

**MINUTES OF THE DOÑA ANA COUNTY  
PLANNING AND ZONING COMMISSION  
REGULAR MEETING OF  
November 8, 2018**

**CALL TO ORDER**

09:25:10

Acting-chair Phillips called the Regular Meeting of the Planning and Zoning Commission to order at 9:25 a.m., Thursday, November 8, 2018 in the County Commissioners Chambers, Doña Ana County Government Center, 845 N. Motel Blvd., Las Cruces, New Mexico.

**1. ROLL CALL**

09:25:27

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

Since there were only four Commissioners present, discussion ensued about hearing or postponing Case # SU18-008, submitted by Victor Huff, a request for a Special Use Permit to operate and provide food services from a mobile food truck

Time: 09:32:02

Bruce Jackson: I make a motion that we proceed with today’s meeting as there is a quorum present.

Motion: Bruce Jackson  
Second: Bill Shattuck

	Yes	No	
Commissioner Bruce Jackson	x		
Commissioner Bill Shattuck	x		
Commissioner John Townsend		x	
Chair Tom Phillips	x		

The motion passed by a vote of 3-1 from all Commissioners present.

**2. APPROVAL OR CHANGES TO THE AGENDA**

Time: 09:32:52

Time: 09:34:24

Bruce Jackson: I move to accept the changes to the agenda.

Motion: Bruce Jackson  
Second: John Townsend

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

**3. APPROVAL OF MINUTES:**

09:34:33

Time: 09:34:37

Bill Shattuck: I make a motion that we approve the minutes as presented.

Motion: Bill Shattuck

Second: John Townsend

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

**4. Old Business:**

09:34:51

None.

**5. New Business:**

09:34:53

- a. Case # V18-011:** Submitted by John Bruker, a request for a Variance to the capacity and parking standards in Table 5.2 Conditions for Transect Zone of the UDC, for a proposed brewery/bar. Table 5.2 allows for no more than 40 seats and 20 parking spaces maximum. The applicant is requesting the Variance to allow 98 occupants and 55 parking spaces. The 0.93-acre and 2.42-acre parcels are located within a T4 (General Neighborhood) Zoning District and is located in Chamberino, within Section 18, Township 26 South, Range 3 East. The deeds were recorded in the Office of the Doña Ana County Clerk on October 16, 2014 with Instrument #1421548 and on June 18, 2018 with Instrument #1814484 and can be further identified by Parcel ID #s R1710269 and R1902510.

Time: 09:54:59

John Townsend: I will make a motion for approval, based on the findings of facts and recommendations of staff; I move the granting of the requested variance in Case # V18-011.

Tom Phillips: Do you care to add any potential conditions?

John Townsend: I do not see any reason to put any conditions on it. That would be included in staff findings. Yes, the ADA requirement that it be paved for the handicap parking.

Tom Phillips: Let me clarify what I think I hear the motion to be, is to approve the variance with the conditions of the cross section requirement to the proposed parking for handicap accessibility will be paved or concrete surfaced, an STA will be submitted by the applicant and approved by DAC Engineering, and also clarification of the building permit may limit the final siting or occupancy allowed.

John Townsend: With this cross section and that sort of thing would not that be a normal part of the building permit application. If so, why do we need to make that a special motion?

Tom Phillips: Staff, that was a recommendation that you had, is that an unnecessary recommendation or would it be covered under the building permit?

Albert Casillas: It would be part of the grading and drainage permit submitted. We just wanted that to be on the record as well.

Tom Phillips: To help identify for engineering that is a requirement.

Albert Casillas: That is correct.

Motion: John Townsend

	Yes	No	
Commissioner Bill Shattuck	x		
Commissioner Bruce Jackson	x		
Commissioner John Townsend	x		
Chair Tom Phillips	x		

The motion passed by a vote of 4-0 “ayes” from all Commissioners present. The variance has been approved with conditions.

