

MINUTES OF THE DOÑA ANA COUNTY PLANNING AND ZONING COMMISSION

November 13, 2014
9:00 a.m.

(Note: These are not verbatim minutes, these are summary notes.)

MEMBERS PRESENT

Bob Czerniak, Commissioner
Bill Zarges, Commissioner
Charles Huestis, Commissioner
Greg Daviet, Commissioner
Mel Acosta, Vice Chairman
Brent Westmoreland, Chairman

OTHERS PRESENT

Janine Divyak, Chief Planner, Community Development
Albert Casillas, Planner, Community Development
Jonathan Kesler, Planner, Community Development
Diane Duback, Recording Secretary

MEMBERS ABSENT

Natalie Mercado, Commissioner

CALL TO ORDER

Chairman Westmoreland called the regular meeting of the Planning and Zoning Commission to order at 9:00 a.m., Thursday, November 13, 2014 in County Commissioners Chambers, Doña Ana County Government Center, 845 N. Motel Blvd., Las Cruces, New Mexico.

1. ROLL CALL

Commissioner Czerniak	Here
Commissioner Mercado	Absent
Commissioner Zarges	Here
Commissioner Huestis	Here
Commissioner Daviet	Here
Commissioner Acosta	Here
Chair Westmoreland	Here

2. APPROVAL OR CHANGES TO THE AGENDA

Commissioner Daviet made a motion to approve the agenda with **Commissioner Zarges** seconding the motion. The agenda was APPROVED with a vote of ayes from all the members present.

3. APPROVAL OF MINUTES: Regular Meeting of April 24, 2014

Commissioner Acosta noted that the words “minutes were” should be changed to “agenda was” in the minutes of the April 24, 2014 meeting. **Commissioner Zarges** made a motion to approve the amended minutes with **Commissioner Daviet** seconding the motion. The minutes were **APPROVED** with a vote of ayes from all members of the Commission.

4. PUBLIC INPUT

None.

DISCUSSION AND ACTION ITEMS NEW BUSINESS

5. CASE #CV14-002/Rutherford, 510 Carriage Hills Dr., Salem, NM

The applicant, June Rutherford, is requesting a variance from 5 feet to a zero lot line on the side setback and from 25 feet to 5.8 feet on the rear yard setback in order to pursue a Claim of Exemption (COE) on a 33.92 acre lot within the Performance District.

Albert Casillas, Planner, presented the case.

Commissioners' Comments:

- a. What would be the minimum lot size permissible in the Performance District with shifting of the lot lines?
- b. If an easement is the chosen method, would it have to be reviewed by this body or would it be approved during the administrative process for the COE?
- c. What is the road category and what are the recommendations for points of access to property from that road? Does it require a collector?
- d. For future development in this area, would it be more beneficial to have an easement granted through the property line or shift the property line?
- e. Is it the applicant's desire to adjust the lot line on the other side that same distance or reduce the size of the overall lot?
- f. Does moving the lot line create any other variance requirements?

Albert Casillas' Responses:

- a. The minimum lot size in the Performance District is $\frac{3}{4}$ acre.
- b. It would be approved during the administrative process for the COE.
- c. There is no classification on that road. If I were to classify it, it would probably be a local, rural road. It is a county-maintained road; so at the most, they would have to get a driveway permit from the DAC Engineering Department.
- d. Based on conversations with property owner about her intent, it would be better to shift the lot line to separate the house from the farming operations.
- e. We can ask the applicant herself. (*Albert speaks to the applicant.*) It is the applicant's wish to shift the lot line to the edge of the concrete curb.
- f. If we were to move the lot line, all the variance requirements would be satisfied.

Commissioner Daviet made a motion to conditionally approve the variance request, with **Commissioner Zarges** seconding the motion. The conditions are that the proposed eastern lot line of the 1.73-acre parcel will be shifted to the east edge of the concrete curb. The concrete driveway will serve as the access to the existing dwelling and the gravel driveway will serve as access to the farm.

Commissioner Czerniak	Yes
Commissioner Zarges	Yes
Commissioner Huestis	Yes
Commissioner Daviet	Yes
Commissioner Acosta	Yes
Chair Westmoreland	Yes

The request was **CONDITIONALLY APPROVED** by a vote of 6-0-0.

6. Case SD12-002/"H" Mountain Estates, Replat #1

The applicant, Salvador Martinez, is requesting preliminary plat approval for "H" Mountain Estates, Replat #1, a Type 3B Subdivision to create 7 lots on 115.21 acres in the Performance District.

