

**CITY OF TRUTH OR CONSEQUENCES
PLANNING & ZONING COMMISSION
MINUTES
MONDAY, AUGUST 10, 2026**

REGULAR MEETING

Regular meeting of the Planning & Zoning Commission of the City of Truth or Consequences, New Mexico to be held in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico, on Monday, August 10, 2026 at 4:00 p.m.

INTRODUCTION:

ROLL CALL:

Chris Sisney, Chairman
Susan Buhler, Vice Chairman Absent
Esther Luchini, Member
Lisa Kent, Member Absent
Molly Hammer, Member

ALSO PRESENT:

Traci Alvarez, Assistant City Manager
Katy Martinez, Deputy Clerk

1. APPROVAL OF AGENDA:

Member Luchini made a motion to approve the agenda. Member Hammer seconded the motion. Motion carried unanimously.

2. APPROVAL OF MINUTES:

a) July 13, 2026.

Member Luchini made a motion to approve the minutes. Member Hammer seconded the motion. Motion carried unanimously.

3. COMMENTS FROM THE PUBLIC (3 Minute Rule Applies)

There were no comments from the public.

Deputy Clerk Martinez swore in the participants for the public hearings.

4. PUBLIC HEARINGS (5 Minute Rule Applies)

**a) Public Hearing/Discussion/Action: Conditional Use Permit and Variances
request for parcel # 2878573667187**

Assistant City Manager Alvarez: The applicant is requesting approval to establish a secure towing and vehicle impound facility at right now we have it addressed as 1903 South Broadway B. That address is subject to change just simply because we are in the process of going through a street renaming in that area. The property and location will remain the same. That is zoned C1 for general commercial. The proposed development includes a fenced and lighted impound yard, site surfacing improvements and approximately a 550 square foot office building for customer service and vehicle retrieval. The applicant currently provides towing for and impound services in the area but transports the impounded vehicles to their secured facility in Anthony New Mexico. They are not doing private towing. They are towing only for our law enforcement agencies at this time. The proposed facility would allow those vehicles to remain locally because law enforcement towing can occur any time tow trucks may enter or leave the property 24 hours a day. The applicant is requesting the conditional use permit for storage of wrecked or dismantled vehicles associated with the wrecker service along with 3 requested variances. They would also like to allow storage of privately owned or impounded vehicles while legal disposition or required processing is completed. They would like to allow for more than 5 vehicles to be stored outdoors and allow an approximately 550 square foot office building instead of the 800 square foot office minimum in our development standards. Your packet also includes letters of support for the project including the support from all the law enforcement, public safety entities and from an adjacent commercial property owner as well.

Chairman Sisney: Can we ask for a limit on the maximum time a vehicle can be on the lot?

Assistant City Manager Alvarez: Potentially and I think the applicant would be happy to speak on that as it is not his full-time salvage yard and that there is a time frame that he may have to have them on there by if I understand correctly for law enforcement. But if he looks like something that is going to have to go to auction or go through a longer process I believe his intent is then to haul them to his main yard in Anthony.

Chairman Sisney: I have another concern. I would like to mention the lighting not be obtrusive to the neighbors.

Member Hammer: I have a comment on that. Are we even authorized to put in conditions like that. Its either a yes or a no for us we don't actually.

Assistant City Manager Alvarez: I think that you can make some recommendations and when it goes up City Commission they can review those with the attorney and decide which ones would be allowed. But all lighting has to go by the night sky. As far as what you might find offensive versus somebody else that based on an opinion. You guys can make recommendations of conditions of approval and then our City Commission can review those and they can either agree with it or not agree with it and potentially send it back to you guys for another recommendation or they can make a decision at that time.

Member Hammer: So I am clear we have a conditional use permit which is renewal able after 1 year each year correct.

Assistant City Manager Alvarez: Could you repeat that?

Member Hammer: There are 4 application request? There is a conditional use permit and there is 3 variances?

Assistant City Manager Alvarez: Yes ma'am.

Member Hammer: The conditional use permit from my understanding it has to be renewed and approved every year. It has to come before this board is that correct?