- b. **Case # V18-012:** Submitted by Margaret Suggs, a request for a Variance to the maximum allowed square footage for an accessory dwelling within the T3 (Neighborhood Edge) Zone. The applicant is proposing a 1,400 sq. ft. casita and a barn that will have a total of 2,050 sq. ft. of livable space. The maximum square footage allowed for an accessory dwelling is 1,250 sq. ft. The 36.73-acre parcel is located within a T2 (Rural) Zoning District and is located East of Anthony within Section 6, Township 27 South, Range 3 East. The deeds were recorded in the Office of the Doña Ana County Clerk on June 5, 2018 with Instrument #1813502 and can be further identified by Parcel ID #R1702793.

Time: 10:11:49

Bill Shattuck: I make a motion that we approve Case #V18-012, the variance request as submitted.

Motion: Bill Shattuck  
 Second: John Townsend

	Yes	No	
Commissioner Bruce Jackson	x		
Commissioner John Townsend	x		
Commissioner Bill Shattuck	x		
Chair Tom Phillips	x		

The motion passed by a vote of 4-0 “ayes” from all Commissioners present. The variance is approved.

Janine Divyak: For the record that was based on findings of facts and testimony presented, Mr. Chair?

Tom Philips: Yes, it was.

- c. **Case # SD16-001:** Submitted by Tierra Del Sol Housing Corporation, an Amendment to the previously approved Preliminary Plat to change the acreage and number of lots within each Phase for a Type Two Subdivision known as Vado New Horizons. A three phase residential subdivision located on 23 acres. Phase 1 consisted of 51 lots, Phase 2, 29 lots and Phase 3, 17 lots. The amendment will consist of 42 lots on Phase 1. The property is identified as being within the NW1/4 of Section 21, Township 25 South, Range 3 East, in the community of Vado. NM. As recorded in the Office of the Doña Ana County Clerk on December 26, 2017 with Instrument #1729946. The subject parcel can be further identified by Parcel Acct. # R1902247

Time: 10:23:51

Bill Shattuck: I make a motion we approve Case #SD16-001 as submitted with staff’s recommendations.

Motion: Bill Shattuck  
Second: John Townsend

Tom Philips: That would include based on findings of facts?

John Townsend: Yes.

	Yes	No	
Commissioner John Townsend	x		
Commissioner Bill Shattuck	x		
Commissioner Bruce Jackson	x		
Chair Tom Phillips	x		

The motion passed by a vote of 4-0 “ayes” from all Commissioners present for the subdivision case Amendment #SD16-001.

- d. **Case #SU18-008:** Submitted by Victor Huff, a request for a Special Use Permit to operate and provide food services from a mobile food truck. The 5-acre parcel is located at 2 Girasol Road in Mesquite and is within Section 35, Township 24 South, Range 2 East, and was recorded on July 1, 2013, under Instrument #1316667, in the Office of the Doña Ana County Clerk and can be further identified by Parcel # R0309229.

Time: 11:21:02

Bill Shattuck: I make a motion that we approve this conditionally with the hours of operations Thursday through Sunday 10:30 to 6:30, closed Monday through Wednesday, the mobile food truck is to be removed from the site every evening, and only one mobile food truck will operate on the property.

Tom Phillips: That would be based on findings of facts and staff analysis?

Bill Shattuck: Correct.

Motion: Bill Shattuck  
Second: John Townsend

	Yes	No	
Commissioner Bill Shattuck	x		
Commissioner Bruce Jackson	x		
Commissioner John Townsend	x		
Chair Tom Phillips	x		

The motion passed by a vote of 4-0 “ayes” from all Commissioners present, Case #SU18-008 is approved.

The Commission recessed for one-hour due to a Special Meeting of the Board of County Commissioners.

