

**CITY OF TRUTH OR CONSEQUENCES  
PLANNING & ZONING COMMISSION  
MINUTES  
TUESDAY, OCTOBER 14, 2025**

**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 Tuesday, October 14, 2025 at 4:00 p.m.

**INTRODUCTION:**

**ROLL CALL:**

Chris Sisney, Chairman  
Susan Buhler, Vice Chairman  
Esther Luchini, Member  
Lisa Kent, Member  
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. Vice-Chairman Buhler seconded the motion. Motion carried unanimously.

**2. APPROVAL OF MINUTES:**

**a) September 8, 2025.**

Member Hammer made a motion to approve the minutes with the corrections. Member Kent 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 at 303 Jones St. The applicant is in the C-1, M-1 and T-1 Districts.**

**Vice-Chairman Buhler recused herself**

**Proponents:**

No Proponents

**Opponents:**

No Opponents

**Chairman Sisney opened the public hearing.**

Assistant City Manager Alvarez: A brief correction - they are only in the C-1 district. The applicant is requesting a Conditional Use Permit for placement of 3 shipping containers at 303 Jones Street. Per the Municipal Code, shipping containers are allowed within the commercial district, but because they are in the downtown Main Street District, it does have to go through a special use permit prior to approval. Within your packet I have added in the sections of the code, a parcel map, references for public hearing notice, and your 7 findings of facts check list. Containers are not supposed to exceed 46 feet in length. The applicant is proposing only 20-foot in length containers. The site plan shows where they are going to be sitting. It is more than 10 feet from the main structure. It is subordinate to a main structure on that lot. All the documents have been submitted, fees have been paid, and property owners within 100 feet have been notified by certified mail. Applicant is here if you have any questions.

Alan Hansen Begg, Jones Street Thrift Store Manager: We are asking to place 3 20-foot shipping containers on the west side of the building. Currently there is a cold storage that is in the fenced-in part that is the same size as a shipping container so when we sell that we would replace it with a shipping container. The other 2 in your packet are the red and orange markers you see in your packet. We plan to paint them to match the building, and further than that, we have plans to find someone to paint murals on them.

Member Kent: Why do you need 3 shipping containers outside of a rather large retail store?

Alan Hansen Begg, Jones Street Thrift Store Manager: The donations faster than we expected. We don't have enough space, we wanted a bigger building, but we got the building that we could get. To increase our retail footprint, we had the idea of putting one that opens the long end versus the standard short end. That is the plan for the red one, it would open on the long end facing north. We have the yellow one and one of our doors is right there so then we would have an outdoor shopping area. In the morning, we would open the door on the long end of the shipping container, and we would have furniture or other large items in that container for people to shop. Basically, it gives us more shopping and storage space.

Member Kent: So, one is going to be for outdoor shopping?

Alan Hansen Begg, Jones Street Thrift Store Manager: Yes, as well as the patio, we already currently use that for shopping it works great.

Member Kent: One of these would be behind the current fenced area? Would the other 2 be out and visible from any of the cross streets?

Alan Hansen Begg, Jones Street Thrift Store Manager: Yes.

Member Hammer: My understanding was that the containers were to be for storage only. But it's going to be an extension of your retail area, is that the plan? Is that allowed in our ordinance? I know you can't live in it. But can it be an extension of a business? I didn't see anything in the code.

Assistant City Manager Alvarez: I don't think our code defines that.

Member Hammer: So, technically I can be used.

Assistant City Manager Alvarez: Correct, it doesn't say it can't.

Member Hammer: Ok, I just wanted to be clear. I like the idea that you are painting it the same color of the building. I think that is important for aesthetics. In the metal buildings part of the code, in C-1 and M-1, it says they "shall have a façade, a veneer consisting of a structural facing of brick, concrete, stone, tile, wood or lumber, plastic or other similar approved material on all sides of the structure that face a public street." Do we have a section in the shipping container ordinance for that?

Assistant City Manager Alvarez: No, I think that is one of the reasons it's one of the topics later in the agenda that you guys are going to discuss. Currently it does not require it, and we would have to go by what our current code says.

Member Hammer: Ok so it's actually not required for them to paint them the same color as the building. They are just volunteering to do that. Per the ordinance.

Assistant City Manager Alvarez: Correct.

Member Hammer: I think I asked this at another meeting, and I don't know if you guys ever got an exact answer. Is our downtown designated a historical downtown?

Assistant City Manager Alvarez: Our Main Street area is a historical district. It does have that designation.

Member Kent: Ok.