Assistant City Manager Alvarez: I would have to review the code off the top of my head I can't remember it. I knew one of them either special use or conditional use I just can't remember.

Member Hammer: I think special use has an expiration date and conditional use is a year. Variance is permanent for that property.

Assistant City Manager Alvarez: Like I said I'm not going to confirm any of that without reviewing the code and I do apologize we are shorthanded in my office so I didn't bring my codes with me.

Member Hammer: I didn't bring my either. I just want to understand what we are recommending here. Because there has been some confusion. I have a question about the building size and the construction of 550 square feet from the normal minimum required for

the zone of 800 square feet. Are there other buildings in this commercial area that are outside of the normal that have variances?

Assistant City Manager Alvarez: I can't answer because I didn't look at the outside area. The properties that are right adjacent to the undeveloped. Our City Manager has a property up there that was used for towing services it has a very small building on it. Size-wise I couldn't tell you if it's 800 or less. The other property is still in process of submitting their documents for the building.

Member Hammer: I don't have an issue with that as long as the setbacks are minded. The size doesn't bother me because we are going to smaller size like tiny homes and so forth all though that hasn't been confirmed in our ordinance yet but I don't have a problem with that as long as the setbacks are being minded.

Assistant City Manager Alvarez: They have to meet the setbacks regardless yes.

Deputy Clerk Martinez: A conditional use permit is reviewed annually.

Member Luchini: These vehicles are not only impounded vehicles that are temporary housed there that may be claimed later?

Assistant City Manager Alvarez: What I would really like is for you guys to be able to ask the applicant these questions because he could better answer them.

Humberto Valenzuela, Applicant: The vehicles are currently not there right now. Is that what you were asking?

Member Luchini: Well let me start with this. I went to look at the property, and what I saw – difficult to find a posted address – there is a storage yard there now, is that it or is it just –

Humberto Valenzuela, Applicant: No, it's next to that property.

Member Luchini: To the East?

Humberto Valenzuela Applicant: To the left.

Member Luchini: So, it's close to that drainage?

Assistant City Manager Alvarez: The property that you're speaking of that has the vehicles currently on it, that's the property you guys approved at a previous meeting, it was a Conditional Use Permit for Kari Fresquez, for theirs. That came through you guys and you approved it.

Member Hammer: Okay.

Member Luchini: So these are not just impounded vehicles, but possibly long-term storage wreckage yard? Dismantled vehicles and parts, and accessory use? So if I needed a part for my '57 Chevy?

Humberto Valenzuela, Applicant: No, we wouldn't sell any parts there, it's strictly storage and it will be there for about 90-120 days while we process the paperwork. If the owners come and retrieve their vehicles, whatever doesn't get retrieved and we end up getting all the paperwork, we'll end up transporting them back down to Anthony to sell at auction.

Assistant City Manager Alvarez: I believe what you're referencing is the way it's worded in our code. So that is word-for-word out of our code.

Member Luchini: Okay.

Assistant City Manager Alvarez: If I could request the applicant, just to briefly explain what your business is, like you came to me to explain.

Humberto Valenzuela, Applicant: We currently are doing impounds for the City, Sheriffs, and state police, but we've been picking them up and taking them directly to Anthony, and people have to drive over there to pick up their vehicles. We're just trying to save them time and money, because we charge by the mile. Keeping it here would allow there to be a location where they could retrieve their vehicles, we would have a place here to sort, and we would be able to respond quicker if I have somebody here permanently to respond to the police calls.

Member Hammer: I see here you're not only doing impounding for the city or the county, but you are also providing a service to others? Like if I was broken down, I could call you, and you could tow my car?

Humberto Valenzuela, Applicant: At the moment, we're not. But maybe if we end up having somebody here permanently, we probably will serve. But for the impound yard, it's strictly for impounded vehicles. No private property impounds or any of that.

Member Hammer: Okay.

Assistant City Manager Alvarez: They're on a rotation service. We have 2 other local tow companies, sometimes they're not available as well. Our law enforcement rotates on a weekly basis, I believe, is that correct?

Humberto Valenzuela, Applicant: Yes, ma'am.

