

**Planning and Zoning Commission  
Regular Meeting  
April 18, 2019 6:30 PM**

**Call to Order**

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

**Roll Call**

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

**Approval of Minutes of April 4, 2019 Regular Meeting**

- L. E. Rubin moved to approve the minutes for the Regular Meeting as written for April 4, 2018. Jim Winters second the motion. With a 5-0 vote, the minutes for April 4, 2019 was approved.

**General Discussion**

- Jim Winters says he is reluctant to say when Oasis Café is open because they were supposed to open last Saturday, but they are advertising that they are hiring.
- Dennis Kintzler asked how the negotiations are going for the Tilery building.
- Jim Winters said that it is a private individual and is new to the area, coming from Santa Fe, and has several successful businesses. He continued to say that Tilery wasn't owned by who we thought it was, the owners live in Arizona, and was informed two weeks ago that the deal was looking good.
- Jim Winters heard that the car wash is coming up for sale. He also said that the Code Enforcer had gotten rid of the two buildings that were burned on Hermosa and that only leaves one that needs to be taken care of, and that it is on the July auction list. He went on to say the marijuana grower that was moving to Belen is now staying and want to possibly open a shop to sell edibles out of and another marijuana grower wants to build homes here. The discussion continued.
- Tom Scroggins said that the Oasis was still waiting for an inspector and he thinks that had happened because he was advertising for staff.
- L. E. Rubin said that the Fire Department still needs the CID final sign-off but there are still major violations that need to be fix. He continued to say that there is a gap above the electrical panel, the ceiling near the hood, and the handicap bathroom needs handicap rails. The discussion continued.
- L. E. Rubin said that the Fire Department got seven new first responders and as soon as they take their national exams and get their State License, we will be able to start rotating them in. He then asked why the waste ordinance might have to go back to P&Z.
- Tom Scroggins said that whatever they hear back from the attorney will be the final. He said he doesn't expect that it will come back to P&Z.
- Dennis Kintzler said that the Council needs to make a decision. The discussion continued.

- Dennis Kintzler said that he read in the paper that the Fire Department was granted some money.
- Jim Winters said that the Fire Department got money, and we also got money for lights, and significant amount of money for a drainage study. He continued to say that there is \$100,000 that needs to be spent on sidewalks.
- L. E. Rubin said that they amended the City Council agenda and asked if that was what it was for.
- Jim Winters said that we have to close some of our open building items out before the governor takes back the money.

### **Zoning Issues/Updates**

- Jim Winters said that we will be starting from page one and go through quickly and acknowledged that underlined is agreed on and anything highlighted needs to be decided.
  - Page IV, 4-18-9 and 4-18-10 on hearing posting and notifications were changed.
  - Page 2, in yellow, 4-1-6 C and was changed by deleting the “and” and replace with “or”.
  - Page 3, on 4-2-1, “and” was deleted and replaced with “or” and added “, conditional and special use.” Light/medium was added as well as heavy industrial, recreation and overlay zone districts.
  - Page 4 conditional use was defined, comments added were “conditions may include the addition of landscaping walls, parking areas” He continued with a list and said that they could read them for themselves. He continued to say the “Conditional Use Permit shall only be issued by review and approval of the Planning and Zoning Commission. The Conditional use is “compatible and” was changed to “or” and “See article 4-7-4.” was added.
  - Pages 5 and 6 were not changed.
  - Page 8, “See article 4-7-2 or 4-7-4” was added.
- L. E. Rubin said that 4-7-2 was conditional use.
- Jim Winters said 4-7-4 was special use.
- Jim Winters continues with page 14
  - Pages 14, 15 and 16 have no changes
  - Page 17, “See article 4-7-4” was added.
  - Pages 18 and 19 have no changes.
  - Page 20, “See article 4-7-2” was added.
  - Page 23, “See article 4-7-2” was added.
  - Page 25, “See article 4-7-4” was added.
  - Page 26, Special Use Permit 4-18-9 and 4-18-10 in compliance with Article 6 and 7
  - Page 27, “See article 4-7-2” was added.
  - Page 28, Special Use Permit 4-18-9 and 4-18-10 in compliance with Article 6 and 7
  - Page 29, Special Use Permit 4-18-9 and 4-18-10 in compliance with Article 6 and 7
  - Page 30 “See article 4-7-2” was added.
  - Page 31, “See article 4-7-4” was added.
  - Page 32 had no changes.
  - Page 33 “See article 4-7-2” was added.
  - Page 34, “See article 4-7-4” was added.
  - Page 35 had no changes.

