soon as it becomes C-1. The need to
36 keep from dumping in that fifteen (15') foot area is will be overcome and if
37 there some sort of barrier there are complication in regard to some how
38 assure that what the conditions to the zone change will actually take place.
39 The village has not figured out how to deal with this. This is a precedent
40 action they are going to take and if they do change this zone they could have
41 this same situation before them form up and down both sides of the 4th
42 Street. They need to be prepared to do that. He is not saying it's impossible
43 to do. He's still not comfortable calling it an error and changes to the
44 conditions is a more rationale argument, but he doesn't think that argument
45 works here.
46

47 **Chairman Seligman** recognized Commissioner Phillips.
48

49 **Commissioner Phillips** stated that after listening to both the reason he
50 thinks it should be done under the error is because of the arbitrary three
51 hundred (300') foot its not two lots it's one single lot is that correct.

1 **Planner McDonough** stated that is correct.

2
3 **Commissioner Phillips** stated that is why he says an error because it was
4 done to one single lot not to two separate lots.

5
6 **Chairman Seligman** asked why he says arbitrary.

7
8 **Commissioner Phillips** stated that he used that word as a demonstration.

9
10 **Chairman Seligman** recognized Commissioner Brawley.

11
12 **Commissioner Brawley** stated he thought that arbitrary is the correct word
13 where there is no rationale that specifically identifies three hundred (300') feet
14 and doesn't apply to anything on the property i.e. parking. He would also
15 argue that this applied to hundreds of lots in this area both in and outside the
16 Village. When faced with the depth between 4th Street and the laterals on
17 both sides the county made an arbitrary decision. They said three hundred
18 (300') feet ought to be enough because of the scale of commercial at that
19 time. That's why he thinks it wasn't an error he thinks it was rationale and
20 arbitrary, but at the same time not this lots of conditions have changed. More
21 than 20-30 years since that decision was made. And they are correct in that
22 most of this, the three hundred (300') foot line was incorporated into the
23 Village. Arbitrary is in fact the right word. Arbitrary in the sense that this is no
24 hared rationale applied on any of this, which even further supports the
25 argument that it was not arbitrary because if they go up and down 4th Street
26 it's all three hundred (300') feet. And the argument here is conditions change
27 not error. Then apologized for repeating himself.

28
29 **Chairman Seligman** asked if there any more questions or comments. Then
30 recognized Commissioner Craig.

31
32 **Commissioner Craig** stated he is not comfortable with the number and the
33 Commission imposing design criteria as the Planning and Zoning
34 Commission, such as a cinder block wall. He agrees with Commissioner
35 Tourville on the barrier a coyote type fence because of the trees. He doesn't
36 think they should be doing as much as he like to design some of the activities
37 and his understanding on this C-1 is that it needs conditional approval for a
38 contractor's yard. If they do a C-1 they still have to come back as a
39 contractor's yard.

40
41 **Planner McDonough** stated that is correct the action this evening is only on
42 the C-1 zone.

43
44 **Commissioner Craig** stated they are approving C-1 zoning they are not
45 approving a contractor's yard.

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

48
49 **Commissioner Riccobene** stated that nevertheless this would become a C-
50 1.

1 **Planner McDonough** stated that is correct if the recommendation and the
2 action is to approve the zone change to C-1 then it would stay as a C-1 zone.
3 Because this is a two step process and a conditional use is an administrative
4 process they couldn't track together.
5

6 **Chairman Seligman** recognized Commissioner Craig.
7

8 **Commissioner Craig** stated one of the arguments he mentally did today
9 when he looked at this was would he approve a residential request coming in
10 on this and he thinks he'd have a great deal of problems. Because it is an R-2
11 there is not enough room. R-2 is ½ acre so it would mean two (2) lots back
12 there. As a Commissioner he would have trouble approving because of the
13 access and the lack of square footage. So this seemed to be a C-1, which
14 they could do all the way down. It seemed like a more logical application for
15 this property. He thinks it has been divided into C-1 and R-2 with bad access.
16 Whomever did it he assumes would have done it as one parcel.
17

18 **Chairman Seligman** stated her understanding is that the county set the three
19 hundred (300') foot commercial area. They need to consider the precedent of
20 what they are doing. What bothers her is it's zoned R-2 and being used as a
21 commercial property now.
22

23 **Commissioner Craig** stated that the buildings are sitting on the C-1.
24

25 **Chairman Seligman** stated she know that but it's being used right now as a
26 C-1.
27