Assistant City Manager Alvarez: So when they're called or they're on their weekly rotation, this would give them a local base. But like I said, if a vehicle was impounded and the person wasn't going to be getting the vehicle back, what's your plan?

Humberto Valenzuela, Applicant: We will submit paperwork, end up getting the title, and then transfer the vehicle back down to Anthony to sell over there.

Member Hammer: To be auctioned?

Humberto Valenzuela, Applicant: Yes, to be auctioned.

Member Hammer: How big of a rig can you tow? Can you tow RV's?

Humberto Valenzuela, Applicant: Yes, we can do RV's, semi's –

Member Hammer: Larger vehicles? I know that was a limitation recently, they were trying to tow an abandoned RV.

Humberto Valenzuela, Applicant: Yeah, we do RV's. For the Police Department, we've done RV's, they're not far from where the yard is, and we picked it up for them because they couldn't find anybody. We've done a couple 18-wheelers that rolled over between the '69 and '71, a burnt unit that was on the '78, we picked that one up as well.

Member Hammer: But you're taking that to Anthony?

Humberto Valenzuela, Applicant: Yeah, we're taking those to Anthony. For an example, with the one that burned down here, we had to take it to our yard and prepare it for long-term transport because it was unstable and it was still filled with produce, etc. But yes, we took it back down to Anthony.

Chairman Sisney: What would be a condition where a car would stay over 120 days, and is there any chance it's just going to sit on that lot for a year?

Humberto Valenzuela, Applicant: No, the only way is if we don't get the title and paperwork for it. Sometimes we've had trouble when they're stolen vehicles and all the VIN numbers are scratched and nobody can get us a VIN number, we end up just crushing those vehicles. But they stay longer than 120 days. But anything for this yard, if it stays 120 days, we will transport it to our other yard and take care of it over there.

Member Hammer: I see a lot of support here, and letters. Is there any opposition that you know of?

Assistant City Manager Alvarez: I think the Chairman has the list of anyone who wants to speak.

Chairman Sisney: There is 1.

Assistant City Manager Alvarez: You'll need to open the public hearing and ask for the proponents and opponents.

Member Hammer: I'm finished with questions if you guys are. Thank you.

Humberto Valenzuela Applicant: Thank you.

Chairman Sisney opened the public hearing.

Proponents:

No Proponents.

Opponents:

Ken Oliver

Ken Oliver, Opponent: I'm right across from them on the arroyo, and already, I've had so many issues over there. The constant thing of trash, they have monstrous – I even have pictures of it – but really big piles of trash on their side, it's in the arroyo, it's in my yard, they went down there with a bobcat into the arroyo for some reason, they were removing vegetation. That made it worse, more trash in there, they've thrown tires in the arroyo, there are tires now in

the arroyo, and all kinds of trash everywhere, piles of trash. They run big rigs all night long, just sitting there idling while they're talking, I've had them from 9:00pm until 1:30am until I go out there and yell at them. I've had confrontations with them a few times because of it, I tell them, "Hey it's 10:00pm it's supposed to be quiet." After that, but it didn't matter. They say, "Oh well we're leaving." Well it's 11:30pm now, and then it's 1:30am, it's always later, later, later. Big rigs would run, and the light's flashing for hours and hours and hours through the night. My bedroom is right there, my home is right across the arroyo from them. Sometimes there are 2 diesels idling at the same time. I know everybody is chasing the same dollar, we're a small town, and they have to make their bucks, and make their money somehow, I get it. I understand that, and I'm willing to be lenient about that, but enough is enough when they're blatant that they have no consideration whatsoever, and they show that they just don't care. The way the property is right now, with all the piles of trash and everything, I don't see it getting any better, when they only have a few cars of their own there, and this is the kind of mess that's there already, what's going to happen when they have 20 cars there or 30 cars there? This is just a few cars and they have mountains of trash, it doesn't make any sense. That's a big concern for me, I'm constantly picking up stuff in my yard on my property that came from their property. The arroyo's always got trash or something from their property in it as well. Like I said, if they're just starting and there are only a few cars, what's going to happen when there's 20-30 cars?

Assistant City Manager Alvarez: I just want to show the speaker the map. Can you show me where you're located at?

