



CITY OF ELEPHANT BUTTE PLANNING & ZONING COMMISSION
NOTICE OF REGULAR MEETING
OPEN TO THE PUBLIC
Tuesday March 6, 2018
PLANNING & ZONING AGENDA – 9:00 am

1. CALL TO ORDER AND ROLL CALL: 9:00am

- Chairman Charles Looney -present
- Vice Chairperson Cathy Vickers -present
- Commissioner Sheridan Fuss -present
- Commissioner Mario Maez -present
- Commissioner Rick Harrison -present
- Alternate Nathan LaFont -absent

2. PLEDGE OF ALLEGIANCE- Commissioner Rick Harrison

3. DECLARATION OF CONFLICT OF INTEREST & STATEMENT OF OPEN MEETINGS ACT

**The Open Meetings Act is in effect and there is a three-minute limit per speaker on all non-agenda items. –No speakers*

4. APPROVAL OF AGENDA – Motion to approve: 1st Vice Chairperson Cathy Vickers 2nd Commissioner Mario Maez

5. APPROVAL OF MINUTES

- a. **Approval of Regular Meeting Minutes, Tuesday, February 6, 2018-** Motion to approve: 1st Chairperson Cathy Vickers 2nd Commissioner Rick Harrison

6. PUBLIC INPUT- No public input

7. MANAGER REPORT- Code Enforcement Officer Morgan Spencer gave the Managers report due to the vacant position of the City Manager. She discussed the current interview process for the City Manager position. Commissioner Fuss asked who the interview board consisted of, Morgan Spencer indicated the members of the City Council interviewed the applicants.

8. CODE ENFORCEMENT REPORT – Code Enforcement Officer Morgan Spencer provided a copy of the February statistics for Code Enforcement related calls for service. Coyotes sightings are still occurring in our area. Commissioner Rick Harrison asked if the trapping program is working and are they trapping. Morgan Spencer indicated there are 2 trappers with the USDA that are trapping in our area throughout Sierra County.

9. ZONING PERMIT UPDATE - Code Enforcement Officer Morgan Spencer provided a copy of the current list of permits for the month of February and stated the city has issued 21 permits to date for the 2018 year so far.

10. COMMISSIONERS COMMENTS- Commissioner Fuss stated he would like Pot Holes to be addressed. Code Enforcement Officer Morgan Spencer stated she will pass along that information.

Commissioner Fuss and Code Enforcement Officer Morgan Spencer explained a concern of easement measurements on Rock Canyon conducted by NM DOT in April of 2017 that affects Mr. Fuss's property at 100 Canadian Cir and possibly others along Rock Canyon. Vice Chairperson Vickers asked if the City has knowledge about the easement concerns. Morgan Spencer explained the city is now aware of the measurement discrepancies of the easement along Rock Canyon Rd. and researching the issue.

11. PUBLIC HEARING ACTION ITEMS – No Public Hearing Action Items

12. REGULAR ITEMS

- A. **Nuisance Ordinance – Discussion/possible action-** Code Enforcement Officer Morgan Spencer stated the Ordinance revision requests were emailed to the commission the previous month for comments or concerns. Commissioner Fuss commented via email his request to keep the quiet hours beginning at 9pm, instead of the requested change to 10pm. Commissioner Fuss and Vice Chairperson Vickers discussed the change as it will be consistent with the State Parks quiet hours beginning at 10pm. Chairperson Vickers indicated it would be best to be consistent with the state.

Code Enforcement Officer Morgan Spencer stated there are multiple revision suggestions for review in the Nuisance Ordinance. She initiated a discussion on the proposed change of the existing 30-day time period for property owners to comply with notices from the Code Enforcement Office. A proposed change decreases this time frame to be a 10-day period for compliance.

Morgan stated that not all property owners in our area are full time residents. She believes keeping the 30-day time frame for compliance is fair and an adequate time period for an out of town property owner to comply with the notices. Vice Chairperson Cathy Vickers and Commissioner Rick Harrison stated they agree.

Morgan will email the ordinance for a final review to the Commission and a vote on the revision suggestions will be scheduled on the April P&Z Agenda.

- B. **Comprehensive Plan – Discussion of Status/No Action-** Code Enforcement Officer Morgan Spencer stated the previous changes conducted by the Commission and the City Council were located by Fire Chief Toby Boone. Maps and multiple tables were updated by the company Site Southwest. Morgan stated the Fire Chief had viewed the plan and noticed there was not a public safety or fire department section. Chairperson Vickers and Chairman Looney stated those sections were not included in previous comprehensive plans. Chairperson Vickers requested contact be made with Site Southwest to verify if those should be included or not in the plan. Code Enforcement Officer Morgan Spencer indicated she will follow up with the company for their input.

