

**MINUTES OF THE DOÑA ANA COUNTY
PLANNING AND ZONING COMMISSION**

August 23, 2018

CALL TO ORDER

09:01:37

Chair Acosta called the Regular Meeting of the Planning and Zoning Commission to order at 9:01 a.m., Thursday, August 23, 2018 in the County Commissioners Chambers, Doña Ana County Government Center, 845 N. Motel Blvd., Las Cruces, New Mexico.

1. ROLL CALL

09:01:59

Mel Acosta –Chair – Present
Robert Czerniak-Vice Chair - Present
Tom Phillips – Secretary - Present
Ken Thurston – Commissioner - Present
Bruce Jackson – Commissioner - Present
Bill Shattuck – Commissioner - Absent
John Townsend –Commissioner – Present

2. APPROVAL OR CHANGES TO THE AGENDA

Time: 09:02:25

Time: 09:02:34

Robert Czerniak: I move to approve the agenda as presented.

Motion: Robert Czerniak

Second: Tom Phillips

The motion passed by a vote of “ayes” from all Commissioners present.

3. APPROVAL OF MINUTES:

09:02:51

Tom Phillips: I have a correction I would like to propose, under new business, the statement that is referenced to me is just kind of hanging there and doesn't really do it justice by leaving it in. Rather than adding in a whole bunch of detail, I suggest striking it with the recognition that the intent of that comment is covered in the minutes in the video, which is the official record.

Time: 09:03:37

Tom Phillips: I move to approve the minutes with that change.

Motion: Tom Phillips

Second: John Townsend

Mel Acosta: We have a motion to strike or delete item five.

Tom Philips: To clarify, it would be the one sentence under item five that says Tom Philips. I put it on the record through my comment; it does not do it any justice by itself.

Robert Czerniak: We had a discussion about this case in relation to the fact that it should have been a County initiated zone change. The fees that were charged to the property owner should not have been charged.

Mel Acosta: That was on the fees that were involved right.

Robert Czerniak: Yes, because one of the justifications for the approval was that it was a mistake by the County. The zoning was incorrectly labeled on the County Map, which is not reflected on the notes. I do not know if that should be or not but in addition to that we had asked the staff develop a policy on how to handle cases like this and for consideration in the UDC and that's not in the minutes either, I would like to see that corrected.

Mel Acosta: Janine what is your take on that, please?

Luis Marmolejo: We will go ahead and go back to the audio and insert those points if you will.

Robert Czerniak: Before we approve these, I would like to defer so we can see those the minutes rewritten and with Commissioner's comments in addition.

Mel Acosta: Would you rather postpone the approval of the minutes?

Robert Czerniak: If that is okay with the Commission?

Tom Phillips: How about I withdraw my motion?

Mel Acosta: Motion has been withdrawn. Let us go ahead, postpone the minutes until next meeting, and get that corrected.

Robert Czerniak: How long does it normally take to get the video up on the website? This meeting was not on the website as of two days ago.

Luis Marmolejo: We can ask staff in the booth, after that question after the meeting.

Robert Czerniak: I actually got a couple phone calls.

4. Old Business:

09:07:01

None.

5. New Business:

09:07:09

- a. **Case # Z18-005:** A County initiated zone change for a proposed Type III Subdivision to be known as Orchard Estates Phases III and IV from T2, Rural to T3, Neighborhood Edge to comply with the previously approved Orchard Estates Subdivision plat. The lots range in size from 0.77 acres to 2.11 acres. The property is located east of the intersection of Aldaz and Bosque Roads and is identified as being within Section 16, Township 26 South, Range 3 East, and Property Identification No. R1719495 as recorded in the Office of the Doña Ana County Clerk under Instrument No. 0913374 filed on May 15, 2009.

Luis Marmolejo presented the case and public input was heard from the applicant, Paul Pompeo, and Matt Grubaugh.

Time:09:22:42

John Townsend: Based on the finding of the facts and recommendations of the staff to correct the error, I move the approval of Case # Z18-005.

Janine Divyak: In the motion, we should identify phases three and four would be effected by the zone change for the proposed Orchard Estates.