- Pages 36 and 37, “See article 4-7-2” was added. Special use is 4-18-9 and 4-18-10 and on the bottom of page 37 “See article 4-7-2” was added for overlay zones.
- Page 39 had no changes.
- Scott Adair said there is something on 39.
- Jim Winters said that it was already corrected, and it was that the word “or” needed to be added.
- Jim Winters said that on 41 said that we argued the height of accessory building and it needs to be decided where the height should be measured from.
- L. E. Rubin said that it states that it is measured from the lowest point of the foundation.
- Jim Winters said that “D” says “all Accessory Buildings must comply with all sets-backs, see Articles 6 and 9 of this code.” He asked if this had been reviewed.
- L. E. Rubin said that it is important that the fire department can get through.
- Jim Winters said the 2018 International Building Code says it is 5’ unless there is a 2-hour rated wall, then it could be 3 feet.
- L. E. Rubin asked what it is for mobile homes.
- Jim Winters said that they are covered by their own set of rules, but the City has it at 10’ so that the fire Department would have room.
- L. E. Rubin said the new Building Code doesn’t give the fire department much room.
- Tom Scroggins said that when we talked to Jason Gonzalez it could be 3’.
- Jim Winters said that “E” shouldn’t be marked. He said that statement that was added for 4-5-44 to be compatible with the architecture, he added “Aesthetic appearance of adjacent house.” He then asked if it should be the block or the adjacent house. He further said that if it is an issue that it needs to go to P&Z.
- Scott Adair asked if aesthetic appearance topic had been researched.
- Jim Winters said that we need to research it and write a few standards for it.
- Tom Scroggins said that it could be in the appendix and add a note that says, “see appendix”.
- Scott Adair said that it could be written in the definitions.
- Jim Winters agreed that writing it in the definitions would be the easiest. He then said that we will need to write a list of things that will need to be addressed. The discussion continued.
- Tom Scroggins said that “block” would be the best option for aesthetics. The discussion continued.
- Jim Winters continued on to page 42.
  - Page 42 had the word “aesthetics” added, as well as “or drainage channels,” which are side gutters and drainage channels, was added to Section 4-5-5.
  - Page 43 is being replaced with the setbacks we have decided on.
    - MH-1 it is 10’ minimum side offsets
    - R-1 is 5’
    - R-2, which is multi-family, high density, it is 0’-5’ because it can be common wall and the building standard calls for fire ratings between the walls.
    - R-1’ will be a 20’ offset rather than a 30’ offset to accommodate new neighborhoods and there is an asterisk here that states, “in an existing neighborhood, the infill setback should be equal or more than the other houses on the block.”
- Scott Adair said that it should read “for existing neighborhoods”. The discussion continued.
- Jim Winters said that we standardized the rear offsets to 10’, except for C-2 and C-3 since it is a

little heavier duty industry there, we gave them a little more rear offset, and they can always ask for a variance. He continued to say that we added I-1 and I-2, which is our lighter industrial and I-3 is heavy industrial and they would have to come and talk to us for a variance.

