



VALENCIA COUNTY PLANNING & ZONING COMMISSION

M-I-N-U-T-E-S

Tuesday January 23, 2024 @ 3:00 pm
Valencia County Administration Building
444 Luna Ave, Los Lunas, NM 87031

PRESENT	ABSENT
Philip Sublett, Chair	
Ralph Freeman, Vice Chair	
Mike Montoya, Member	
Sue Moran, Member	
	Mark Aguilar, Member
Ryan Baca, Land Use Planner	
Jerrie Romero, Land Use Planner Assistant	
Melissa Jaramillo, Community Development Director	

Also present were: Maria Marez and Aaron and Kelly Chavez

1) CALL THE MEETING TO ORDER

A. At 3:10 PM Chairman Sublett brought the meeting to order.

2) PLEDGE OF ALLEGIANCE

B. Ryan Baca lead the Planning & Zoning Commission and the audience in the Pledge of Allegiance.

3) APPROVAL OF AGENDA

C. Planning & Zoning Commissioners reviewed the Agenda; Commissioner Sublett informed the board of Commissioners action item #7 B Zone Change #2023-095 to be tabled until February Mtg.

APPROVAL: Motion to approve amended agenda with changes

MOVED: Commissioner Freeman

SECONDED: Commissioner Montoya

CARRIED: Motion PASSED on a Vote of **4 FOR and 0 AGAINST (Commissioner Moran – YES; Commissioner Montoya – YES; Commissioner Freeman- YES; Commissioner Sublett –YES).**

D. 4) APPROVAL OF MINUTES December 19, 2023 County Planning & Zoning Minutes.

APPROVAL: Motion to approve Minutes as presented.

MOVED: Commissioner Montoya

SECONDED: Commissioner Freeman



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CARRIED: Motion PASSED on a Vote of **4 FOR and 0 AGAINST (Commissioner Moran – YES; Commissioner Montoya – YES; Commissioner Freeman – YES; Commissioner Sublett-YES).**

5) STAFF REPORT: Land Use Planner **Ryan Baca** Board of County Commission meeting for Jan. 17th was cancelled due to a Legislative Conference in Santa Fe we will continue with those cases next month. This year is an election year so there will be some conflicts on the P&Z calendar for the locations, May and October will be effected and a new location for those dates will be addressed. In last year's discussion approving Robert's Rules there was an invitation to take an online refresher course and all opt out. This year all commissioners will be given the website for the next available on line refresher course.

6) SWEARING IN OF PARTICIPANTS

Chairman Sublett swore in participants who would be speaking during hearing.

7) ACTION ITEM(S)

A. Re-Organization of the County Planning & Zoning Commission

- County Planning & Zoning Commission Oath of Office – **by Probate Judge Wendy Williams.**
- Election of Chair and Vice Chair – **(Chair - Commissioner Sublett; Vice Chair – Commissioner Freeman).**

APPROVAL: Motion to reelect Chair Sublett & Vice Chair Freeman.

Moved: Commissioner Moran

SECONDED: Commissioner Montoya

CARRIED: Motion PASSED on a Vote of **4 FOR and 0 AGAINST (Commissioner Moran – YES; Commissioner Montoya – YES; Commissioner Freeman – YES; Commissioner Sublett - YES).**

- Adopt Open Meetings Act for 2024

APPROVAL: Motion to Adopt Open Meetings Act

Moved: Commissioner Montoya

SECONDED: Commissioner Freeman

CARRIED: Motion PASSED on a Vote of **4 FOR and 0 AGAINST (Commissioner Moran – YES; Commissioner Montoya – YES; Commissioner Freeman – YES; Commissioner Sublett - YES).**

- Adopt Robert's Rules of Order for 2024

APPROVAL: Motion to Adopt Robert's Rules of Order

Moved: Commissioner Freeman

SECONDED: Commissioner Montoya

CARRIED: Motion PASSED on a Vote of **4 FOR and 0 AGAINST (Commissioner Moran – YES; Commissioner Montoya – YES; Commissioner Freeman – YES; Commissioner Sublett - YES).**



