

**EXTRA-TERRITORIAL ZONING COMMISSION  
REGULAR MEETING**

**January 17, 2013**

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

**MEMBERS PRESENT:**

John Villescas, Chairman  
Ken Allin, Vice-Chairman  
John Townsend, Member (came in late)  
Robert Hearn, Member  
John Gomez, Member  
Janet Acosta, Secretary  
Tim Sanders, Member

**OTHERS PRESENT:**

Dan Hortert, Director, Community Development  
Janine Divyak, Chief Planner  
Steve Meadows, Planner  
Diane Duback, Recording Secretary

**1. CALL TO ORDER**

**Chairman Villescas** called the Regular Meeting of the Extra-Territorial Zoning Commission to order at 6:11 p.m., Thursday, January 17, 2013 in the Commission Chambers in the Doña Ana County Government Center, 845 N. Motel Blvd., Las Cruces, NM.

**Chairman Villescas** stated "A Commission member shall not privately discuss with any interested person the merits of any case which is pending before this Commission. If there has been any such discussion it should be disclosed at this time." **Chairman Villescas** reported that he had one item to disclose to the Commission. In one case before the Commission tonight, a person involved with the case who knew **Chairman Villescas** was on the Commission approached him to ask who he should be talking with about the case. **Chairman Villescas** directed him to Steve Meadows in Planning.

**2. ROLL CALL**

Vice-Chairman Allin	Here
Commissioner Gomez	Here
Commissioner Acosta	Here
Commissioner Townsend	Not present
Commissioner Sanders	Here
Commissioner Hearn	Here
Chairman Villescas	Here

**3. ANNOUNCEMENTS**

None.

**4. APPROVAL OF MINUTES:** Regular Meeting of October 18, 2012

**Commissioner Allin** made a motion to approve the minutes as presented.

**Commissioner Acosta** seconded the motion.

**Roll Call**

Vice-Chair Allin	Approve
Commissioner Gomez	Approve
Commissioner Acosta	Approve
Commissioner Sanders	Approve
Commissioner Hearn	Approve
Chairman Villescascas	Approve

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

- 5. **ELECTION OF OFFICERS: CHAIRPERSON, VICE-CHAIRPERSON, AND SECRETARY**  
**Commissioner Allin** made a motion to approve the present slate of officers for 2013.  
**Commissioner Hearn** seconded the motion.

**Roll Call**

Vice-Chair Allin	Aye
Commissioner Gomez	Aye
Commissioner Acosta	Aye
Commissioner Sanders	Aye
Commissioner Hearn	Aye
Chairman Villescascas	Aye

The motion was **APPROVED**.

- 6. **CHANGES TO THE AGENDA**  
**Janine Divyak, Chief Planner**, requested that item #9 presented by the City of Las Cruces, Case #ETZS-12-017W, be moved up to item #7 since it had been postponed from the previous meeting due to inclement weather.

**NEW BUSINESS  
REVIEW/DISCUSSION/ACTION**

- 7. **Case #ETZS-12-017W / Todd Taylor with the City of Las Cruces, Ted Scanlon**  
Minutes have been provided for this case by the City of Las Cruces and are attached to this document.
- 8. **Case #SU12-018 / Jones**  
**Steve Meadows, Planner**, was sworn in. This is a request for a Special Use Permit for an accessory dwelling at 5920 Sun Court to place a 728 sq ft single-wide mobile home as accessory living quarters for a family member. A new septic system will be installed to serve the new mobile home. The total lot is 1.45 acres and in an ER3 zone. The lot currently contains a 1,152 sf site-built residence, a 225 sf accessory structure and approximately 200 sf of corrals. One letter of opposition was received by Mr. Sammy Gutierrez which is why this item is on the agenda. All zoning conditions have been met and staff recommends approval with following conditions: Applicant shall complete a drainage maintenance agreement before final approval of the Mobile Home Installation Permit and the SUP is permitted for five years, expiring on January 17, 2018 when a new application for a new SUP must be submitted for approval.

The applicant, Andrea Jones, was sworn in.