Jonathan Kesler, Planner, presented the case.

Commissioners' Comments:

- a. Was there a drawing in the packet from the DAC Engineering Department that shows construction and setback requirements?
- b. Is a 1,400 square foot structure the buildable size on these lots and is that in keeping with the surrounding developments?
- c. Why is it in the best interest of the residents of the County to have this road a privately maintained road as opposed to dedicated to the County?
- d. The Office of the State Engineer recommended irrigated yards no greater than 800 square feet. Who determines this?
- e. Does the Village of Hatch have sufficient water supplies to serve this subdivision?
- f. Are there any cultural or historical areas in the subdivision?
- g. One map shows an electrical line that goes through the farming property to the south of the area under discussion. The other shows the line to the north of the area under discussion. Which is it?
- h. Is there any problem with the power line being over the residential area?
- i. How does the Village of Hatch access their small lot located near there?
- j. What were the drainage problems that were raised by the residents and how were they addressed?
- k. How did the shift of the road satisfy the County Engineer in terms of meeting the drainage requirement concerns that were originally raised?

Jonathan Kesler's Responses:

- a. The drawing that was submitted from Engineering shows construction and setback requirements, as well as the buildable area of the lots.
- b. From looking at the photos, 1,400 sq ft is in keeping with the surrounding area.
- c. Would like to defer to Engineering on that question.
- d. The size of the irrigated area would be conditioned upon what amount of water the Village of Hatch could provide.

- e. The Village of Hatch stated they do have sufficient water to serve these lots.
- f. There are not any known cultural or historical areas in the subdivision.
- g. This is an easement designated for the utility company.
- h. The height would be a determinant factor here. The agent's engineer could address this.

Janine Divyak's Responses:

- a. Their access is on South Franklin Street which turns into Spring Canyon Road.

Responses by Rene Molina, DAC Engineering Dept.:

- a. The roadway itself, the cross-section, meets County standards; however the road leading to the subdivision is not a County-maintained road and therefore the remainder of the road would not be able to be County-maintained unless a right-of-way was acquired all the way to the nearest County-, State-, or in this case, Village of Hatch-maintained roadway. The property owner doesn't have control of that property anymore; that is why it's a privately-maintained road.

Dan Lilley, 5160 Calle Bellessima, engineer for the applicant, was sworn in and gave a short presentation on the project and answered questions.

- a. Drainage issues were resolved by incorporating a drainage retention pond into the property to prevent runoff from interfering with the farm operations downhill to the northeast.
- b. The first portion of the road was developed as a gravel road in an easement. We are now paving the whole road all the way up through the property. Eventually the entire road will be per Doña Ana County standards. Dedicating it to the County in the future would definitely be considered.
- c. In the Town Hall Meeting that was held, the drainage concerns that were raised had to do with downstream to the northeast farmland as well as the slope of the land. The slope of the land in that area made it difficult for development and use of those lots because the slope came down basically to the edge of the road. Those drainage concerns were alleviated by shifting the road further to the east.

Commissioner Daviet made a motion to recommend approval, with no conditions, to the BOCC for the Preliminary Plat for Case #SD12-002/"H" Mountain Estates, based on the testimony and findings of fact, with **Commissioner Huestis** seconding the motion.

Commissioner Czerniak	Yes
Commissioner Zarges	Yes
Commissioner Huestis	Yes
Commissioner Daviet	Yes
Commissioner Acosta	Yes
Chair Westmoreland	Yes

The request was **APPROVED**, with no conditions, by a vote of 6-0-0.

7. Case SD12-005/La Union Estates, McNutt Road, NE of Cielo Dorado Subdivision

The applicant, La Union Investment Group, is requesting Preliminary Plat approval for La Union Estates, a Type 3B Subdivision to create 15 lots on a 31.33-acre parcel in the Performance District.

Jonathan Kesler, Planner, presented the case.

Commissioners' Comments:

- a. Where is the emergency vehicle access going to be located?
- b. What is the source of the water for the transfer of 12 acre-feet to the municipal water provider?
- c. The ready, willing and able letter didn't mention the transfer of 12 acre-feet of water. Is it a requirement from the municipal water provider in order to provide water for this subdivision?
- d. What were the comments received from people about the proposed subdivision?
- e. Is the transfer of water rights essential to La Union to provide service or is the ready, willing and able letter not conditional on the water rights?
- f. The NMED website states that there is a finding outstanding for arsenic content with regard to La Union. Has that been remedied?
- g. The road standards for Triple Crown Road have been met according to County standards, but the road will only last six years. Does the County typically build roads that only last six years?