Member Hammer: Is that reflected in the code as far as planning and zoning stipulations?

Assistant City Manager Alvarez: There is a reference in the shipping container section where we say the metropolitan district. That is the area that is designated as the historical district, but throughout the rest of the code, no.

Chairman Sisney: Do you own this building?

Alan Hansen Begg, Jones Street Thrift Store Manager: Yes.

Chairman Sisney: My follow up question was going to be if you were leasing why are you getting rid of the freezer but since it's you're building it doesn't matter.

City Manager Whitehead: I have to remind you that even if he was leasing it. It wouldn't be relevant to the conversation. Why is he getting rid of that piece of equipment or not.

Member Kent: When I look at this map, I can appreciate wanting to replace an unneeded freezer with a shipping container that is essentially the same size and using it as storage. It is also behind an existing fence. I drove by and seen it. What I am struggling with is to start a precedent of putting shipping containers throughout the downtown area. You're probably not the only retail with too much inventory. Our downtown area is historic, and there should be a certain level of preservation for that. Starting to put shipping containers throughout downtown, I'm not sure that is the look we want in a historic area, especially if they are going to be visible and just sitting out there. We have had a few people come and want them in the private residence behind privacy fences in their yard. I think those have been approved in the past. That is where I'm hung up on this request, is starting to put shipping containers downtown. If you get them, then someone else is going to want them, and then we are going to have a downtown area full of shipping containers. Those are my thoughts.

Assistant City Manager Alvarez: I don't know if it would be helpful if you reviewed your findings of facts check list on the items 1 through 7 and identify anything may or may not apply. I don't know if that will help with your decision making or not.

Member Hammer: Are these photos of the actual shipping containers or are these just taken off the web for demonstration only?

Alan Hansen Begg, Jones Street Thrift Store Manager: Just demonstration, but they are from the company that I plan to buy from, so they will look like that.

Member Hammer: So, they are new, not rusty or anything like that?

Alan Hansen Begg, Jones Street Thrift Store Manager: The ones that I want won't be rusty, they will be one trip.

Member Kent: I reviewed these the other day, and number 5, it could raise a question to whether adding shipping containers could affect #5 in the 7 findings of facts. Which is "unreasonable impair established property values within the surrounding area". If it starts to look more like a storage yard in historical downtown, how does that affect the neighbors, other buildings and businesses?

Alan Hansen Begg, Jones Street Thrift Store Manager: We, I guess, would balance that against the building being vacant for maybe 6 to 7 years. Now we get about 70 sales a day. We get a lot of traffic. I hear what you're saying, I think it will be positive in the end. But I do understand what you're saying.

Member Luchini: Is there a plan to put a fence around them?

Alan Hansen Begg, Jones Street Thrift Store Manager: There is a short-term, long-term plan to put a fence around the whole property.

Member Hammer: Based on the map, these containers are kind of behind the building they're not on a front, like a major thoroughfare, which I prefer. As far as aesthetics go, it's not on Foch, Main, or Broadway. It's kind of behind your building and the fact that you might fence it in the future. Obviously whether you do or not can't sway my vote today. Just an observation that it's kind of behind a building.

Chairman Sisney: Assistant City Manager Alvarez I don't ever remember having to vote on shipping container before. Do you?

Assistant City Manager Alvarez: Yes, there have been maybe 2 that have come through for residential. This is the first one downtown. Remember, according to the code, they are allowed in the commercial district. It's only in the downtown area that they have to go through conditional use and anything within residential area. You just had one not too long ago on Coleman where the gentleman had the shipping container, and you guys' recommended approval contingent on him moving it to the back yard, which he did. There was another one, I believe it was in the R-1 or R-2 area, maybe about a year ago. We have had a couple of them come before you guys.

Member Hammer: I think this might be an opportunity for our workshop and better defining shipping containers ordinances in general. I don't think it is real well defined now. I would prefer it be written in the ordinance for future that any shipping container that is in the C-1 or the historic district be in the back of the building, not on the front porch per say. It's an opportunity for us to look at that code in the future.

Member Luchini: What kind of fence do you plan on putting?

Alan Hansen Begg, Jones Street Thrift Store Manager: Something that will be decorative and will protect the property. We are a thrift store, and we get a lot of donations, and the fence is going to help mitigate the problem of donations.

Member Kent: When people donate now, where do they leave stuff?

Alan Hansen Begg, Jones Street Thrift Store Manager: The west side of that fenced area there is a gate there and that is where we bring them in.