**Commissioner Gomez** questioned if staff looked into the violations listed in Mr. Gutierrez' letter - 3 complaints in 2009 about dogs loose on property. Ms. Jones was asked about the dogs on the property; she replied that she had a tenant for several years who owned dogs, but there were no longer any dogs on the property now.

**Commissioner Allin** asked if the Applicant was purchasing the property or renting. Ms. Jones has a mortgage on the property.

**Commissioner Acosta** moved to approve the Special Use Permit #SU12-018 / Jones with two conditions: 1) complete Drainage Maintenance Agreement before MHIP is approved; and 2) the SUP is permitted for five years expiring on January 17, 2018 when a new application for a SUP must be submitted for approval.

**Commissioner Allin** seconded the motion.

**Roll Call**

Vice-Chair Allin	Aye
Commissioner Gomez	Aye
Commissioner Acosta	Aye
Commissioner Sanders	Aye
Commissioner Hearn	Aye
Commissioner Townsend	Aye
Chairman Villescascas	No

Special Use Permit for Ms. Jones was **APPROVED** by a vote of 6-1-0.

**9. Case #SU12-020 / Gaddie, Martinez**

**Steve Meadows, Planner**, described this request as being within an ER4, 0.5 acre minimum lot size, site-built only with the owner requesting a Special Use Permit to allow large animals (horses). The lot is 3 acres in size with a 2,868 sf house, an 800 sf barn with 2 horse stalls and open corrals. There is a 20 ft. drainage easement that runs diagonally across the eastern third of property. Two emails were received inquiring about the number of proposed horses, one email in opposition to the permit, and one phone call expressing concern about fly and odor issues. Staff analysis is that there will be no negative impact on the surrounding areas as the applicant has indicated two horses will be on the property. Staff recommends **CONDITIONAL APPROVAL** of Special Use Permit Request Case #SU12-020 with the following condition: applicant shall not place any structures encroaching on or within 20 feet of the drainage easement located on the property.

**Commissioner Townsend** inquired if the well was irrigation or potable? Steve confirmed potable.

**Commissioner Villescascas** asked which properties in that area had horses. Steve pointed out the various parcels.

**Commissioner Allin** inquired if the proposal actually listed two horses. Steve answered yes per the conversation with Mr. Martinez.

**Commissioner Acosta** asked about the length of a SUP. Steve answered it stays with the property unless there are conditions stipulated by the agreement or there is a one-year discontinuation. **Commissioner Acosta** asked what if the property was annexed into the city, would it be grandfathered? Steve couldn't speak to the City ordinance, but responded that generally a grandfathering is what occurs.

The agent/applicant, **Mr. Martinez**, was sworn in. He asked if he could have more than two horses in the future.

Steve replied that unless some condition was placed on the SUP, the ordinance reads that up to 9 horses could be allowed on the 3 acre parcel. **Commissioner Villescas** inquired how many horses Mr. Martinez could foresee owning. Mr. Martinez replied in the future possibly six.

A neighbor, **Manuella Casteñada** was sworn in, property #10. Our property is across from the open land. We welcome new neighbors, but we are concerned about the quality of our air. We don't want people to be deprived of their hobbies, but to look at the big picture, there are already horse owners in the area. I would like to see a limit on the number of horses allowed.

A neighbor, **Gwen Gomez**, was sworn in. We all bought in that area knowing that up to nine horses were allowed on 3 acres. We welcome new owners and their horses.

**Commissioner Villescas** opened the discussion up to the Commission.

**Commissioner Townsend** brought up the fact that if the ordinance is already set, it is not up to the Commission to change that ordinance or not allow what is allowed by the ordinance.

**Commissioner Villescas** disagreed and felt that the Commission has the latitude to make these conditions on decisions. He reported that he favors a maximum of four horses on this parcel.

**Steve Meadows** read Section 3.3.B.4 of the ordinance that states the Commission can set conditions on cases as the Commission feels necessary.

**Commissioner Acosta** inquired what would happen if the SUP was not granted. Steve responded that if the SUP was not granted the Applicant could appeal this decision to the Extra-Territorial Authority. If denied at that point, he could apply to the District Court.