Ken Oliver, Opponent: I'd be [just to the left of the blue box on page 11 of the packet]

Assistant City Manager Alvarez: So currently, there's nothing on this property [within the blue box] and the one to the right of that has quite a few vehicles listed on it.

Ken Oliver, Opponent: There are a lot of vehicles [within the blue box] that have been there for the longest time, and I didn't know if they had approval on that either.

Assistant City Manager Alvarez: [The owners of the adjacent property] did go through, I know that.

Ken Oliver, Opponent: Well they came to me and made me get rid of my vehicles that were on my property because they weren't registered, I was still fixing them. But they were neat and they weren't an eyesore or in the way, nobody complained, but Code Enforcement showed up there because of a death in the neighborhood, they didn't have anybody else to respond so he

was there, he had time on his hands, so he wrote me up and was fining me \$500 for each month that the vehicles were there. So I had to literally give the vehicles away because I couldn't afford the storage, because they wanted a minimum of \$480 a month to store them, and I couldn't do that. So I was forced to get rid of my vehicles, and meanwhile, when I look out my kitchen window, I'm looking at mountains of trash, I'm looking at vehicles everywhere. Like I said, the main thing for me is the cleanup, there is trash everywhere, even in the arroyo. There is no reason to have bad tires and stuff thrown in the arroyo, it wasn't there before. Also, like I said, the noise factor, and the blatant lack of care. When I would go out there and confront him at 10:30pm and they just leave trucks running and lights flashing until 1:30am.

Member Luchini: What kind of trucks?

Ken Oliver, Opponent: Big rigs.

Member Luchini: Like a tow truck?

Ken Oliver, Opponent: Yeah, big tow trucks.

Member Hammer: I have a couple follow-up questions. They might be more for Ms. Alvarez or the company. Thank you for your input. Where is the access point on this map, in and out?

Assistant City Manager Alvarez: The property owner has an access easement in this lower property [on the bottom right portion of the map on page 11 of the packet].

Member Hammer: So they come in here?

Assistant City Manager Alvarez: Yep, they come in right there.

Member Hammer: Not through [the top area]?

Assistant City Manager Alvarez: I would like to request for the applicant to be able to come up and speak regarding anything they may or may not be doing over at the property, or anything as far as towing vehicles.

Member Luchini: I have a question. I was able to peek through into your area here, and is it cleaned up now?

Humberto Valenzuela, Applicant: We've never thrown any trash in the arroyo or any of that.

Member Luchini: Is it scraped or bladed to be able to park anything on it, or does it still need to be prepared?

Humberto Valenzuela, Applicant: It still needs to be prepared. There is an elevated area I would like to prepare, to make it level, so there would be a little bit of scraping.

Member Luchini: But you're not storing anything, are you?

Humberto Valenzuela, Applicant: No, I have nothing there. There is a pile of dirt there, and it's going to get removed.

Member Luchini: To the arroyo, it won't intrude into the arroyo or anything, the cleanup?

Humberto Valenzuela, Applicant: No.

Member Luchini: And this will be fenced-off, right? With a solid fence?

Humberto Valenzuela, Applicant: Yes, ma'am.

Member Hammer: Even along the arroyo?

Humberto Valenzuela, Applicant: Yeah, along the arroyo, but not in the arroyo, even though the property's kind of in the arroyo, it would be on the elevated area, and we'll fence it off.

Member Hammer: And are you applying for a business license also?

Humberto Valenzuela, Applicant: We do have a business license already.

Member Hammer: Will you have a dumpster on-site?

Humberto Valenzuela, Applicant: We can.

Member Hammer: If you're towing, usually the car is locked, but there might be issues or a truck bed that has stuff in the back, and we have high winds here that can blow all over the place. I'm sure this arroyo is not the only place that has issues. In listening to your neighbor, I do want to address that obviously, we all want good neighbor and clean neighbors, with

regards to noise complaints or visual pollution. I would ask that you guys abide by that if you're going in and out, because that would bother me, too.

Humberto Valenzuela, Applicant: Yes. We don't keep our trucks running, diesel is so expensive, there is no reason to keep them running all night.