Motion: John Townsend
Second: Robert Czerniak

	Yes	No	\
Commissioner Tom Phillips	x		
Commissioner Bruce Jackson	x		
Commissioner Kent Thurston	x		
Commissioner John Townsend	x		
Vice Chair Robert Czerniak	x		
Chair Mel Acosta	x		

The motion passed by a vote of “ayes” from all Commissioners present

Time: 09:24:32

- b. Case # SD18-001: A Type III Subdivision to be known as Orchard Estates Phase III, IV and V submitted by Paul J. Pompeo, agent for Eugene Burkholder dba Preferred Insurance Services, Inc., owner. The applicant is proposing 15 lots on 32.75 acres, ranging in size from 0.83 acres to 7.081 acres. The property is located east of the intersection of Aldaz and Bosque Roads and is identified as being within Section 16, Township 26 South, Range 3 East, Property Identification No. R1719495 as recorded in the Office of the Doña Ana County Clerk under Instrument No. 0913374 filed on May 15, 2009.

Luis Marmolejo presented the case and public input was heard from the applicant Paul Pompeo, Eugene Burkholder, Chris Homero, and Matt Grubaugh.

Time: 09:56:25

Robert Czerniak: I move to approve Case #SD18-001 Orchard Estates Phase III, IV and V the preliminary plat, based on findings of fact and recommendations of staff with the condition that Sections 350-212.i.1 be satisfied and all other conditions be satisfied prior to BOCC approval. I want to add water provided to the subdivision in phases III and IV will be community water and to phase V it would be either community water or wells.

Motion: Robert Czerniak
Second: John Townsend

	Yes	No	\
Commissioner John Townsend	x		
Commissioner Bruce Jackson	x		
Commissioner Kent Thurston	x		
Commissioner Tom Phillips	x		
Vice Chair Robert Czerniak	x		
Chair Mel Acosta	x		

The motion passed by a vote of “ayes” from all Commissioners present

6. Committee Reports

09:58:04

None.

7. Administrative Approvals

09:58:14

None.

8. Staff Input

09:58:24

None.

9. Commission Input

09:58:34

Mel Acosta: We are going to have to do some work on the UDC regarding containers and container homes. I requested Dennis Smith help us out regarding the stacking of water rights and what is the legal process regarding the adjudication of water rights that have been transferred. Water rights that have been transferred between large parcels and smaller parcels of property that is a concern if the State Engineer allows that. The reason for that is that in the event that water is transferred, what happens to those parcels of property? Do they become fallow? We need some answers to what is going on so we can plan for probably cluster development as we go through our next six, seven, eight months prior to litigation with the state of Texas and the state of Chihuahua.

Janine Divyak: Dennis Smith sent me an email as he spoke with Andrea Mendoza at the State Engineer's Office as legal notices are required by state statute for new wells, changes of ownership on water rights and change to the point of diversion on wells and other changes to water rights. She said that is probably why you are seeing more ads in the newspaper. Since 2011, surface and ground water rights cannot be separated, in the sense that if a farmer chooses not to pay his or her EBID bill, the State Engineer can stop use of that farmer's ground water. She also stated that residential wells are permitted by statute and granted a one-acre foot water right, which is independent of any agricultural water rights. She further stated that there is a water study currently going on in the Lower Rio Grande Region and gave us a link to that website.

Mel Acosta: The reason why I asked that is because I just foresee that in the near future, I think the City and the County are going to have to do some real serious planning regarding how we are going to have to grow the, how are we going to get it accomplished. It would take the participation of farmers and the residents of Doña Ana County. That is my concern, how is it that we are going to develop in a good positive way where we all have abundance of water and conservation of water and that to me is the real key issue for development and growth of the county. Tell Dennis thank you very much.

10. ADJOURNMENT

10:02:12

Officer: Planning and Zoning Commission

The minutes contained herein are not verbatim. They summarize the actions and decisions of the Planning and Zoning Commission. For full verbatim minutes, please reference the recording on the County website located at: <https://donaanacounty.org/pz/video>.