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MINUTES
VILLAGE OF LOS RANCHOS
Planning and Zoning Commission
6718 Rio Grande Blvd. NW
Warren J. Gray Hall
November 14, 2017
7:00 P.M.

Present:

STAFF

Administrator: Kelly Ward

Attorney: Bill Chappell

Planning Staff: Tim McDonough, Director

1. CALL TO ORDER – Chairman called the meeting to order at 7:00 p.m.

A. ROLL CALL - Commissioner Craig, Commissioner Riccobene, Commissioner Eby, Commissioner Brawley, Commissioner Phillips, Commissioner Pacheco, Commissioner Tourville.

Chairman Brawley stated there was a quorum present for the meeting.

B. APPROVAL OF THE AGENDA

Chairman Brawley asked if there was a motion to approve the agenda.

MOTION: Commissioner Tourville moved approval of the agenda.

SECOND: Commissioner Eby seconded the motion.

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

2. PUBLIC COMMENT PERIOD

There was no public comment.

3. CONSENT AGENDA

A. Approval of the August 8, 2017 P & Z Commission regular meeting.

Chairman Brawley asked if there were corrections or comments to the meeting minutes of August 8, 2017.

Commissioner Pacheco stated that she was the one who seconded the consent agenda, Page 2, line 25.

1 **Chairman Brawley** asked if there were any other corrections or comments.
2 Then asked if there was a motion to approve the consent agenda as
3 amended.

4
5 **MOTION: Commissioner Phillips** moved to approve the minutes of the
6 August 8, 2017 meeting as amended.

7
8 **SECOND: Commissioner Pacheco** seconded the motion.

9
10 **VOTE:** The motion carried unanimously (7-0).

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12 **4. PUBLIC HEARINGS AND APPLICATIONS**

13
14 **Attorney Chappell** swore in those of the audience present who would be
15 speaking before the Commission.

- 16
17 A. **DR-17-01** An appeal of a Director's Decision denying a petition that the
18 referenced property has been continuously used as a contractor's yard and
19 therefore qualifies as a legally non-conforming use. The property is located at
20 7216 Fourth Street and is legally known as A certain tract of land within
21 Projected Section 21, T11E, R3E, NMPM, Los Ranchos de Albuquerque,
22 Bernalillo County, New Mexico being identified as Tract 157a of the Middle
23 Rio Grande Conservancy District Property Map No. 29. The property
24 contains 1.3595 acres, more or less. The property has dual zoning, C-1 on
25 the front 300 feet, R-2 on the rear. The appellant requested a Declaratory
26 Ruling relating to a non-conforming use on the R-2 portion (easterly) 395 feet
27 of the named Tract. The front (westerly) 300 feet is zoned C-1. *This item was*
28 *postponed from the October 10 hearing date.*

29
30 **Chairman Brawley** asked Planner McDonough for his report.

31
32 **Planner McDonough** stated that they had a request from Mr. Myers to
33 postpone the hearing. After consulting with Mr. Chappell, they determined
34 that they could not approve this and told Mr. Meyers, the agent he would
35 have to request a postponement from the Commission.

36
37 **Matt Meyers** stated that they could just proceed.

38
39 **Planner McDonough** gave his report stating this was an appeal of his
40 decision regarding denial of the use of the property at 7216 4th Street as a
41 contractor's yard.

42
43 **Chairman Brawley** asked if there were any questions for Planner
44 McDonough.

45
46 Discussion was initiated with the question as to why are they hearing this
47 appeal since the Board of Trustees denied the zone change for the property
48 in September 2016. They are just rehashing that decision. Attorney Chappell
49 explained that this is an appeal on a decision and they cannot not hear it.
50 They can only deny the appeal. Attorney Chappell was asked who has the

1 burden of proof. Attorney Chappell state that the burden of proof was on the
2 applicant. With that determination, the meeting continued.

3
4 **Chairman Brawley** call for Mr. Myers the agent for JJM Properties. To give
5 his presentation on the application.

6
7 **Speakers for the discussion:**

8 **Matt Myers, Agent 1401 Central Ave NW 87104**

9 **Dan Porto, 2021 Garcia St. NE 87112**

10 **Leonard Aguilar, 310 Roehl Road NW**

11 **Jerome Maldonado, 436 El Llano Lane NW**

12
13 **Mr. Myers** started by explaining the reason they had taken time to appeal
14 the ruling. Stating that he felt there was not an official declaratory ruling on
15 the use of the property and immediately asked for one after the Board of
16 Trustees had denied the zone change in December 2016.