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- **Adopt 2024 County Planning & Zoning Commission Schedule**

APPROVAL: Motion to Adopt 2023 County Planning & Zoning Commission Schedule

MOVED: Commissioner Freeman

SECONDED: Commissioner Montoya

CARRIED: Motion PASSED on a Vote of **4 FOR and 0 AGAINST (Commissioner-Moran - YES; Commissioner Montoya – YES; Commissioner Freeman - YES; Commissioner Sublett – YES).**

B. Zone Change #2023-095 (District IV, P&Z Commissioner Sublett, BoCC Bizzell)

Roberto Torres requests a Zone Change from Agricultural Preservation District (AP) to Rural Residential District 2 (RR-2) for future development. Legal Descriptions:

- Subd: LANDS OF FRANK SANCHEZ Tract: A2 S: 19 T: 6N R: 2E; UPC 1007033221443;
- Subd: LANDS OF FRANK SANCHEZ Tract: A3 S: 19 T: 6N R: 2E, UPC 1007033210405;
- Subd: LANDS OF FRANK SANCHEZ Tract: B S: 19 T: 6N R: 2E; UPC 1007033312425;

*Located on Seabell Rd west of Cut Tree Ln, in Los Chavez, NM 87002; Zoned Agricultural Preservation District (AP) **Item Tabled** (see motion in agenda item 3)*

C. Conditional Use #2024-001 (District IV, P&Z Commissioner Sublett, BoCC Bizzell)

LEMAR Properties LLC requests a Conditional Use to allow parking of commercial vehicles. Legal Description: Subd: RIO DEL ORO Lot: 8 Block: 51 Unit: 63 .25 AC +/-; Located at the corner of Sutherland Blvd and Highway 47, in Belen, NM 87002; UPC 1-009-029-380-355-000087; Zoned Planned Development District (P-D)

Background: This request is for a Conditional Use to allow parking of commercial vehicles. Based upon the application and all available supporting information, this request does appear to meet all the applicable standards and criteria for a conditional use within Sections 154.057 of the Valencia County Zoning Code.

Discussion ensued: Ms. Marez reintroduced herself and thanked the board for another opportunity to present a request for a conditional use to park commercial vehicles on the property located on Rio Del Oro Lot 8 Block 51 a 0.46 acre. a two-part request for a conditional use and a zone change.

P & Z/Public Line of Questioning: **Sublett**, clarified to Marez that the conditional use will be for that one piece of property and not for the other four properties and if the P&Z board approved the conditional use this will be contingent to what the Board of Commission decides for the zone change, and if they deny the zone change then the conditional use will also be denied. **Marez**, said she understood the conditional use would be for that one piece of property and the final decision would be made by the Board of County Commission on this request and for the zone change. There were no members of the public in favor or against this request.



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APPROVAL:

Motion to Approve Conditional Use # 2024-001

Approved

MOVED: Commissioner Sublett

SECONDED: Commissioner Freeman

CARRIED: Motion approved on a Vote of **4**

FOR and 0 AGAINST (Commissioner Moran – YES;

Commissioner Montoya – YES; Commissioner Freeman–

YES; Commissioner Sublett-YES).

D. Variance #2023-110 (District II, P&Z Commissioner Freeman, BoCC Richardson)

Aaron Chavez requests a 45' Variance to the setback requirement for a detached garage. Legal Description: Subd: LAND OF MANUEL CHAVEZ Tract: A3A 1.00 ACRE MAP 79, also known as 6 LEMONS DR, LOS LUNAS, NM 87031, UPC 1-011-036-118-327-000000, Zoned Rural Residential 2 (RR-2).