**Commissioner Townsend** moved that the SUP be granted in Case # SU12-020 with the condition that nothing be constructed to obstruct the 20 foot drainage easement located on the property. **Commissioner Gomez** seconded the motion.

**Commissioner Hearn** moved to amend the motion to limit the number of horses on the property to four. **Commissioner Sanders** seconded the motion.

**Commissioner Townsend** disagreed with the limiting of the number of horses.

**Roll Call**

Vice-Chair Allin	No
Commissioner Gomez	No
Commissioner Acosta	Aye
Commissioner Sanders	Aye
Commissioner Hearn	Aye
Commissioner Townsend	No
Chairman Villescascas	Aye

The vote was 4-3-0 in favor with the conditions the main motion to limit the number of horses to four on the property.

**Roll Call for Main Motion**

Vice-Chair Allin	Aye
Commissioner Gomez	Aye
Commissioner Acosta	Aye
Commissioner Sanders	Aye
Commissioner Hearn	Aye
Commissioner Townsend	Aye
Chairman Villescascas	Aye

Special Use Permit for Case #SU12-020 for Mr. Martinez was **APPROVED** by a vote of 7-0-0 with two conditions.

**10. REVIEW AND APPROVAL OF THE BY-LAWS**

**Janine Divyak, Chief Planner**, reported that staff has proposed one change on page 3, under section 10 Proceedings. Propose to delete second paragraph since it hasn't been practiced on a consistent basis.

**Commissioner Acosta** questioned about pages 4 and 5 with strikeouts, are these staff recommendations as well? Janine reported that typos were being corrected, a semi-colon added and a word changed for clarification.

**Commissioner Allin** made a motion to accept the By-Laws as amended. **Commissioner Acosta** seconded the motion.

**Roll Call**

Vice-Chair Allin	Aye
Commissioner Gomez	Aye
Commissioner Acosta	Aye
Commissioner Sanders	Aye
Commissioner Hearn	Aye
Commissioner Townsend	Aye
Chairman Villescascas	Aye

The By-Laws, as amended, were **APPROVED** by 7-0-0.

**11. REVIEW AND APPROVAL OF THE REASONABLE NOTICE OF MEETING REQUIREMENTS AND THE 2013 CALENDAR YEAR SCHEDULE OF MEETINGS**

**Janine Divyak** reported that staff recommends no changes and the approval of the 2013 calendar year schedule of meetings.

**Commissioner Allin** made a motion to approve the review and approval of the reasonable notice of meeting requirements and the 2013 calendar year schedule of meetings.

**Commissioner Gomez** seconded the motion.

**Roll Call**

Vice-Chair Allin	Aye
Commissioner Gomez	Aye
Commissioner Acosta	Aye
Commissioner Sanders	Aye
Commissioner Hearn	Aye
Commissioner Townsend	Aye
Chairman Villescas	Aye

A motion to approve the reasonable notice of meeting requirements and the 2013 calendar year schedule of meetings was **APPROVED** 7-0-0.

**12. ADMINISTRATIVE APPROVALS**

**Janine Divyak** reported that December was rather slow. We did issue 5 new single-family residential dwelling units, 6 additions to residential, 1 commercial building, 1 commercial addition, and 16 mobile home permits. For the end of the year report, last calendar year 2012, we issued 132 single-family residential dwelling units, 144 additions to single-family residential, 34 new commercial buildings and 246 mobile home permits of which 198 were on private land and 45 were in parks.

**13. PUBLIC INPUT**

None.

**14. STAFF INPUT**

**Janine Divyak** introduced Dan Hortert as the new Director of Community Development and Diane Duback as the new recording secretary.

**15. COMMISSION INPUT**

**Commissioner Gomez** gave kudos to Janine for very thorough and complete staff reports and the knowledgeable staff.

**16. ADJOURNMENT**

**Chairman Villescas** adjourned the meeting at 8:57 p.m.

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Officer: Extra-Territorial Zoning Commission

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Submitted by: Diane M. Duback, Recording Secretary