



VALENCIA COUNTY PLANNING & ZONING COMMISSION

MINUTES

October 22, 2014

4:00 PM

13th District Judicial Court

Grand Jury Room #206

1835 Highway 314 SW

Los Lunas, NM 87031

Roll Call

Present:

Chairwoman Artiaga
Vice-Chair Gaudette
Commissioner Garcia-Shaffner
Commissioner Baca
Commissioner Huey
Jacobo Martinez (Not Voting)

1. CALL THE MEETING TO ORDER

Chairwoman Artiaga

2. PLEDGE OF ALLIGANCE

Jim Shaffner

3. APPROVAL OF AGENDA

Item 6B was tabled per applicant's request

Action: Approve

Moved By: Commissioner Louie

Seconded By: Commissioner Garcia-Shaffner

Motion passed: Unanimously

4. APPROVAL OF MINUTES August 27, 2014

Action: Approve

Moved By: Commissioner Louie

Seconded By: Commissioner Garcia-Shaffner

Motion passed: Unanimously

5. SWEARING IN OF PARTICIPANTS

Chairwoman Artiaga

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6. ACTION ITEM(S):

A. REQUEST FOR A CONDITIONAL USE-HOME OCCUPATION

Applicant: Trinity Rivera Olivas
Purpose: Conduct Home Fire Arms Sales
Address: 02 Yucca Place

Legal Description: T5N, R2E, Section 31, Map 105, N.M.P.M.; Yucca Subdivision: Lot 18;
Zoned RR-2; Filed in Plat Cabinet D-4, Page Number 78 in the office of the Valencia County
Clerk; Also known as 02 Yucca Place, Los Lunas, NM 87031.

Property is located 1.58 miles SW of Highway 116 and Pueblitos Rd.

Mr. Martinez: The reason for the Home Occupation request is to conduct home fire arms sales through the internet. The applicant is requesting a Conditional Use within an RR-2 zone district to allow for internet sales of fire arms. The applicant has stated there will be no odor or excessive noise, there will be occasional deliveries from UPS, and no customers will be allowed at the subject property so there will not be an increase in traffic. Most of the business will be done on the internet and over the phone and, Madam Chair if I may, we have in the past received these types of applications before and just to give you an overview as I understand the application and what the applicant is looking to do is basically to be a broker for fire arms sales over the internet and be licensed with Fire Arms and Tobacco in order to do background checks on those people who do want to order a fire arm. So if those persons would like to order a fire arm, they would call this person who would be able to do the background check, and if they pass the background check they would order the fire arm, and then sell it or provide it for the person that would want to order it online for a surcharge. That is how I understand the nature of the business and we have the applicant to describe it a little bit more and answer any questions from the Planning & Zoning Board if you so desire, and I will call the applicant up to the podium.

Mr. Olivas: My name is Trinity Olivas and my address is 02 Yucca Place, Belen, NM. I want to make that correction as I noticed the address states Los Lunas when it is actually in Belen. As the gentleman stated my request is for the Conditional Use-Home Occupation request and essentially what I want to operate is a website where online customers can acquire fire arms in accordance with national and federal law as well as any local laws that would apply to the customer. They would directly have to go through their own federal license holder, such as myself, so the transfers don't go directly to a customer they go to their FFL holder which has already been checked by the ATF in accordance with their permits and laws. Now at my home it would just be the holding of the products and at this time it would be just a very small, small business with only one or two fire arms sales per month. As I grow my business I would then seek additional permits, an additional building or storage or any type of structural permits needed. I have gotten the FFL signed off by Sheriff Louie Burkhart and do have a pending appointment with a field agent from the ATF so that I can make sure that I am in accordance with my safe storage of the fire arms. I will also be registering to do online background checks with the NIK System, so that, again, everything will be in accordance with Federal Law. It is essentially going to be operating as an internet web address at this time. Future uses for home federal transfers would be done when I have an amended renter's agreement because at this time the agreement does not specify customers arriving at my home for any type of distribution.

Commissioner Garcia-Shaffner: So you rent your home right now? You are not a home owner?

Mr. Olivas: I do currently rent my home from my future in-laws. It is a fenced property within a property, and I did attach a signed renter's agreement that allows me to conduct the business.

Commission Garcia-Shaffner: Do you have a gun safe?

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Mr. Olivas: I do have a gun safe.

Commissioner Garcia-Shaffner: I am not very sure how this all works so could you in real simple terms explain it. You will have some fire arms in your home at times?

Mr. Olivas: So I will get fire arms from the main distributor at a wholesale price, I will store them at my home.

Commissioner Garcia-Shaffner: How many do you anticipate storing at your home at one time?

Mr. Olivas: Realistically at this time maybe three to four fire arms at a time.

Commissioner Garcia-Shaffner: What type of fire arms are they? AK47's?

Mr. Olivas: No not AK47's, more like hunting rifles, there could be sporting rifles like an AR15. So I would store them and I am working to create a website where people could browse them. There are other businesses that operate on this same model and I am looking to enter the market as a low cost outlet, similar to the Wal-Mart model where it is a lower price, rather than having to deal with a big chain gun store. I will be getting minimal capital per purchase and hopefully I can expand the business to where I can sell larger quantities, and again that would come in due time with the proper permits.

Commissioner Garcia-Shaffner: So people check your website and then order from you and then you ship to them? You order from your wholesaler who delivers to your house and then you ship out from your house?