Assistant City Manager Alvarez: If I could just ask a couple questions, too, have you towed any vehicles at all over to this lot?

Humberto Valenzuela, Applicant: We have, temporarily, while we wait for another truck to get back. But they're there for like a day or 2, not even a day, a few hours. But lately, since I started talking to you, we have not kept any vehicles there, we have been taking them directly to Anthony.

Assistant City Manager Alvarez: And have you done any of the property clearing or grubbing or anything?

Humberto Valenzuela, Applicant: I did clear some bushes on one of the corners, and I wasn't aware that I needed a permit until I spoke with you about the bushes, I stopped everything else.

Member Hammer: And what are your hours of operation? Is it pretty much 24-hours?

Humberto Valenzuela, Applicant: The yard is from 8am-5pm, but the towing and bringing in the vehicles is 24/7. I don't know when we're going to get calls from the state, Sheriffs, or Police Department. We do have to respond to them, and trucks will be there. They would have to go in and drop off the vehicle.

Member Luchin: Which one of these adjacent was Mr. Oliver? The number parcel ending in 10206?

Assistant City Manager Alvarez: [Near the parcel ending in 0221]

Member Hammer: And this person here didn't respond?

Assistant City Manager Alvarez: No. All certified mail letters were sent and received.

Chairman Sisney: Mr. Valenzuela, normally if somebody in the neighborhood objects or opposes, I usually go with them. But I think this is a good service to the people here in town.

Although everything here is commercial, there are residents really close to you. I just hope you go out of your way to make them happy. Quiet hours are pretty much from 10:00pm to 7:00am. The lights, once you get in your yard, you probably don't need to have them on.

Humberto Valenzuela, Applicant: We don't have the lights on because we're only supposed to have our amber lights on while we're on-scene recovering the vehicle. When transporting back, our lights are off even until we get to the yard.

Chairman Sisney: I hope you can work out something with your neighbor.

Member Luchini: The fence adjacent to him, again, I ask that that's a solid, metal fence?

Humberto Valenzuela, Applicant: Yes.

Member Luchini: If you did have loose truck trash, it should stop it from blowing out.

Chairman Sisney: Were you putting up a steel fence, not a game fence?

Humberto Valenzuela, Applicant: I'll put a paneled fence, especially on that wall, and I'll try to get it all around.

Chairman Sisney: I think you want to do the right thing, and I think you did it. I hope that you can keep this man in consideration, also.

Humberto Valenzuela, Applicant: We will, I'll try to work it out for him. He did come at one time and yelled at us, and the truck was leaving when he yelled at us. That was one time, and that was when we were working that big accident on the '70 with a trailer.

Chairman Sisney: Hopefully you guys can work together and get along.

Member Luchini: I agree. I wouldn't want to live next to a wrecking yard or tow yard. That's why I feel that if you do -- Isn't that required? A solid metal fence around --

Member Hammer: A privacy fence.

Assistant City Manager Alvarez: Yes.

Humberto Valenzuela, Applicant: We'll put up a metal fence around it. For the lighting, we'll try to keep it all in our yard. PRC does require us to have a lighted storage facility for the vehicles.

Chairman Sisney: Thank you. I also want to let you know that the people in this town really love the quiet and the darkness, and we're just trying to keep everybody happy.

Humberto Valenzuela, Applicant: Yes, sir.

Assistant City Manager Alvarez: Before the board considers a motion, please remember to close the public hearing.

Chairman Sisney: There were a couple of letters, do we read those?

Assistant City Manager Alvarez: Those are the letters of support. No, I don't think so. They're just part of the supporting documents.

Chairman Sisney closed the public hearing.

Member Luchini: The only other thing I'm a little leery about is the size of the building. Trying to stick to this 800 square foot minimum for a building.

Chairman Sisney: In one of the letters, it mentions that it's a prefab. So it's not like we can just ask him to change the specs.

Member Hammer: And is that for an office or a residence?

Humberto Valenzuela, Applicant: Office.

Member Hammer: Will someone be there 24/7?

Humberto Valenzuela, Applicant: No.