- L. E. Rubin asked what medical marijuana falls under which zoning type.
- Jim Winters said that it would fall under C-2 or C-3.
- L. E. Rubin asked what the number should read.
- Jim Winters said it should read 13,680 sq ft and he corrected it in previous copy.
- Tim Scroggins said that he still has an issue with R-1 single family minimum lot area because his lot is less than that 6,000 sq ft.
- Jim Winters said his feeling is that it should go to 6,500 or 7,000.
- Scott Adair said that the trend is smaller.
- L. E. Rubin said that P&Z had this discussion on these single-family lot sizes.
- Jim Winters said that the problem is the infill, the lots are not big enough, what do you do with the infill, you are basically saying you can't build a house on that infill.
- Tom Scroggins said the houses in Los Lunas are build on 45' by 100' lots, so maybe we should have 4,500. He continued to say that Scotty Edeal wanted to divide the lots off Kaghan, but they were 110' by 55'. But they were deep.
- Jim Winters said that he should survey the land and replat it, but it costs money.
- Tom Scroggins said that 8,000 sounds good.
- Dennis Kintzler said that 85 sounds right.
- L. E. Rubin asked why a residential 8,000 lot is and a commercial lot is 5,000.
- Jim Winters said that it so that they don't divide them into a lot of little bitty storage facilities.
- L. E. Rubin said we will let a business build on 5,000 sq ft and nearly twice as much to build a small house.
- Jim Winters said that he feels that 8,000 sq ft is too much, but we need to find a number we agree on.
- L. E. Rubin asked how we got the infill at 4,500.
- Jim Winters said that it was basically so that someone could come in and build a small house.
- Tom Scroggins said the he drove around near the golf course and the there are very small lots.
- Jim Winters asked which roads.
- Tom Scroggins said that there are some on Lee Trevino for sale and even on Golf Course road, the area.
- L. E. Rubin asked if we do, will the minimum width of the lots be 53' and is the infill at 50'.
- Scott Adair said that the math says the minimum a property could be is 2,600 sq ft with the offsets, so 6,500 sq ft lot could have a big house.
- Jim Winters said the properties in Los Lunas are 50x90, so that is 4500. He further said that we have high density lots at 4,500 and asked where we put the R-1's.
- Tom Scroggins said that we talked about neighborhoods. He further said that R-1, such as Chamisa, might have a lot 45 by 100 but if you go to another neighborhood you might need to have to have a quarter acre, 11,000 or 12,000 sq ft. He continued to say that we have different situations in different areas, common wall as an example.
- Jim Winters asked if for R-1, we create two, one for existing neighborhoods and another for new neighborhoods. He continued to say the existing would be how to accommodate infill and the 4,500 sq ft would take care of that, then he asked what to do for new neighborhoods.
- L. E. Rubin asked if any of them are less than 5,000.

- Tom Scroggins said no.
- Jim Winters asked why we wouldn't just take R-1 down to 5,000 sq ft, leave the R-1 Infill at 4,500, and then people can ask for a variance if it is needed. The discussion continued.
- Scott Adair asked what is to prevent someone from building a small home and meets the requirement, if they still have to meet the minimum square footage on the lot size.
- Jim Winters said something we don't want to do is create houses without any kind of yard, and he realizes people are wanting to spend less time on their yards, but it doesn't make for a very nice-looking town.
- L. E. Rubin said he is not a fan of the close, cookie cutter homes in Los Lunas, with houses right on top of each other.
- Jim Winters said that if it is done right, and offset some houses, and have two or three two-story homes and have a little bit of vegetation, it looks nice.
- Dennis Kintzler said that people are not wanting any vegetation. The discussion continued.
- Scott Adair said that 130,680 square feet, is three acres, so you probably meant 130,680 and not 13,680.
- Tom Scroggins said that the lot size minimum for R-1 single family should be 4,500 and 50' width.
- Jim Winters asked if we just do away with the infill.
- Tom Scroggins said could be.
- Jim Winters said that would be the easiest. The discussion continued.
- L. E. Rubin asked if there was a minimum depth.
- Jim Winters said no.
- Scott Adair said that that would dictate what size your lot would be.
- Jim Winters said that we should have the R-1 single-family set at 6,000 sq ft, we don't have existing lots that would be affected. The discussion continued.
- Tom Scroggins said to make the minimum width 60' and that gives you 100' depth.
- Jim Winters says that the infill would be 4,500 or less, or we can eliminate that category because it is covered above.
- Dennis Kintzler asked if they would make them both 6,000, 60' by 100'.
- Jim Winters said that we can take it out period and say R-1 single family.
- L. E. Rubin said that if it was 6,000 sq ft we won't have a problem with anything, because we are going down to 3,500 with infill, and asked if it should be 4,500.
- Jim Winters said that was for multi-family, he said he is suggested that infill is just taken out, because most of them are 6,000 sq ft. He continued to say that 3,5000 sq ft covers multi-family. The discussion continued.
- Tom Scroggins said it was so that they could be grandfathered in, if there is a lot that was already existing and platted. He then said we have the same houses today that we incorporated. The discussion continued.
- L. E. Rubin said the other thing that was resolved was that a lot of the empty homes have been sold.
- Jim Winters said there aren't a whole lot left for sale.
- L. E. Rubin asked if we are wanting to change the 8,000 to 6,000 and do away with the infill.
- Jim Winters said yes.
- Scott Adair said that as trends change, we will need revisited this in a few years.
- Jim Winters agreed that it needs to be revisited at least every 5 years.
- Tom Scroggins said that we would be looking at page 44, section 4-6-3.

