MINUTES OF THE DOÑA ANA COUNTY
PLANNING AND ZONING COMMISSION
REGULAR MEETING OF
December 13, 2018

CALL TO ORDER
09:02:43
Chair Acosta called the Regular Meeting of the Planning and Zoning Commission to order at 9:02 a.m., Thursday, December 13, 2018 in the County Commissioners Chambers, Doña Ana County Government Center, 845 N. Motel Blvd., Las Cruces, New Mexico.

1. ROLL CALL
Time: 09:03:03
Mel Acosta –Chair – Present
Robert Czerniak-Vice Chair - Present
Tom Phillips – Secretary - Present
Ken Thurston – Commissioner - Absent
Bruce Jackson – Commissioner - Present
Bill Shattuck – Commissioner - Present
John Townsend –Commissioner – Present

2. APPROVAL OR CHANGES TO THE AGENDA
Time: 09:03:19

Time: 09:03:25
Bill Shattuck: I make a motion to approve the agenda as presented.

    Motion: Bill Shattuck
    Second: Tom Phillips

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

3. APPROVAL OF MINUTES:
09:04:15

Time: 09:04:20
John Townsend: I move that we approve the minutes of November 8th as written.

    Motion: John Townsend
    Second: Tom Phillips

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

4. Old Business:
09:04:13
None.

5. New Business:
09:04:15
a. CASE # V18-014: The applicant, Enrique Ponte, is requesting a Variance to the maximum allowed square footage for an accessory dwelling within the T2 (Rural) Zone. The applicant is proposing a 2,500 sq. ft. accessory dwelling, where the maximum square footage allowed for an accessory dwelling is 1,250 sq. ft. The 160.00-acre parcel is East of Vado, NM within Section 1, Township 25 South, Range 3 East and recorded in the Office of the Doña Ana County Clerk on March 14, 2016 under Instrument #1605249. The subject parcel can be further identified by Parcel ID # R1706712.

Time: 09:56:55
Bill Shattuck: I will make a motion that we approve the variance on Case #: V18-014, based on the findings of facts and testimony presented today.

Motion: Bill Shattuck
Second: John Townsend

Robert Czerniak: I would like to add a friendly amendment, with the condition that all accessory buildings be permanent and require a building permit.

Mel Acosta: Do you want to make an adjustment to your motion or incorporate that into your motion?

Bill Shattuck: I would like to find out how long they have been around and if they were grandfathered in prior to the UDC Code being implemented. Have they been on the property for a number of years or before he acquired the property before we make him go through that process.

Mel Acosta: Albert had just said any other buildings would have to go through permitting and codes, right?

Albert Casillas: Yes, Mr. Ponte brought the property back in 2015 or 2016, the property was vacant and the construction of the building started around that time, there was nothing there prior to that. I think he also stated that during his presentation and the buildings might be two, three years old max.

Bill Shattuck: Okay. With that said, I will accept the friendly amendment to my motion.

Robert Czerniak: This is not part of the motion. This is part of the discussion; we are not giving him the right to build any other buildings as part of this variance. I just want to make sure everybody is clear on that.

Albert Casillas: That is right.

Tom Phillips: I have a couple of comments and they may evolve into a question for Albert. During the UDC development, I was not actively engaged in some of these requirements on accessory buildings and I wonder what the basis was for the twelve hundred and fifty square foot limit for an accessory building on lots five acres or more. Was there some threshold that was discussed or do you recall?

Albert Casillas: I know in the ETZ, there was a maximum square footage of sixteen hundred square feet. When we adopted the UDC originally I think we had square footage down to eight hundred and I believe the twelve-fifty came from an amendment later on. A lot of the property owners out there, especially in the more rural areas want to put a mobile home, a single wide or a double wide and eight hundred square feet wasn’t big enough for that, we just ended up having a few variances coming in for the size of the mobile home. Twelve-fifty was more like meeting on the middle ground, it’s not the sixteen hundred square feet that was in the old previous ETZ but it’s also not the eight hundred square feet that was originally proposed and twelve-fifty was somewhere in the middle.
Tom Phillips: As a follow up to that, one of the concerns that I continue to have with these variance requests is that it requires us to look at some of the conditions, which are the physical hardship as I always struggle with and this one is kind of a key one. When I read the wording of the existing zoning and acreage of the property allows up to thirty-two accessory dwellings for a combined total of forty thousand square feet. That statement’s under the question of is there a physical hardship due to the size or the shape of the parcel and I do not see that, as a basis for saying there is a hardship. It seems like there’s clearly no hardship based on the size and shape of the parcel for an accessory building to be approved, it’s simply a larger accessory building and that is the question that I struggle with. I will say that I am going to vote in favor of the variance but I do not agree with some of the basis for it. I just wanted to put that out there.

The motion passed by a vote of 5-1 from all Commissioners present.

b. **CASE # Z18-006:** The applicant, Sue Padilla, is requesting a Zone Change on a 6.00-acre parcel from a D1 (Low Density Residential) and C1 (Neighborhood Commercial) Zones to an I1 (Light Industrial) Zone for a contractor’s yard to include a warehouse for storage and office space. The subject property is addressed as 285 Carver Road, south of the City of Las Cruces, NM, within Section 32, Township 23 South, Range 2 East and was recorded in the Office of the Doña Ana County Clerk on July 25, 2017, with Instrument #1717319. The subject parcel can be further identified by Parcel ID # R0313574.

Time: 10:35:05

Robert Czerniak: The motion is based on findings of fact, I move that we approve Case #Z18-006 with the condition that a detailed site plan shall be prepared by a professional engineer, licensed in the State of New Mexico and shall include a buffer and landscaping plan that meets all the requirements of the UDC.

Motion: Robert Czerniak
Second: Tom Phillips

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The motion passed by a vote of 6-0 “ayes” from all Commissioners present.
c. **CASE # Z18-007:** The applicant, Doña Ana County, is seeking a County-initiated zone change from T3 (Neighborhood Edge) Zone to C1 (Neighborhood Commercial) Zone on a 2.00 acre parcel in order to correct a zoning classification error on the official County Zoning Map. The property is owned by Brio Commercial LLC and is addressed as 300 South Highway 28, southeast of Berino, NM. They are described as being within Section 34, Township 27 South, Range 3 East and was recorded in the Doña Ana County Clerk’s Office on June 6, 2018 as Instrument #1813635 and can be further identified by Parcel ID # R1705563.

Time: 10:50:47

John Townsend: Based on the findings by the County to clarify and correct the error on the map, I move that Case #Z18-007 be approved.

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The motion passed by a vote of 6-0 “ayes” from all Commissioners present.

6. **Committee Reports**
   10:51:35
   None.

7. **Administrative Approvals**
   10:51:42
   Janine Divyak: Presented the Administrative Approvals for November 2018

8. **Staff Input**
   10:09:55

9. **Commission Input**
   10:52:47
   Commission discussion on decisions unless it they are appealed and on variances and dealing with the physical hardship resulting from size and shape of the parcel.

10. **ADJOURNMENT**
    11:07:30

   Officer: Planning and Zoning Commission

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*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](https://donaanacounty.org/pz/video).*