28 **Commissioner Craig** stated they were dumping materials there before.
29

30 **Chairman Seligman** stated that maybe it had been done before, but that
31 doesn't make it right. They aren't charged with what it is now. In essence a
32 clean up. They are trying to make someone, who has invested in the Village
33 whole. They also invested in a property that the one end was commercial the
34 other was R-2.
35

36 **Commissioner Craig** stated he asked himself another question. The trailer
37 park across from Dan's Boots and Saddles is a C-1 all the way to the lateral.
38 The building up front only goes to one hundred fifty (150') feet. They are
39 checkerboard patterned all along 4th Street with no consistency and yes they
40 say there is three hundred (300') feet zone, but it's violated the entire length
41 of 4th Street. He shouldn't say all of 4th as the lateral cuts it off.
42

43 **Chairman Seligman** stated they don't know what the criteria was for the
44 zone changes. They don't know why this one had three hundred (300') feet
45 and why some had less, some had no restrictions. Do they have the ability to
46 grant a C-1 zone? If they don't see that and those aren't there. Then they
47 can't grant it. If they are there, then it's fine.
48

49 **Commissioner Craig** stated he thought they were beginning to split hairs.
50 They have an issue here that needs to be resolved. Are they in a position to
51 judge probably not? Is it changing conditions probably. Something happened

1 with this property that needs to be resolved. That's why the applicants are
2 here and the neighbors.

3
4 **Chairman Seligman** recognized Commissioner Brawley.

5
6 **Commissioner Brawley** stated he is in general agreement with what
7 Commissioner Craig is saying. It's a little hard to put these cases into
8 perspective without some understanding of what drove these.

9
10 **Commissioner Craig** stated he didn't think they had two properties that are
11 like this as they are. Looking at the zigzag as they are going along. There are
12 subdivisions behind some of these properties.

13
14 **Chairman Seligman** recognized Commissioner Colman.

15
16 **Commissioner Colman** stated it isn't there some sort of provision for an
17 administrative cleanup. When something is done in a broad sweeping
18 manner and time goes by and they are looking at a specific property the
19 narrowness of the lot, the lack of access, and they all agree that someone
20 came before us and didn't want to put a house back there. Isn't there some
21 kind of provision in law that says Planning Commissions and Trustees looking
22 at the specific circumstances and administratively clean up the zone map. On
23 this property they are going to change the zoning to C-1 because it makes
24 more sense.

25
26 **Attorney Chappell** stated there is not a catch-all like that. They can go back
27 and fix things it still is a zone change. They run into problems like this one if
28 they change one piece of property not according to a plan it becomes spot
29 zoning. Something they can't do even if it's been tested. This might be a spot
30 zoning unless the Master Plan shows this as commercial. The Board of
31 Trustees, who have the ultimate decision can change a zoning plan. They
32 can correct some errors, but it's still a zoning question. If this is a spot zoning
33 the thing that does happen is if they change it to C-1 and then decide it
34 doesn't work, they cannot change it back because they would have to show
35 change in conditions. Each property to the north could demand changing to
36 C-1. This is what they can get when they go piecemeal. So they have to
37 consider this before they have to turn down the next person who comes in.
38 Then it becomes a legal matter and they get someone protesting. He would
39 rather not get into spot zoning. They have to look at each case.

40
41 **Chairman Seligman** recognized Commissioner Riccobene.

42
43 **Commissioner Riccobene** stated it make good sense that residents, but
44 along Roehl Road because there is access to those portions of the property.
45 Along the lateral there it also made sense that it was agriculture. Times are a
46 changing, but he's not sure it makes sense to keep it necessarily agriculture
47 and certainly residential. It's less than desirable access for a residential
48 household. So based on that he can definitely see changing this particular
49 parcel to the C-1 zoning.

50
51 **Chairman Seligman** clarified changing conditions.

1 **Commissioner Riccobene** affirmed the statement.

2
3 **Chairman Seligman** recognized Commissioner Brawley.

4
5 **Commissioner Brawley** stated that he agrees with the statement changing
6 conditions is the one to use. He had a problem with the first one. The change
7 in conditions stems from it's an R zone used as a C-1 that is a change in
8 conditions. The only one used as a basis for the decision.

9
10 **Attorney Chappell** stated he didn't think that was the basis for the decision
11 from a legal perspective that does not constitute a change in condition. That
12 would include the entire area not just a piece of property. He doesn't think it's
13 true in a zone case.

14
15 **Commissioner Riccobene** stated he would see the same condition in those
16 three parcels. The two to the north as well.