- Jim Winters said that if they have a zero setback they have to do the following, we have an R-2 statement that is contradictory.
- Tom Scroggins said that it had been 10.
- Jim Winters said we still have 5' on an R-1, so this has to be an R-2.
- L. E. Rubin said that in those type of structures, we are going to let them build right up to the property line.
- Jim Winters said yes, in a multi-family because it is a common wall or a wall with 2-hour fire-rating.
- L. E. Rubin said that it is common wall, but what about the side of the structure that is not connected to anything, can it be built to the property line or does it have to have a setback.
- Scott Adair said that we need a provision.
- Tom Scroggins said that he has heard of places that have zero lot line but would have a side yard, and there would only be one setback.
- Jim Winters said that we could say that "non-common wall side should have a minimum set back of 5'."
- Jim Winters said that we are moving on to page 45.
- L. E. Rubin said the minimum distance between structures and that is labeled "C" and when you turn the page we are up to "F", we are missing letters. The discussion continued.
- Tom Scroggins said we don't have "C", "D", or "E".
- Jim Winters said that it automatically sequenced.
- L. E. Rubin said "F" should be "C" and "D" should be "D".
- Jim Winters said that page 45 said "F" should be "C" and "D" should be "D". He then said Commercial C 1-2-3 says, "The building on the abutting side is at least 5' from the property line."
- Dennis Kintzler asked what they define as abutting.
- L. E. Rubin said that it needs to say the non-abutting side on 2-B.
- Jim Winters asked if everyone agrees that non-abutting solved the problem. He then said "C" is straight forward, but he thinks "B" should have a little stricter standard, since it is industrial and commercial.
- Tom Scroggins said it is more likely to be more than one building on a single lot or parcel in the industrial/commercial areas.
- Jim Winters said that mobile home minimum space per unit is 6,000 sq ft. He then said we only really regulate MH1 and asked if M2 should be taken out.
- Tom Scroggins asked if one is permanent and one temporary, they are different.
- Jim Winters said that we have 2 manufactured housing parks, and you can put a tiny home or RVs, and we use it as a catch all. He explained there are 2 in the city, they park owns the land, not the mobile homes.
- L. E. Rubin asked what it is called when a mobile homeowner owns the land and the manufactured homes.
- Jim Winters said that it is a Manufactured Housing Subdivision, so it is MH1.
- L. E. Rubin said that a Manufactured Housing Subdivision is MH1 and a manufactured housing parks is MH2, so why should we eliminate MH2.
- Jim Winters said because they set their own rules.
- L. E. Rubin said that he doesn't like them writing their own rules.
- Jim Winters said that we can override that if we want to.
- Scott Adair said that we should be able to protect the renters of the park, we might want to have

some sort of regulation.