17 Mr. Myers then went on to talk about how this property was a legal non-
18 conforming lot and according to the affidavits that Mr. Wade Swanson and
19 Jerome Maldonado had given the lot has been in continuous use as a
20 contractor's yard since Mr. Swanson bought it in 1994 and then sold to Mr.
21 Maldonado in 2012.

22 **Planner McDonough** clarified the confusion on the timeline. They did not go
23 back before the property was annexed in 1991. Ordinance 125, which was
24 approved in 1994 has the same language in it as the 2003 codified
25 ordinances on contractor's yards. According to Wade Swanson's affidavit he
26 was in continuous business until he sold the property to Mr. Maldonado in
27 2012.

28 **Chairman Brawley** noted that Mr. Swanson stated that he had notified the
29 Village that he had ceased operations at the end of 2010 and did not renew
30 his business license in 2011, then sold the property to Mr. Maldonado in
31 2012.

32 **Commissioner Eby** stated she was having a problem with Mr. Swanson's
33 affidavit as it was so general he gave no specifics as to what type of
34 materials he was storing and what kind of business he was conducting
35 between 2010 when he ceased operations and selling the property in 2012.
36 The burden of proof is still on the applicant to prove there were materials on
37 the property.

38 **Commissioner Eby** stated that the argument that the materials may have
39 been gone from the yard at the time of the photos were taken was complete
40 speculation. She went by the rear of the property and the amount of material
41 there is there now is much more than what is shown in the photos.

42 **Mr. Daniel Porto**, owner of Mr. Rooter and D & L Plumbing stated he had
43 been in business on the property continuously from 2000 to the present day.
44 He stated he had an office and storage space and used the yard for parking
45 of his vehicles, which included the horse trailer that they see in the pictures
46 and a heavier flatbed trailer.

47 **Mr. Leonard Aguilar** stated that they had lived there since 2003 and had
48 never seen the intensity of use that was on the property currently. He was
49 against having the property as a contractor's yard as he did not like the
50 noise and dust that Mr. Maldonado's company has generated.

1 **Mr. Jerome Maldonado** gave a rebuttal to the statements of the neighbor
2 stating that each contractor has different needs and his is different from the
3 plastering company and the plumber.

4
5 **Chairman Brawley** then closed the public comment and called for a motion.

6
7 **MOTION: Commissioner Eby** moved to deny the appeal of the declaratory
8 ruling by the Planning Director.

9
10 **SECOND: Commissioner Tourville** seconded the motion.
11 **Chairman Brawley** asked if there was discussion.

12
13 **Commissioner Eby** stated that she based her denial on several factors, the
14 2015 decision was final and there was no timely appeal. There was no
15 sufficient proof either in 1994 of a contractor's yard nor in 2015. And that the
16 current use is much more intense than previously.

17
18 **Chairman Brawley** asked if there were any other comments and seeing
19 none called for a vote.

20
21 **VOTE:** carried unanimously (7-0).

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24 **5. OLD BUSINESS**

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26 *There was no old business.*

27
28 **6. NEW BUSINESS**

29
30 *There was no new business.*

31
32 **7. REPORTS**

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34 **A. PLANNING DEPARTMENT REPORT**

35
36 Included in the report was an update on 4th Street with the announcement
37 that Bradbury & Stamm was the company chosen to complete the
38 project. The Board of Trustees approved the changes to the 280' foot
39 setback, the C-1 changes, and the 2020 Master plan changes along with
40 changes to the political sign ordinance. The Stormwater annual report
41 has been finished.

42
43 **9. COMMISSIONER'S INFORMAL DISCUSSION**

44
45 Discussion included a request to the County for Stormwater money from the
46 county for Calle del Pajarito by the homeowner's association.

47 The closing of Four Joys Restaurant and Papa Burgers with replacements
48 already in the works Ho Ho Chinese Restaurant and Valley Grill.

49 Doggy bags on the ditch trails and the fact they collected 4,000 pounds last
50 year.

51 The opening of Los Poblanos Campo Restaurant.

1 The upcoming agricultural history of the Village at the Agri-Nature Center in
2 December.

3 The Commission agreed as there was no business for December that the
4 meeting should be cancelled.

5 There was a question on the Commissioner's terms. And a reminder that there
6 were March elections for two Board of Trustee seats and one judge.
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11 **10. ADJOURNMENT**
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13 **Chairman Brawley** asked if there was a motion to adjourn.
14

15 **MOTION: Commissioner Tourville** moved to adjourn at 8:35 p.m.
16

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

19 **VOTE:** carried unanimously (7-0).
20

21 **APPROVED by the Planning and Zoning Commission of the Village Los**
22 **Ranchos de Albuquerque this _____ day of _____, 2017.**
23

24 **ATTEST:**
25

26 _____
27 Tim Tourville, Secretary
28 Planning and Zoning Commission
29