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

19
20 **Commissioner Craig** state he is not sure why they are afraid of C-1. They
21 seem to be giving that impression that they are afraid of the 4th Street
22 revitalization with C-1 zoning, which is what we want along there. The three
23 hundred (300') feet it seems that they have spot zoning with residential in the
24 rear with no access. This gives me a headache, but Roehl Road gives him a
25 real headache. They have a lot of strange conditions on some properties.
26 That's why they are the Planning and Zoning Commission.

27
28 **Chairman Seligman** asked about the access. They have access they have
29 one owner, who can access the entire property. So there is no access issue.
30 She does not want to do spot zoning and does not want to set a precedent. It
31 is zoned residential and it hasn't changed. She doesn't want to damage
32 business in the area, but she also knows she doesn't want to set a precedent.

33
34 **Commissioner Craig** stated that they need to ask the question are the
35 neighbors commercial with a rental property.

36
37 **Chairman Seligman** stated is the rental considered a commercial property or
38 is it allowable in a residential property.

39
40 **Attorney Chappell** stated there is no prohibition in the ordinances being able
41 to rent a residential property. It would still be residential property.

42
43 **Commissioner Craig** stated he was not inferring that by fault it is a business.
44 So they have a business adjacent to a business.

45
46 **Attorney Chappell** stated he doesn't think it converts to a truly commercial
47 and they were there when they built it was a non-conforming use when they
48 came into the Village. He agrees with Commissioner Seligman there is no
49 access issue it comes down to a policy decision as to whether or not the
50 change in conditions makes this a commercial area as opposed to what was
51 originally a residential area. This will probably set a precedent for the entire

1 area. The next step is they cannot do a construction yard without a
2 conditional use permit. They are granted unless they damage adjacent
3 properties. That will come up specifically in the conditional use application.
4

5 **Chairman Seligman** recognized Commissioner Riccobene.
6

7 **Commissioner Riccobene** stated at that time they will address the
8 recommendation to the Trustees if they thought there needed to be an
9 agreement between the owners of the rental and the commercial use. So that
10 is when they would address that issue. Because right now changing it to C-1
11 only requires a buffer.
12

13 **Attorney Chappell** stated it requires a buffer in the fifteen (15') foot setback.
14 If this was changed to a C-1 and they put an engineering office back there
15 would you have the same issue as the construction yard.
16

17 **Commissioner Riccobene** thanked Attorney Chappell.
18

19 **Chairman Seligman** asked if there were any more comments or questions
20 and then asked if there was a motion.
21

22 **MOTION: Commissioner Riccobene** moved to allow the zone change to C-
23 1 based on changes of conditional use for the area.
24

25 **Chairman Seligman** asked if there was a second.
26

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

29 **Chairman Seligman** asked if there was any discussion on the motion. Then
30 recognized Commissioner Phillips.
31

32 **Commissioner Phillips** stated they are just recommending.
33

34 **MOTION: Commissioner Riccobene** moved to recommend to the Trustees
35 to allow the zone change to C-1 based on changes of conditional use of the
36 area.
37

38 **SECOND: Commissioner Tourville** seconded the motion.
39

40 **Chairman Seligman** asked if there was further discussion. Then called for a
41 vote.
42

43 **VOTE:** the motion carried with a vote of (5-2) with Commissioner Brawley
44 and Commissioner Seligman voting nay.
45

46 **Chairman Seligman** stated that this formally closed the request by JJM
47 Properties, LLC for a Zone Change and Zone Map Amendment from R-2 to
48 C-1 in the Fourth Street Commercial Corridor.
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5. **OLD BUSINESS**-There was no old business.

6. **NEW BUSINESS**- There was no new business.

7. **REPORTS**

A. Planning Department Report

The report and discussion was on the following:

- Stormwater permit.
- Building permits & new businesses.
- Question about new residences.
 - 2 new residences one in El Prado and one in Nuevo Hacienda

9. **COMMISSIONER’S INFORMAL DISCUSSION**

Discussion was on the following

- PNM & weed cutting
- Cows and goats
- 4th Street and the issues they are seeing and the uniqueness of the properties
- Zone Codes
- Work sessions
- Ditch rights

10. **ADJOURNMENT**

Chairman Seligman asked if there was a motion for adjournment.

MOTION: Commissioner Brawley motioned for adjournment at 9:45 p.m.

SECOND: Commissioner Colman seconded the motion.

VOTE: carried unanimously (7-0).

APPROVED by the Planning and Zoning Commission of the Village Los Ranchos de Albuquerque this _____ day of _____, 2015.

ATTEST:

Tim Tourville, Secretary
Planning and Zoning Commission