Member Hammer: Your accessible just by cell phone on the truck pretty much. That is your office most of the time? I support this with some pretty major conditions. Mr. Oliver had his opinion and I with member Luchini that the noise and the light pollution I would want to have that managed if I was going to approve this. Also with the understanding that this a yearly renewal the conditional use permit and if we meet again in a year and if there are complaints we need to consider those and there be a risk that you might not get approved again. If there

was a big opposition. I like that you are bringing the business to town I do think we need that. You have a lot of support here with your neighbors and law enforcement.

Member Luchini: I agree.

Chairman Sisney: I would like to hear a motion with the stipulations included.

Member Hammer made a motion to recommend approval to the City Commission for a Conditional Use Permit and Variance Requests for parcel # 2878573667187 with the conditions that applicant is respectful of their neighbors with regards to light pollutions and noise also with the understanding that we will renew the conditional use permit every year. Chairman Sisney seconded the motion. Roll call vote was taken. Motion carried unanimously.

b) Public Hearing/Discussion/Action: Summary Plat Amendment at 310 and 316 E Third Ave.

Assistant City Manager Alvarez: The applicant is requesting a summary plat amendment through the alternate summary procedure. The purpose is to adjust the existing property lines between 310 and 316 east Third Avenue. Both properties are zoned C-1 for commercial. It involves lots 8,9 and 10 of block 66. The request does not create any additional lot or new subdivision it only changes the boundaries between the existing tracks. I have reviewed the application and survey and it meets all the requirements for the alternate summary procedure. The applicants are present to answer any questions. To further help identify I'll show you guys on the map.

Member Hammer: Is that an alley way or is it just the property?

Assistant City Manager Alvarez: No it's not an alley.

Member Hammer: The same person owns the whole property?

Assistant City Manager Alvarez: No it's different owners.

Member Hammer: Two different property owners and the property owners are amenable to that change?

Assistant City Manager Alvarez: Yes. It will equal out the property lines.

Member Hammer: Are both property owners present?

Assistant City Manager Alvarez: Just one.

Chairman Sisney opened the public hearing.

Carrie Marrow Applicant: I'm at 310 E Third.

Member Hammer: Are you in the white roof or the other one?

Carrie Marrow Applicant: I'm the other one.

Member Hammer: And this person is here or no?

Assistant City Manager Alvarez: No.

Member Hammer: But they both agree there is no opponents? I don't have an issue with this. Its not creating and obstacle to a easement or alley way. I think this is an odd shape any way so might as well make them more accessible and usable really.

Carrie Marrow Applicant: She gets a drive way and I get a fence.

Proponents:

No Proponents.

Opponents:

No Opponents.

Chairman Sisney closed the public hearing.

Member Hammer made a motion to recommend approval to the City Commission for a Summary Plat Amendment at 310 and 316 E Third Ave. Member Luchini seconded the motion. Roll call vote was taken. Motion carried unanimously.

c) Public Hearing/Discussion/Action: Conditional Use Permit at 818 N Magnolia – Request for Shipping Container

Assistant City Manager Alvarez: The applicant is requesting a conditional use permit to allow an existing shipping container to remain and 818 N Magnolia. The container is being used as an accessory storage structure on the residential property and the city code requires the conditional use permit for shipping containers located with in residential zones. The container was placed after the shipping container ordinance became affective but the property owner advised staff that they were unaware that we had the requirement for a conditional use permit. Rather than proceeding directly with enforcement the staff has worked with the owner to submit the appropriate application and bring the property into compliance that way instead. The applicant is not requesting a variance or relief from the container. We are just following the process to bring them into compliance. The applicant is present.

Chairman Sisney: Mrs. Alvarez do you see a shipping container on this photo.

Assistant City Manager Alvarez: Potentially not but then again I don't go take arial photographs right before the meeting. These are taken prior. If you look on the site plan that the applicant has submitted that tells you where the shipping container is located. I take my arial view off the parcel map or google at whatever year that arial view was taken. That's just to give you an idea of the property area.

Chairman Sisney opened the public hearing.

Chairman Sisney: You haven't seen this photograph have you.

Vicky Nicholson Applicant: No.