- Dennis Kintzler said as an example, the Senior Park got new owners they came in and raised the rent and renters had to move, and some lost their homes.
- Scott Adair said that the new owners can force out by jacking up the rent, and because mobile homes aren't really mobile, they default and lose their homes and that is what we need to protect them from.
- Jim Winters said that they want people out because they have older homes and if they are running an efficient operation, they turn the homes every 5 to 10 years, and that is how they do it. The discussion continued.
- Jim Winters said that we should leave R2 as it is so that we can protect people in those parks.
- L. E. Rubin said that we should take out the sentence. He then asked the setbacks for mobile homes have the same rules as R-1.
- Jim Winters said that it is covered, but we do have 10' setbacks on R-1. He said to continue to page 47.
  - 47 has nothing on it.
  - 48 "but can/or" needs to be changed.
- Tom Scroggins said that we missed the storage units on "D", on page 46. The discussion continued.
- Jim Winters said he just wanted us to take a look at it.
- L. E. Rubin asked has this been affected by CID.
- Jim Winters said no, not for that.
- L. E. Rubin said it can't go over 600 sq ft. The discussion continued.
- Jim Winters said that certificate transferred for use at another location currently says "but can" and he suggested that they substitute the word "or" and "if the applicant represents the building or property for which the certificate was issued" which needs to come out and be replaced with "this application for a new certificate can be made by new owner."
- Scott Adair asked if we want a comma after the word "issued" and do we want to use "can" or "shall" or "will"
- Jim Winters said yes, and it should be "shall". The discussion continued.
- L. E. Rubin asked if the period will be left.
- Jim Winters said that on Articles 3 and 4, conditional use permits, it seems like everything is covered.
  - Page 48 and 49 are done.
  - Page 50 it was recommended that everything in yellow is taken out and add the word "posting" in the notification.
- Scott Adair suggested that we add "posting notification" for condition use to make the statement clear.
- Tom Scroggins asked why we are taking it out.
- Jim Winters said that it is covered in 4-18-9 and 4-18-10. The discussion continued.
- L. E. Rubin asked if that has covered all the classifications we have for zoning.
- Jim Winters said yes, and thinks we are going to get into the home occupation permits and other things.
- ❖ L. E. Rubin made a motion to approve the changes through page 50 of the zoning code we are working on as discussed. The motion was second by Scott Adair. The motion was approved with a 5-0 vote.



- Tom Scroggins asked if there was any more discussion.
- Jim Winters said that he is not sure if the man who wanted to come before us will show up, and there is also a woman with a fence issue that wanted to be heard by the P&Z.
- Tom Scroggins said the next meeting is May 2<sup>nd</sup> and he will not be attending.
- Jim Winters passed out information for small cell coverage for 5G and asked that the group read it because they are asking to put it in right of ways and such.
- L. E. Rubin said he understood that they would be placed very close together, like every home.
- Jim Winters said that we can regulate it.

#### **Abatement issued**

- L. E. Gordon asked if we would be discussing the Abatement issue at the next meeting.
- Jim Winters said there is really nothing to discuss at this time.
- Tom Scroggins said that Councilor Brown wants to have Abatement and Eminent Domain.
- Scott Adair asked what the Abatement was for.
- Tom Scroggins explained that we had burned houses on Hermosa, and Councilor Brown looked into taking them down, but was told that the City had no ordinance to deal with it. The discussion continued.
- Tom Scroggins said that Councilor Brown gave him information about Abatement, which he copied for the rest of P&Z, but he would make Scott Adair a copy as well.
- Jim Winters said that there would be three other ordinances that we will be working on soon, dealing with abandoned buildings, foreclosures and reverse mortgages.
- L. E. Rubin asked if there were three ordinances that are done and need reviewed or will they need to be rewritten.
- Jim Winters said that we need to get through Chapter 4 so that we can prevent from having to do a bunch of variances, so Chapter 4 is the priority for now, but we are getting close.

#### **Adjourn**

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



Respectfully submitted,

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Amy L. Lopez, Deputy Clerk

Approved:

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Thomas Scroggins, Chairman

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John Thompson, Vice-Chairman

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Dennis Kintzler

\_\_\_\_\_  
Scott Adair

Date: \_\_\_\_\_

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L. E. Rubin, Secretary

\_\_\_\_\_  
Lawrence Gordon

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Jim Winters