

Planning and Zoning Commission
Regular Meeting
May 2, 2019 6:30 PM

Call to Order

- ◇ Tom Scroggins called meeting to order at 6:33 p.m.

Roll Call

- Present: Chairman Tom Scroggins, Vice-Chairman John Thompson, Secretary L. E. Rubin, Dennis Kintzler, Jim Winters, Lawrence Gordon, and Scott Adair
- Also Present: City Manager Leisa Haynes and Duty Clerk Amy Lopez

Approval of Minutes of April 18, 2019 Regular Meeting

- L. E. Rubin moved to table the approval of the April 18, 2018 Meeting Minutes. Jim Winters second the motion. With a 7-0 vote, the minutes for April 18, 2019 was tabled until the meeting on May 16, 2019.

General Discussion

- Jim Winters invited Public Comments.
 - Audience member said that he was there to hear the scenario that was going to take place.
- Jim Winters said that P&Z only had the authority in State Statutes to do certain things and there were some questions about a variance request, not individual to the audience member, but in general terms about whether we can hear it or not. He continued to say that there will be a discussion, and if we can hear it, then it will have to be posted for 15 days in advance and all neighbors within 100' of the residence would get a public hearing notification, at the hearing we would rule on the validity of the complaint and if the resident did not agree with it, there is a time limit of 30 days to get take it Council, and Council will make the final decision, and a letter to Council with our recommendation. The discussion continued.
- Lawrence Gordon said the folks on Perion Court wanted a to get a dead end or a no thru traffic sign.
- Jim Winters said yes, and he had already talked to Mayor Gwinn about it and it will be added to the list of needed signs and they should be put on all the cul de sacs and dead-end roads. The discussion continued.
- Lawrence Gordon said there is a large hole on Chamartin and San Lucus.
- Jim Winters said that for now we are going to put in some rip rap, but that won't be a permanent answer, but we will eventually need to get an engineer. He then said that Montano culvert will also need redone because it is rusted through, it will be expensive, and need DOT approval and an engineer's stamp.
- Tom Scroggins said that the right of way will be an issue.
- John Thompson said that on El Guapo and Don Diego, there is a vacant lot, but if it is owned the owner needs to maintain it and if not, maybe we make it a pocket park. The discussion continued.
- Jim Winters said that we have a general discussion of variance and handed out the Variance Use Permit.
- Jim Winters said that we can move the meeting scheduled for Thursday, May 16 to the 23rd. The discussion continued.
 - City Manager Leisa Haynes asked when the Council approved for the trash receptacles to be enclosed and asked if it says what kind of covering that will be.
- Jim Winters said that he does not know if they said, but it will need to be specified. The discussion continued.

- Jim Winters said that we were going to hear public comments on building houses near Tierra del Sol and Country Club, but the owner did not show up. He then said there are 27 lots that the owner is wanting to build on, but which lots is important.
 - City Manager Leisa Haynes said that he is wanting to build 10 – 12 homes.
- John Thompson asked if they would be homogenous with the rest of the neighborhood.
 - City Manager Leisa Haynes said that she wanted him to build from Golf Course Rd in and fill in the front of it and make it look prettier.
- Jim Winters said that real problem for us is knowing which lots because they vary in size. He then read lot sizes. He continued to say that of those 27 lots, 6 are tagged as extremely irregular in shape. The smallest was 3,657 sq ft and the largest 8,207. The discussion continued.
- John Thompson said that maybe there could be a pocket park on the irregular shaped property.
- Jim Winters said that the owner is not responsible to donate more land, because he had already donated land to the City. The discussion continues.
- Jim Winters said that we would have a lot of work to do because he doesn't think that any of the lots would have proper setbacks and is why it is so important to know which lots and where. He then said we hope to address it and this is a perfect time to see if the numbers we picked are good numbers.
- Lawrence Gordon asked what the front set back would be, 10' or 15'.
- Jim Winters said he does not know. The discussion continued.
- John Thompson asked if he is going to be bound by the old set of ordinances or will he fall under the new one.
- Jim Winters said that right now it would fall under the old ordinance, he may build a 300 sq ft house on every one of the lots and be fine.
- Tom Scroggins asked if there is an ordinance about building sizes.
- Jim Winters said that there is not for homes. The discussion continued.
- Scott Adair asked if the guy hasn't approached us before we pass the new ordinances, if the homes would be built under the current version.
- Jim Winters said his question is what kind of time frame he is working under so we can know how to handle our part.
- John Thompson asked if it would be easier to if we took the work we have done over the past year to the Council, get it approved and asked him to show up.
- Jim Winters said that if he has a quick timetable, we don't want to scare someone off. He then said that he is going to have to come in for variances.
- Lawrence Gordon said that we keep going through our process. The discussion continued.

Fencing Issues

- Jim Winters said let's start at the Variance Ordinance and asked everyone to read up to 4-7-4. He then passed out another sheet and allowed everyone time to read it.
- Jim Winters said to start with the Variance Use Permit and the existing ordinance, first paragraph and he read the paragraph aloud. He then said there are some things that we can give a Special Use or a Conditional use for, there are three things, Variance, Special Use and Condition Use.
- John Thompson said he thought that we wanted to eliminate one of those, but maybe we shouldn't.
- Tom Scroggins said that when he was at the zoning meeting, they talked about Special Use as a way of alleviating non-conforming properties. He continued to say a variance is permanent, as an example, there is an arroyo you might need a setback variance. He further said that if there are other ways of addressing

non-conforming properties, they might be better than using a variance because it becomes permanent, because those other options can have a time limit.