Jonathan Kesler's Responses:

- a. The emergency vehicle access is going to be located right here (pointing to PowerPoint slide) and gated with a warning sign. It runs along here up to the proposed Triple Crown Road.
- b. The applicant's engineer can address this question.
- c. There was a delay in obtaining water rights and the State Engineer's Office never issues a positive recommendation without knowing that those have been secured. The applicant's engineer can elaborate further.
- d. The comments received were asking for further information as well as positive comments regarding good development as opposed to haphazard development.
- e. A ready, willing and able letter was provided, but if conditions are listed, they are required to be met. The applicant's engineer can comment on this question.
- f. That was dealt with recently with a summary subdivision that didn't come before this commission. NMED did state that this issue has been resolved.
- g. The standard is 20 years. Engineering can give you further details on that. It was their opinion that based on the soil composition and design of the road as presented that it would not meet the 20 year requirement that the County seeks.

Rene Molina, County Engineering, Responses:

- a. My recommendation was based on the documents and the geotechnical report submitted. Their design was 85% reliability whereas the County's standard is 95% reliability. Also, they are building on top of clay soil which has a potential vertical rise of 1 ½ inches. These issues can be mitigated, but this has not been discussed with the applicant. We did not want to prolong a project that has been going on for two years; we provided a positive recommendation with a condition that it would not be a county-maintained road.

Mark Salazar, the applicant, was sworn in and answered questions by the Commission.

- a. The 12 acre-feet was a requirement from La Union Mutual Domestic and those water rights have been transferred. The OSE requested paperwork showing the process has been in effect. The developer acquired those 12 acre-feet and has been putting in those transfers.
- b. In this area we are extending a water line main down McNutt to service the subdivision and a little further past it so other developments in the area will see this as an incentive. We would like to have this road dedicated to the County. To make this road a part of the County network would require us to extend this roadway to Trotter Court which is south of this property. We would actually have to buy property, reconstruct Trotter Court and acquire more land from those residents and farmlands to meet Doña Ana County standards with the appropriate right-of-way.

Robert Skipworth, attorney representing Cielo Dorado Homeowner's Association, was sworn in. He discussed the 4,000 foot private runway running north and south, which is used at all different hours for take-offs and landings. In the past there have been noise complaints and he wanted to notify the Commission and the applicant about the possibility of noise.

Commissioners' Comments:

- a. Does the Cielo Dorado Subdivision currently have a formal noise abatement policy?
- b. What altitude would a plane reach by the time it gets to the end of the runway?
- c. Are there any plans to expand that air strip?

Mr. Skipworth's Responses:

- a. Cielo Dorado Subdivision does not, to my knowledge, have a formal noise abatement policy.
- b. The planes should reach an altitude of approximately 150 to 200 feet by the time they get to the end of the runway.
- c. There are no plans to expand the air strip, however there is a homeowner with 40 acres that are contiguous to Cielo Dorado and there has been discussion

about allowing this new subdivision to have taxiways to their homes off of the Cielo Dorado runway.

John Davorshaw, 24 Cielo Dorado, was sworn in. Nothing will personally affect me about the proposed subdivision. I just wanted to let you know about the issues I had in building my house with the impervious clay.

Commissioner Daviet made a motion to recommend conditional approval to the BOCC for the Preliminary Plat for Case # SD12-005/La Union Estates, based on the testimony and findings of fact, with **Commissioner Zarges** seconding the motion.

The two conditions for approval were: 1) The internal roadway serving the lots of La Union Estates shall be privately maintained; all lots shall be shown to the centerline of the roadway and utility easement and appropriate disclosures be made; 2) NMDOT Environment Bureau requires the use of low vibration construction equipment within fifty feet of St. Luke's Episcopal Church building per NMDOT's conditional approval.

Commissioner Czerniak	Yes
Commissioner Zarges	Yes
Commissioner Huestis	Yes
Commissioner Daviet	Yes
Commissioner Acosta	Yes
Chair Westmoreland	Yes

The request was **CONDITIONALLY APPROVED** by a vote of 6-0-0.

8. ADMINISTRATIVE APPROVALS

Janine Divyak, Chief Planner, reported on the administrative approvals for the month of October.

9. STAFF INPUT

None.

10. COMMISSION INPUT

The Commission discussed having a work session on the UDC and Comprehensive Plan.

11. ADJOURNMENT

Chairman Westmoreland adjourned the meeting at 11:20 a.m.

Officer: Planning and Zoning Commission