Chairman Sisney: This container looks like its going to sit pretty much where that trailer is on this photograph.

Vicky Nicholson Applicant: Yes its. That trailer is gone. It sits 80 feet off that back fence and that's an alley way.

Member Hammer: Ms. Nicholson do you have the property here where this white truck is?

Vicky Nicholson Applicant: Yes, I own all the property.

Member Hammer: Is that white truck still there?

Vicky Nicholson Applicant: Yes, those are my buses I run a river business. That is what half the storage container is where I keep my tubes and rafts. The other half is where I have saws and equipment. Its double ended doors, single use, brand new and it doesn't look nasty.

Member Hammer: Are there any opponents or proponents.

Chairman Sisney: No.

Proponents:

No Proponents.

Opponents:

No Opponents.

Chairman Sisney closed the public hearing.

Member Luchini made a motion to recommend approval to the City Commission for a Conditional Use Permit at 818 N Magnolia – Request for Shipping Container. Member Hammer seconded the motion. Roll call vote was taken. Motion carried unanimously.

- d) Public Hearing/Discussion/Action: Consider an application requesting the vacation of a public alley pursuant to Section 15-18 of the Truth or Consequences Municipal Code.**

Assistant City Manager Alvarez: For general reference this is 1300 and 1400 North Silver Street area where the assisted living facility is. The applicant is requesting that we formally vacate the public alley within that block. The historical documentation that's submitted indicates that the alley was intended to be addressed as part of a property's 2004 transaction but the vacation was never completed and recorded. It looks like the alleyway actually goes right through the middle of the property and the current skilled nursing facility as well. The applicant's request is to formally complete the vacation process and clear up the existing record. The applicant is present.

Chairman Sisney: Does the city have any opposition to this?

Assistant City Manager Alvarez: No.

Chairman Sisney opened the public hearing.

Member Hammer: Does vacating the alley prevent any access to the properties around it?

Josh Ashbaugh: No. The entire block is owned by the same property owners.

Member Luchini: Just to clarify I did speak to attorney Rubin this morning regarding this issue thinking I might need to recuse myself. He was aware of the situation and he suggested that I don't need to.

Josh Ashbaugh Applicant: I would listen to his advice. In my personal opinion I don't think you need to recuse yourself. Before we move on since you guys can make recommendations I'm going to ask of one. Usually when the city vacates streets and alleys they reserve for themselves easements and reversionary language in the ordinances. I would ask that this board recommend that those not be put in the vacation instrument. There is an express electric line easement. I brought a copy it's not in the packet but I do have a copy for everyone. There is an express electric line easement. The alley again runs underneath the building and so I don't think it's really feasible to put utilities in it.

Member Hammer: But there is not utilities there now?

Josh Ashbaugh Applicant: As far as I know no.

Member Hammer: Just and easement?

Josh Ashbaugh Applicant: Its just an alley but normally when the city vacates an alley or street they reserve under them selves an easement. The reversionary language I really don't care for because it will revert back to the city. That would be the request I ask you guys to make. In the packet about mid way through there is a vacation of alley it does not affect this alley. I didn't put this packet together it was sent to me so I'm not sure why its in here to be honest but its exhibit D.

Assistant City Manager Alvarez: They have it because I'm mandated to provide them all the documents that you provide me.

Josh Ashbaugh Applicant: I figured that was the case. On the third page of that instrument they first full sentence begins with this transfer is done under the condition that. I'm basically asking for you guys to recommend that language and then the following one sentence paragraph not be included in the vacation.

Member Hammer: Can I read it out loud?

Josh Ashbaugh Applicant: Yes.

Member Hammer: It says this transfer is done under the condition that the grantees grant to the city a continuing right of access to the conveyed land for utility purposes including water and sewer. Is there any water or sewer under this?

Josh Ashbaugh Applicant: Not to my knowledge. There is a survey it's the highest form of survey we get unfortunately it's a plat size survey and when you reduce it down in size. I can probably if permissible send a digital copy of the survey. Do you have a digital copy Traci?

Assistant City Manager Alvarez: Whatever you sent me is included in the packet.