Mr. Olivas: Yes I would order from the wholesaler and receive the order at my home and then ship it out to the local FFL for that customer and they would be performing the background checks on their customer and if the customer doesn't pass the background check they would then reject the order and send it back to myself.

Commissioner Garcia-Shaffner: What about gun powder or ammunition?

Mr. Olivas: I will not be selling gunpowder at this time or ammunition due to the fact that it requires additional permits, as well as different licenses and classifications so it would just be fire arms at this time.

Commissioner Baca: For this type of business does he have to be approved somehow? Is there some type of a test or criteria so that we can feel confident that he is not going to be selling guns all over the place or trade guns? He can just get a permit and that's all it takes?

Mr. Martinez: The applicant does have to get a Federal Fire Arms License to sell guns.

Commissioner Baca: You have a Federal License right?

Mr. Olivas: The application is currently pending. It has been approved by the Valencia County Sheriff which is one of the pre-steps to the finalization.

Commissioner Baca: So you had it approved?

Mr. Olivas: Yes sir and it has been mailed to the ATF.

Commissioner Baca: Do you have neighbors?

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Mr. Olivas: I do have neighbors. My immediate neighbors are my in-laws and there are two neighbors down the road and I have discussed the business with them and they are fine with it since there will not be any firing of the weapons, storage of ammunition and it is small quantities of fire arms.

Commissioner Baca: And you say you are going to have about how many stored in your house.

Mr. Olivas: At this time I will not be storing more than five fire arms at any given time. Anything more than that would require a commercial grade safe which I haven't been able to secure because I don't have the business permit, and I my home would not hold a two thousand pound safe as well.

Commissioner Baca: And you anticipate selling how many per month? Two to three?

Mr. Olivas: About two to three right now and as my business grows the permits will need to be modified and then I would come before the Commission again as required.

Commissioner Baca: So let's I just want to go to you and buy a gun from you, I don't have to go to your web site?

Mr. Olivas: No sir, at this time it is not part of my proposed business agreement and I would not advertise that so I would have to reject your proposed business and inform you that you would have to go to the website.

Mr. Martinez: According to 154.168 (13) (a) The nature of a proposed home occupation shall be specified at the time of application, (b) Any proposed change in the nature of an approved home occupation shall require a new conditional use permit. (c) Any departure from the uses and activities initially specified shall be considered grounds for revocation of the conditional use permit. So if the nature of the business changes he would have to come before the board again.

Commissioner Baca: Are you going to put signs or anything on your house?

Mr. Olivas: No sir, there won't any need for signage or additional parking.

Chairwoman Artiaga: The Fire Marshall made a comment that they will need to inspect for safety issues.

Mr. Olivas: Yes ma'am. And I went before the Fire Officials when I signed off on the application.

Chairwoman Artiaga: Also Code Enforcement said that there is no site plan for the layout of the office. Is that necessary Jacobo?

Mr. Martinez: I don't think that a site plan is necessary at this time. That would be more for accessory buildings that they might be building for the home occupation but they are not building any accessory structures.

Chairwoman Artiaga: Hoss also made a comment as to how and where the weapons would be stored and how will they be secured. Is that part of Zoning? Is it part of Code Enforcement?

Mr. Martinez: I think that was just a question by Code Enforcement but that is something that would fall under the Fire Departments procedures and I believe the gentleman has answered that question.

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Commissioner Louie: What class FFL are you filing for? Is it a three?

Mr. Olivas: I believe it is a three. I just don't want to confuse it with the fully auto classification. It is a three because it is not the pawn broker's classification.

Commissioner Louie: So standard weapons no automatics? No silencers?

Mr. Olivas: No automatics, no silencer's, I do not have the special occupation tax paid at this time and that would be something I would pursue in the future but not at this time.

Commissioner Gaudette: Mr. Olivas it sounds as if you have done your homework. You have checked out all the federal regulations, made sure you have complied with state and county rules, and you know that as you conduct this business it is an ongoing obligation on your part.

Mr. Olivas: Yes sir, absolutely.

Chairwoman Artiaga: I would like to make a comment. I am really impressed with your presentation and how you would like to conduct this business and it does sound like you did all of your homework.

Chairwoman Artiaga: Well, let's get the formalities out of the way. Is there anyone here who would like to speak in favor of this presentation? (There was no one) Is there anyone who would like to speak in opposition of this presentation? (There was no one).

Roll Call Vote:

Commissioner Louie	Yes
Commissioner Baca	Yes
Commissioner Gaudette	Yes
Commissioner Garcia-Shaffner	Yes
Chairwoman Artiaga	Yes

Action: Approve as originally applied for, without restrictions
Moved By: Vice-Chair Gaudette
Seconded By: Commissioner Louie
Motion passed: Unanimously

B. REQUEST FOR A ZONE CHANGE FROM RR-2 TO C-2:

Applicant: George Michael Conant
Purpose: Allow for Wholesale Coffee Distribution

Legal Description: T6N, R2E, Section 21 & 22, Map 88, N.M.P.M.; Land of John Carlberg; Tract 1-A, Zoned RR-2; Filed in the office of the Valencia County Clerk; Also known as 2847 Highway 47, Los Lunas, NM 87031.

This property is located .77 miles SE of Patricio Rd.

TABLED PER APPLICANTS REQUEST

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- 7. DISCUSSION**
- 8. NEXT MEETING: November 20, 2014 @ 4:00 P.M.**
- 9. ADJOURNMENT**

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