Background: This request is Pursuant to Section 154.058 (A)(1) of the Valencia County Zoning code, (1) the purpose of a variance is to provide administrative relief when a strict application of the zoning requirements of lot width, lot depth, building height, setback or other dimensional requirements would impose practical difficulties or unnecessary hardship. (2) These difficulties or hardships may result from geographic, topographic or other physical conditions on the site or in the immediate vicinity. Also informed the board the applicant 's building permit was approved, the structure went up in a different location on the property than what was originally approved and it was tagged and caught.

Freeman asks staff for clarification if the building permit application was approved with the correct setbacks and if they did not comply with the setback? **Staff**, yes that is correct, he directed commissioners to the site plan located in their commission packets that was approved and indicates a 60ft. setback for the detached garage. When they came in to apply they submitted another site plan showing the garage with a 15 ft. setback from the road, an initial discussion was made asking them to amend it and to follow through with a 60 ft. setback for an accessory structure, they submitted a different site plan that was approved. And when it was noticed the structure was built on the original location that was recommended to not build on a 15 ft. setback. **Freeman**, so they went ahead and built it anyway? **Staff**, yes that is correct.

Discussion ensued: Aaron Chavez and Kelly Chavez presented a request for a 45 ft. variance. Aaron began with the explanations as to why the structure was moved and as to why they thought it would not be an issue. On November 2023 while staking out the property for a garage they realized moving it to the northeast corner was the only feasible and safe location where it could actually go, he mentioned all plans look good on paper but there were a few important things that they did not consider and if they would of built it towards the back of the house where the approved site plan showed it, this would of blocked emergency vehicle access. These safety concerns were mentioned, the overhang, fascia and gutters of



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the house roof and the pitch of the garage would make it a 7ft. space between the home and garage and was not safe in case of a fire. To the front of the house is the driveway access There is a small back yard on the south side of the property is the septic, leach field goes past the house and an irrigation ditch and an irrigation easement, the neighbors on the back has some large trees overhang into the property in the way of the roof line. After Ryan and CODE Enforcement went out to the property to discuss this, the structure was pretty much done. Staff explained to Aaron where the side and the front setbacks were, and unknowingly to Aaron which was the actual side and front setback, Ryan asked him to submit for a variance regardless if it was a 30ft. or 60 ft. setback, after this explanation Aaron agreed with no arguments this was a front setback. He mentioned getting the building inspections are extremely important and all the inspections did pass CID structural to include the final inspection and this could be a potential loss up to a \$35,000 investment. Aaron is well aware of what the variance process is for and this is the only place on the property this garage could be safely located. The neighbors have no concerns on safety and are in support of this variance. Aaron also mentioned this structure was never tagged and they have been cooperating with the county ever since they came out, and they did not start construction knowing that they would be out of compliance. They respectfully request the approval of this variance on this structure to remain as is, to be used by the family for its intended purposes, because it is a substantial investment.

P & Z/Public Line of Questioning: *Freeman* asked about Aaron's confusion on the setbacks at the start of construction. *Aaron*, not until Ryan and CODE Enforcement came out to the site when the construction was nearly complete they thought the side of the house that faces Highway 47 was the side setback at 15ft. considered the side yard and it would be okay if we attached a retro fit breezeway and that is when we became aware it was not the side setback. *Freeman*, before all of that you had a site plan that you submitted that was corrected to the correct setbacks and you did not abide by that. *Aaron*, correct, when first submitted we were not aware of the breezeway option, he said the only way to build it was 60ft. from the road, but as mentioned when we started staking out the property and all these issues that were not thought of and to build it over there with the breezeway at 15ft. it would look ugly but would be in compliance. *Freeman*, my biggest concern is setting a precedence, you were out of compliance and you built it anyway and it sets a precedence, go ahead and build it and ask for forgiveness later with anyone else this being approved. *Aaron*, we did not start construction knowing it would be out of compliance, the 60ft. setback goes away if you meet the property setback if you attach it to your house with a breezeway, it doesn't make a lot of sense but that is what the ordinance allows and that is what the plan was. *Freeman*, but you did not put a breezeway? *Aaron*, No the trusses were already ordered and everything was done and when Ryan and CODE Enforcement came on site, CODE Enforcement suggested a breezeway and we all started taking about it and Aaron mentioned it's with the designer, it was going to be a retro fit breezeway design because the trusses were already done. and he suggested to hold off on any changes until it came in front of the board to see what direction the property owners decided for the variance and whether it gets approved or not. Under oath I take this seriously, I have worked with local government for twenty years, fifteen to that public safety and that's exactly what the intentions were and to build something right off the busiest road in Valencia county, thinking they could get away with this and something with the cost of \$35 to \$40 thousand to make it look nice. *Freeman*, do you have a plan B if this variance does not get approved? *Aaron*, short of an appeal, as I mentioned this