13. NEW BUSINESS –

- A. **Steve Bell, Owner of 661 Warm Springs Blvd. Discussion of RV Park status.** - Code Enforcement Officer Morgan Spencer introduced Mr. Bell and explained he would like to discuss the status of construction on his property and his interaction with the city over the past years. Morgan explained the current status of the property having a 5-year permit to Clear and Grade the land at this location. He is clearing out the Arroyo on his property as well and has been in contact with Travis Atwell the Floodplain Manager with Sierra County to be in compliance with FEMA floodplain regulations prior to construction of buildings.

Zoning: Mr. Bell provided a packet of his documents to the commission for review. He stated the first page is a copy of the minutes from a City Council meeting when his property was annexed and zoned to commercial. He stated he was not involved with the re-zoning decision and it was completed without his input. Mr. Bell stated he had to get a \$10,000 survey for the property since this change was done. Code Enforcement Officer Morgan Spencer explained Mr. Bell was rezoned from agriculture to commercial in 2006 according to the paperwork he provided.

Permit: Mr. Bell indicated he has his real 5-year permit and provided a copy of it to the commission in this packet. He explained there is a second permit that somehow came up in the

city files which shows an expiration date of 2 years earlier than the real permit. Commissioner Fuss explained both permits were signed by a previous employee of the city who is no longer with us. Mr. Bell explained that Morgan came and shut him down because of this permit date issue.

Commissioner Rick Harrison asked if the city has the 5-year permit on file as well. Morgan Spencer explained that in December 2017 Mr. Bells files were reviewed and the only permit the city had was the permit that expired in Jan. **2017**. Morgan wrote Mr. Bell a Notice of Violation letter requesting him cease and desist further construction on his property due to having an expired permit. A copy of this letter is in the packet Mr. Bell provided the commission today.

Upon Morgan meeting with Mr. Bell, he produced another permit which had the same permit number but it had a **2019** expiration date. After viewing the permit, further investigation was needed of City Council minutes and Planning and Zoning minutes. Morgan explained she took time to go through old archived files to review the past minutes. Morgan located details in past minutes that Mr. Bell was granted a 5-year permit by City Council during a 2013 meeting. Morgan explained that due to locating these minutes, the city is honoring the 5-year permit that was issued to Mr. Bell. She stated she does not know the reason why there were 2 permits issued to Mr. Bell with the same permit number on them, but the city is honoring the 2019 expiration date.

Zoning Permits Expiration: A discussion of future plans of construction at the RV Park ensued between the Commission and Mr. Bell. Mr. Bell stated the city zoning permit is only good for 1 year, which is a short time period to complete construction for the buildings he needs on the property. Chairperson Vickers questioned if the city's time period is consistent with the stated CID industry. Commissioner Maez stated CID gives you longer than 1 year for construction. Mr. Bell agreed.

Chairperson Vickers requested that we (the City) look into the zoning permit wording in the ordinance to verify if the permit process is 1-year to complete construction, or if it is 1-year to begin construction. Mr. Bell suggested that Zoning permits not expire since they are not building permits. Chairperson Looney explained he believes the intent of this verbiage in the ordinance, was due to some permit holders not beginning construction within the year and having an expiration date gives them an initiative to begin construction. Morgan Spencer stated she will look into the wording of the ordinance and email the commission with the findings for further discuss on the next agenda.

Maps: Mr. Bell stated the city is trying to shut him down based on where his property is located in the flood zone A. He stated he complied with the city when Rene Bustamonte was the Code Enforcement Officer by providing a flood map, which was presented to City Council showing a small portion of his property being in the flood zone area. A new map shows more of Mr. Bells property is in the flood zone and he believe this is inaccurate. Mr. Bell has been in contact with Mr. Atwell (Sierra County Floodplain Manager) and he clarified the Flood Zone A area with Mr. Bell.

City Sewer: Mr. Bell stated construction on his property is pending because there is no city sewer available for his property. He stated his engineer met with the Mayor, the City Manager, and the Planning Director. He stated the engineer is still waiting on a response from the city. The Commission requested Morgan look into the status of this meeting and let Mr. Bell know the outcome. Mr. Bell stated he has an application with the State Engineers office to install septic systems on the property. He would like, at his expense, to get city sewer to his property. He indicated he spoke with David Shields of Bohannon Huston regarding these plans and the city.