Josh Ashbaugh Applicant: Its hard to see and printed mine on a legal size and that's hard to see also.

Member Hammer: My understanding as a property owner is anything up to my property line the city is responsible for. Anything on my property I'm responsible for.

Assistant City Manager Alvarez: Unless you have an easement, correct.

Member Hammer: Unless you have an easement, and you have utilities going through like a water main right?

Assistant City Manager Alvarez: If we have easement we need access to that easement. I think regardless or not weather there is a main there. If it's a dedicated easement because we may have easements to connect for future use. Is that what you are asking?

Member Hammer: I guess what I want to know is there a water main under this that the city would need to access if something happened? I guess that would be my only reservation. If the city needed to get in here and fix something if the property owner is responsible for fixing it that's another thing but would the property owner give the city access or would closing this off prevent them from doing that? Would they just declare eminent domain or something like that to get access? I don't know what the law is around that.

Josh Ashbaugh Applicant: To answer the factual question to the best of my knowledge there isn't any water or sewer lines under the building that the city would be responsible for maintaining. I can not sat that with 100% certainty. I'm looking at the survey its addressed unfortunately it doesn't tell us much but on the utility information on the survey it does say on the location of the utilities shown hereon are from observed evidence of above ground appurtenances only. They surveyor was not provided with underground plans or surface ground markings to determine the location of any subterranean uses.

Member Hammer: Is the city opposed to this or the city attorney? Has he raised any concerns?

Assistant City Manager Alvarez: No, he has semi reviewed it but then again he wouldn't review this stuff in depth until it comes as a recommendation from you guys and then he will review a 100 percent. He has really good open communication with Mr. Ashbaugh and so I think that communication can be had as far as you want the vacated wording to be.

Josh Ashbaugh Applicant: Yes, we can work on it.

Member Hammer: As a planning and zoning board member I don't have any objections to this. I think that if there was concerns it will come up in a later stage in front of the city.

Proponents:

No Proponents.

Opponents:

No Opponents.

Chairman Sisney closed the public hearing.

Member Luchini made a motion to recommend approval to the City Commission for a Consider an application requesting the vacation of a public alley pursuant to Section 15-18 of the Truth or Consequences Municipal Code. Member Hammer seconded the motion. Roll call vote was taken. Motion carried unanimously.

5. NEW BUSINESS:

a. Discussion/Action: Re-Appointment of Member Esther Luchini

Chairman Sisney made a motion to recommend approval to the City Commission for Re-Appointment of Member Esther Luchini to serve on the Planning and Zoning Commission. Member Hammer seconded the motion. Roll call vote was taken. Motion carried unanimously.

b. Discussion/Action: Re-Appointment of Member Susan Buhler

Member Hammer made a motion to recommend approval to the City Commission for Re-Appointment of Member Susan Buhler to serve on the Planning and Zoning Commission. Member Luchini seconded the motion. Roll call vote was taken. Motion carried unanimously.

c. Discussion/Action: Re-Appointment of Member Chris Sisney

Member Luchini made a motion to recommend approval to the City Commission for Re-Appointment of Member Chris Sisney to serve on the Planning and Zoning Commission. Member Hammer seconded the motion. Roll call vote was taken. Motion carried unanimously.

d. Discussion/Action: Re-Appointment of Member Molly Hammer

Chairman Sisney made a motion to recommend approval to the City Commission for Re-Appointment of Member Molly Hammer to serve on the Planning and Zoning Commission. Member Luchini seconded the motion. Roll call vote was taken. Motion carried unanimously.

e. Discussion/Action: Re-organization of Chairman and Vice-Chairman

Chairman Sisney made a motion to recommend table this item until the next meeting. Member Hammer seconded the motion. Roll call vote was taken. Motion carried unanimously.

6. REPORTS FROM THE BOARD:

No Reports from the Board

7. REPORTS FROM STAFF:

No Reports from Staff

8. ADJOURNMENT:

Chairman Sisney adjourned the meeting at 5:05 p.m.

PASSED AND APPROVED ON THIS 14th DAY OF SEPTEMBER, 2026.


Chris Sisney, Chairman
Planning & Zoning Board