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is the only place it could go, we are honest people. **Freeman**, what is the timeline on your site plan you put in and it was corrected and you did not go by the corrections. **Aaron**, understood that it would be the biggest issue with this request but had no idea it would not be in compliant. **Montoya**, addresses staff if there was any type of verbiage or acknowledgment on the original permit they filed, that says the plans cannot be changed or altered without contacting the office first. **Ryan**, the permit does not have that information directly on the permit, but it is written in the ordinance if there are going to be amendments to the original site plan then it has to come through another review process. **Montoya** directed to Aaron on the proposal letter submitted, was the detached garage built prior to getting a permit? **Aaron**, no Sir in the process of submitting for the permit we had no idea about the 60ft. requirement. **Montoya**, after you found out about that 60 ft. requirement, later on during the build you chose to move that building without contacting the office is that correct? **Aaron**, yes and it was within days. **Montoya** asks Aaron to elaborate on safely? **Aaron**, on the original site plan, there were issues we went over and the first issue was you cannot get emergency vehicle access to the back of the house and also structure to structure would be about 7ft. from the house if the house were to catch on fire. **Sublett**- What type of Emergency vehicles cannot get back there? **Montoya**, And What would be the need for an emergency vehicle to go back there? **Aaron**, On the approved site plan, if the structure would be back there, the emergency need would be if the house catches on fire. **Montoya** and **Sublett**, both agreed this would not be an issue, emergency vehicles do not need to go to the back yard their equipped with hundred foot hoses and for fire or rescue it would be a safety factor to park in the back, they would rather be parked in the front of the property. **Kelly**, in response, yes it is an issue because it will be so close to the property if there was a fire. She mentioned the neighbor's yard has old trees that hang over into their property and a few years ago one of them got hit by lightning and fell and if that were to happen with that there and it were to catch on fire, because there is electrical to it the house would catch fire and that is one of the biggest things. **Freeman**, and that is why there are setbacks to follow. **Moran**, asked staff what other options do they have to resolve this, a breezeway? **Staff**, this variance request is for 45 ft. and depending on the outcome in today's meeting they will still need to submit a new request for a 15ft. variance if they decide to put a breezeway. There were four members of the public with standing in favor of this request and no members of public in opposition of this request.

APPROVAL:

Motion to Deny Variance # 2023-110

Approved

MOVED: Commissioner Freeman

SECONDED: Commissioner Montoya

CARRIED: Motion approved on a Vote of 3

**FOR and 1 AGAINST (Commissioner Moran – NO;
Commissioner Montoya – YES; Commissioner Freeman–
YES; Commissioner Sublett-YES).**



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240 **8) Next Meeting:** Tuesday February 27, 2024 at 3:00 p.m.

241

242 **9) Adjournment:**

243 **MOVED:**

Motion to adjourn made by Commissioner Freeman

244 **SECONDED:**

Motioned second by Commissioner Montoya

245 **CARRIED:**

Motion PASSED on a Vote of **4 FOR and 0 AGAINST (Commissioner Moran - YES; Commissioner Montoya- YES; Commissioner Freeman – YES; Commissioner Sublett-YES).**

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