Commissioner Fuss asked if Mr. Bell has completed the work described on the 5-yr permit. Morgan read the permit details to the commission. *Permit 14-105 "Type of Construction: Commercial- Three phase project to grade, cut and fill lots for future RV Park and other commercial development. Expiring on Jan 22, 2019."* Bell replied its 99% of this work is done. Morgan

explained Mr. Bell will need to come get another permit from the city when he is ready to build structures. Mr. Bell explained he does not want to get a permit for buildings until city sewer is available to his property. He showed the commission on a map where he negotiating with the water company to bring NM Water to his property right now. Chairperson Looney asked if Mr. Bell is going to be putting septic on the property and he stated yes because he does not want to wait on the city for sewer.

Commissioner Fuss asked if the Commission needs to take action on anything today for Mr. Bell. Morgan explained that today is Mr. Bell meeting with the commission and explaining his concerns with interactions with the city. Morgan stated that Mr. Bell and she are working together and keeping in communication on the progress of his property. Morgan asked Mr. Bell if there anything he would like her to do for him. He asked if she could get him a status on the outcome of the Engineers meeting with the City Manager. Morgan will give Mr. Bell a status of this request.

Commissioner Fuss asked Mr. Bell to give the commission clarity on what has been done or needs to be done. Mr. Bell explained the Council is holding him up due to sewer process and would like the commissions help with that. Mr. Bell said he believes there is a sewer gravity line in the future plans of the City that goes to Yapple Canyon. Chairperson Looney said we need to find the application and details from Mr. Bells engineer and get him an answer. Morgan Spencer indicated she will look into the details and inform every one of the findings.

Future plans: Mr. Bell explained his future plans are to have a Storage building and satellite restroom which will be on septic system on the highway side of his property.

Chairman Looney stated Mr. Bells business will be beneficial to the city and we are here help him in any way we can. Vice Chairperson Vickers thanked Mr. Bell for sharing his experience with the commission and they intend on improving it. Chairperson Looney concluded they want Mr. Bell to move forward and complete the project.

Morgan Spencer asked for Mr. Travis Atwell's input on the flood plain levels of Mr. Bells property. Mr. Atwell stated for the record he is not the City of Elephant Butte Flood Plain manager. That agreement was terminated in the past. He explained that he attended the meeting to give an opinion because he is the only Certified Floodplain Manger present. He stated Mr. Bell elevated the property and is in compliance today. He stated he gave Mr. Bell permission to clean out the drainage ditch which benefits the City and its part of Mr. Bells property.

- B. Adam Powell- Business Owner-KAR Trucking. To discuss his business relocating to Elephant Butte.** – Mr. Powell explained his business to the Planning and Zoning Commission. He wants to know if the commission would approve him to have his commercial business on the Special Use zoned area. The commission stated he needs to submit a special use permit to use the property in its current zoning designation. Once he is the owner he is able to submit a request a re-zone of his property to commercial. Code Enforcement Officer Morgan Spencer explained the neighboring properties are commercial.

His business is a trucking company and he would like to install a transload station at this property which will eventually have scales for heavy trucks. His 5-year plan is to open a mechanic shop for heavy equipment "big rigs". He plans on installing a dust suppression system on the property as well. He is looking at putting in electric motors to decrease the sound at the transfer station and a bulk trailer wash out. Chairman Looney asked where the water would go from the wash out station. He stated this is in the 5-year plan so it would take conversations with the city or farmers who would be able to reuse the water. Commissioner Fuss suggested providing the water to the

golf course. Mr. Powell indicated that is an avenue to research but it is water that has to be tested prior to release and the state will need to be involved.

Mr. Powell stated he is concerned with issues like noise, dust, and an RV Park being in close proximity to this location. Vice Chairperson Vickers asked him if he could remedy those concerns? He stated he can control the dust but he is concerned with this location being close to an RV park planned on Mr. Bells property. Commissioner Fuss, Commissioner Maez, and Chairperson Looney explained Mr. Powell is able to put his business on the property as is. Chairperson Looney further explained that after Mr. Powell becomes the owner of the property he can request a zone change to a commercial zone at that time if he believes it will be more beneficial.

14. OLD BUSINESS –

- A. **Zoning Permit Application-** Discussion/possible action on revised Land Use Application. Morgan stated a final version will be presented for a vote at the next April meeting.
- B. **Red Lot –** Discussion/Possible Action- Red Lot application review. Morgan discussed the newly developed form and its purpose to accompany the zoning permit application for a final review and decision by the Planning and Zoning Commission.
- C. **Tabled for April Agenda -Storage Containers-** Commercial Ordinance revision to allow storage containers with regulations and addition of “Pod Like” commercial business use.

15. ADJOURNMENT

Motion: Commissioner Vickers, 2nd by Commissioner Maez **10:31am**