- e. **Case #MP17-002:** Submitted by Randy McMillan, a 79 acre Master Plan to be known as Las Cruces Community Farms LLP Master Plan, a three phased mixed use development, consisting of 16.500 acres of residential development for Phase 1, and 6.080 acres of residential development for Phase 2, and 3.73 acres for a collector roadway in Phase 3 along with 53.527 acres of mix use for agriculture and nursery structures. The property is the former McNally Farm in Berino and is located within Section 3, Township 23 South, Range 3 East. The deeds were recorded in the Office of the Doña Ana County Clerk on March 9, 2016 with Instrument #1605003 and can be further identified by Parcel ID #R1705141.

Time: 13:56:03

Bruce Jackson: I make a motion to approve Case #MP17-002, the Master Plan for Las Cruces Community Farms.

Tom Phillips: That would be based on findings of facts, staff analysis and public input?

Bruce Jackson: Correct.

Motion: Bruce Jackson  
Second: John Townsend

	Yes	No	
Commissioner Bill Shattuck	x		
Commissioner Bruce Jackson	x		
Commissioner John Townsend	x		
Chair Tom Phillips	x		

The motion passed by a vote of 4-0 “ayes” from all Commissioners present, Case #MP17-002, is approved.

- f. **Case #SD17-002:** Submitted by Randy McMillan in conjunction with the Las Cruces Community Farms LLP Master Plan, a Type II Subdivision to be named Las Flores Subdivision to create 63 lots on 16.500 acres ranging in size from 0.138 acres to 0.657 acres. The property is the former McNally Farm in Berino and is located within Section 3, Township 23 South, Range 3 East. The deeds were recorded in the Office of the Doña Ana County Clerk on March 9, 2016 with Instrument #1605003 and can be further identified by Parcel ID #R1705141.

Time: 13:57:15

Bruce Jackson: I make a motion on Case #SD17-002 to approve based on staff findings and public input.

Motion: Bruce Jackson  
Second: John Townsend

	Yes	No	
Commissioner John Townsend	x		
Commissioner Bill Shattuck	x		
Commissioner Bill Jackson	x		
Chair Tom Phillips	x		

The motion passed by a vote of 4-0 “ayes” from all Commissioners present, Case #SD17-002 has been approved.

- g. **Case # V18-013:** Submitted by Martin Pillar, Agent, for Randy McMillan owner, is requesting the following Variances to the road improvement standards for the pursuant to § 350-605 Grading and Drainage of the Unified Development Code, Table 6.18 Street Capacity Criteria: 1) Collected flow spread shall allow for one (1) ten (10) foot lane clear of run off for a Local Street during a 10 year, 24 hour storm event. Variance request is that the collected flow must be contained within curbs (no curb overtopping), cross flow cannot exceed 6” deep above pavement surface or gutter flow, and 2) Collected flow shall be contained within curb and gutter, cross flow not to exceed 6 inches deep above pavement surface or gutter flowline during a 100 year 24 hour storm event. Variance request is that the collected flow must be contained within top of sidewalk, cross flow not to exceed six (6) inches deep above pavement surface or gutter flowline during a 100 year, 24 hour storm event. The property address is 415 San Benito St, Berino NM and is within Section 3, Township 26 South, Range 3 East. The deeds were recorded in the Office of the Doña Ana County Clerk on March 9, 2016 with Instrument #1605003 and can be further identified by Parcel ID #R1705141.

Time: 14:44:44

Bill Shattuck: I will make a motion. My motion is that we grant approval on the ten-year curb-to-curb variance, we grant approval on the hundred-year sidewalk-to-sidewalk variance, and we grant approval for the sidewalk only on the south side of the road. I may need a little more clarification to all that, but that is my motion.

Motion: Bill Shattuck  
Second: John Townsend

Tom Phillips: The south side of Almarias, right? Your motion would also recognize that we have heard substantial findings of fact, staff analysis, and public input to make that motion.

Bill Shattuck: Correct.

	Yes	No	
Commissioner Bruce Jackson	x		
Commissioner John Townsend	x		
Commissioner Bill Shattuck	x		
Chair Tom Phillips	x		

The motion passed by a vote of 4-0 “ayes” from all Commissioners present, with lots of discussion, we have granted the variances for Case #V18-013.