- Scott Adair asked would it still be permanent if the conditions changed that caused the variance.
- Jim Winters said that it would have to be a hearing, there would be a process to change it.
- Tom Scroggins said that if there is a setback variance, and their house burns down, you can't say you can't build there because of the setback.
- Dennis Kintzler said that the variance is transferable.
- Jim Winters said that if we give a variance to someone and they don't complete the project within a year we can revoke it and that would be valid. The discussion continued.
- Jim Winters said we could try to accommodate as best as we could, but it needs to be reasonable. He then said to look at the definition of variance on Page 5, number 248, and asked if we feel like some situations are relieved. He then said that we are adhering to the textbook definition.
- Scott Adair said that as long as there is a conditional and special uses as alternatives, you can be strict on variance. The discussion continued
- Jim Winters said at that time we would have the ability to review traffic flow and the things that might contribute to our decision.
- John Thompson asked if we were going to review the section on special and conditional use.
- Jim Winters said that it is still there. He then said let's move to a dotted line situation and let's just say Mr. G wants to build a fence and has complied with the 6' height rules, but his driveway is in the middle of this fence. He asked what the rules are for fences and he then handed out Fence Ordinance and he proceeded to read residential height for fences, 4-14-8c. He then said 4-14-8d addresses the line of sight rule, there has to be a 24' in both directions sitting in a car.
- L. E. Rubin asked if someone has built a fence and the City didn't do anything to stop it, what happens when the Code Enforcement comes along and decides that they violated the 25' triangle.
- Jim Winters said that it can be written up as an infraction and go to court, if there are extenuating circumstances then the Judge filters it out, but it is nothing we are involved in.
- John Thompson asked if it would only pertain to fences on a corner on intersections.
- Jim Winters said no it does not say corner. He then said the problem is that there is a wide variation of road widths in Rio Communities, and there is also a wide variation of right of ways, so if you have a narrow right of way, and when you back out of the driveway you are pulling out 2/3rds of the way into the street before you can see either direction and that is the safety issues and keep in mind safety is one of the rules that has to be followed with variance. He further said this is the scenario we would be dealing with, because if he wanted to put that fence up, he has to be able to see 25' in all directions. He explained that if it is a wide street with lots of room and there is space that is easy, but if it is a narrow street there is a going to be a problem.
- John Thompson said that there are solutions, there could be a fence that goes from 3' to 4'. The discussion continued.
- Jim Winters said that we really enforce line of sight because of safety. He continued to say that there have been complaints from school buses about people coming out of blind driveways and nearly hitting school buses. He then said that if we gave permission for that then the City would be liable. The discussion continued.
- Jim Winters said he discussed the subject in general detail and at this point we need to move on to a different topic. He then addressed the audience members and asked him to let us know what they

wanted to do, but P&Z had not made any kind of decision and we try to see both sides as best as we can, to call and let City Hall know if they are wanting to proceed with their case. He explained that if we wanted to hear their case, we would need to move the meeting to the 23rd. The discussion continued.

Zoning Issues/Updates

- Jim Winters said that all of our ordinances are jigsaw and State Statutes says that our ordinance is tied to our comprehensive plan. He then said that there is Land Use in there which is basically how we are going to use the land. The discussion continued.
- Dennis Kintzler asked if there is an agriculture zone within the City.
- Jim Winters said that it is because there is not agricultural land in the City, except the for the Goods, who have broken it up and put homes on it. The discussion continued.
- L. E. Rubin asked someone wants to zone their property as agricultural and we don't have a zone for that what do they do to make it agricultural.
- Jim Winters said in his opinion, they shouldn't, because that there is a thing called right to farm. He explained that if you have an agricultural use in that right to farm area and if they want to build a 6,000 sq ft barn, they don't have our permission to do it. The discussion continued.
- Dennis Kintzler said with all the land that we have to the west it might come up in the future.
- Jim Winters said that if it comes up in the future, we could create a zone, but we have to be careful about zones we create because they could build anything they wanted within that zone. He then said they can be deemed light industry and that way there are multiple things to do with it. He went on to say he sees a lot of land being commercial.
- Lawrence Gordon asked whatever happened with the second solar farm.
- Jim Winters said they are waiting on transmissions lines because the one they have does not have the capacity to take the power out of there from the industrial park area. He said that PNM is in the process of buying the Western Transmission and that is from Clovis. He explained that the line through the notch in Mountainair, and south of the industrial park and are going to cross the river to the dump in Belen and start heading up to Albuquerque. The discussion continued
- Jim Winters said that he would get updates of the zoning and passed them out.
- John Thompson asked if this has been approved by City council.
- Jim Winters said no. He then said to go to Page 41.
 - Page 41 and 42 had minor word changes.
 - Page 43 will be decided on at the next meeting.
- Jim Winters said that attaching a carport to a main dwelling that there needs to be a permit. The discussion continued.
- Tom Scroggins asked if there was a motion to agree on the highlighted changes. The discussion continued.
- John Thompson said that we should do it all at once.
- Tom Scroggins asked what we will discuss at the next meeting and said that the meeting might be the 23rd if there is going to be a Variance Public Hearing. The discussion continued.
- Jim Winters said that the next meeting agenda will be General Discussion, Variance Public Hearing, and Zoning Issues. The discussion continued.

Abatement Issues

- This topic was not discussed at this meeting.

Adjourn

Jim Winters moved to adjourn. Lawrence Gordon second the motion and the meeting adjourned at 8:08 p.m. with 5 -0 vote.

Respectfully submitted,

Amy L. Lopez, Deputy Clerk

Date: _____

Approved:

Thomas Scroggins, Chairman

L. E. Rubin, Secretary

John Thompson, Vice-Chairman

Lawrence Gordon

Dennis Kintzler

Jim Winters

Scott Adair