- h. **Case #SU18-010:** Submitted by Deanna Chaffe, a request a Special Use Permit to operate a Non-denominational Christian Biblical Discipleship program that will house a maximum of 12 students for up to 3 months in an existing 4,975 sq. ft. residence. The property address is 10201 Starfly Rd and is within Section 10, Township 22 South, Range 3 East, recorded on June 7, 2018, with Reception #1813775, in the Office of the Doña Ana County Clerk and can be further identified by Parcel ID #R0319995. **(APPLICANT HAS WITHDRAWN THIS REQUEST)**
- i. **Case #AP18-005** Submitted by Kenneth Thurston, an Appeal of a decision by the Zoning Administrator determining that Phases 3-17 of the Inspiration Heights Subdivision have expired; therefore, requiring the submission of a new subdivision application. The property is located within Section 6, Township 22 South, Range 3 East, and east of the intersection of Holman Road. The deeds were recorded in the Office of the Doña Ana County Clerk on January 12, 2018 with Instrument # 1801066 and can be further identified by Parcel ID #316316, R0316315, R0328056, and R0329042.

**Time: 15:33:43**

Bill Shattuck: My motion is that we overturn the zoning administrator’s decision but the applicant must submit a phasing plan within six months from today, no longer than six months or this may come back to us, that’s my motion.

Tom Phillip: Is that based on findings of facts and staff input?

Bill Shattuck: Based on finding of facts, staff input, public input and all of that.

Motion: Bill Shattuck  
Second: John Townsend

	Yes	No	
Commissioner John Townsend	x		
Commissioner Bill Shattuck	x		
Commissioner Bruce Jackson	x		
Chair Tom Phillips	x		

The motion passed by a vote of 4-0 “ayes” from all Commissioners present. We voted to overturn the zoning administrator’s decision regarding Case# AP18-005 and as a part of that request, we are requiring within six months a phasing plan be submitted.

- j. **Case #AP18-006:** Submitted by Harlo Dynek, an Appeal of a decision by the Zoning Administrator denying Building Permit # 2967, based on a previously recorded subdivision known as Inspiration Heights Phase II, listing the actual setbacks for that subdivision. The property address is 6537 Gadwall Place and is located within Section 6, Township 22 South, Range 3 East, recorded in the Office of the Doña Ana County Clerk on April 25, 2008, under Instrument # 0812079 and can be further identified by Parcel # R0329061.

Time: 16:05:57

Bill Shattuck: My motion would be that we would in making this motion I understand fifteen feet, twenty feet, twenty-five I get all that. I am making my motion to primarily protect the interest in building permit twenty-nine sixty-seven and my motion is to overturn the Zoning Administrator’s decision that way there is no question with that permit number in the future. That is my motion along with staff findings and public input.

Tom Phillip: I need to clarify, my preference would be to refine the motion to something very succinct to the appeal, to either overturn the decision of the Zoning Administer or uphold it. I would like to have a motion that does one or the other and not mention the permit number I think that clouds the issue because that permit is still a valid number.

Bill Shattuck: Fair enough, I will revise my previous motion from before; my motion is to overturn the Zoning Administrator’s decision.

Motion: Bill Shattuck  
Second: Bruce Jackson

	Yes	No	
Commissioner Bruce Jackson	x		
Commissioner John Townsend	x		
Commissioner Bill Shattuck	x		
Chair Tom Phillips		x	

The motion passed by a vote of 3-1 “ayes” from all Commissioners present. We have decided to overturn the decision by the Zoning Administrator for Case# AP18-006.

**6. Committee Reports**

16:09:02

None.

**7. Administrative Approvals October 2018**

16:09:04

Janine Divyak: Presented the Administrative Approvals for October 2018

**8. Staff Input**

16:09:55

Discussion about Inspiration Heights and the procedures to be processed.

**9. Commission Input**

16:14:13

**10. ADJOURNMENT**

16:14:16

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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>.*