Member Kent: Do people leave stuff when the store is closed?

Alan Hansen Begg, Jones Street Thrift Store Manager: Yes.

Member Kent: So now, if there are more shipping containers there, it's more places for them to just pile things and leave it at night, like the place out by Outer Edge that is always piled up with things.

Alan Hansen Begg, Jones Street Thrift Store Manager: Come by anytime and check to see if it looks like that, it won't. I have cameras and when it happens, I just go down there and bring in. I don't ever want it to look like anything except good.

**Chairman Sisney closed the public hearing.**

**Chairman Sisney made a motion to recommend approval to the City Commission for a Conditional Use Permit at 303 Jones St. Member Hammer seconded the motion. Roll call vote was taken.**

**Member Luchini Yay**

**Member Hammer Yay**

**Member Kent Nay**

**Chairman Sisney Yay**

**Motion carried 3 to 1.**

**b) Public Hearing/Discussion/Action: Summary Plat Amendment- Alternate Summary Procedure on Property Address 412 Main Street.**

**Proponents:**

No Proponents

**Opponents:**

No Opponents

**Chairman Sisney opened the public hearing.**

Assistant City Manager Alvarez: The applicant and property owner at 412 Main is requesting to amend their parcel into 2 tracks. The property is located in the C-1 district. No more than 2 lots are being created, and they comply with the required standards for lots. Both lots that would be created have direct unobstructed access to any existing city maintained and paved street, as well as all existing water and wastewater lines. No vacation of street, dedications, or utility easements is being proposed. All documents have been submitted, and fees have been paid. All property owners with 100 feet have been notified by certified mail. Applicant is present for any questions, and I stand for any questions as well.

Member Kent: I'm a little confused, looking at the map that is here, of what exactly is happening.

Assistant City Manager Alvarez: The easiest way to look at it is the actual parcel map. You can see it's a weird shape. If you go to the summary plat, you will see where it's labeled as track 1a and track 1b.

Member Hammer: I understand that track 1a is your business, the Wildflower Business, correct? That comes back to the proposed track b?

Kari Fasquez Owner of 412 Main: I am the owner of 412 Main, otherwise known as Wild Flower Boutique. I own the building where the retail happens, and also the lot behind that building. I'm requesting approval to separate the building and the vacant lot into 2 tracks.

Member Hammer: Track 1a backs into track b and then there is track 2 and track 3 which are other retail establishments that also back into track b. I drove by and there are doors in the back, they can access their property through there, but they would have to go through track 1b, your property, to park there if they were allowed. I don't know what kind of agreement you have and that's not relevant to the split. My question mainly is, will they continue to have some kind of egress there? Maybe you can help me because I can't read this. Does this say easement or assessment?

Kari Fasquez Owner of 412 Main: You are spot on there. There are doors to other properties owned by other individuals back there. What you are trying to see in that minuscule font is a walkway easement. There is a permanent 12-foot walkway easement from the buildings into the lot. You will see the stairs, a ramp, and a deck. All of that is a walkway easement for all 3 properties.

Member Hammer: What you are proposing is that easement would then be a part of track 1a or track 1b?

Kari Fasquez Owner of 412 Main: Part of the vacant lot. I believe it's track b.

Member Hammer: So that easement, on the deed, would be a part of 1b?

Kari Fasquez Owner of 412 Main: That is the intention.

Member Hammer: And not part of 1a?

Kari Fasquez Owner of 412 Main: Correct.

City Manager Whitehead: I disagree, I think the walkway continues as part of track 1a.

Kari Fasquez Owner of 412 Main: Apologies for that, I don't have the paper in front of me. Thank you, City Manager Whitehead.

Vice Chairman Buhler: I noticed that you're building a structure back there on 1b. Is that correct?

Kari Fasquez Owner of 412 Main: Yes, I am.

Vice Chairman Buhler: It's a metal structure?

Kari Fasquez Owner of 412 Main: It will be a patio with pavers.

Vice Chairman Buhler: Do you have a permit for that?

Kari Fasquez Owner of 412 Main: Yes, we do.

Vice Chairman Buhler: From the city?

Kari Fasquez Owner of 412 Main: From the state.

Assistant City Manager Alvarez: They've also submitted stuff through Planning & Zoning for all development on that property line as well.

Vice Chairman Buhler: Thank you.

Member Hammer: And is that patio going to be public access or private?

Kari Fasquez Owner of 412 Main: I am sorting that out, I don't have it all sorted out yet, but some sort of community event space. We're hoping for some flexibility there to possibly allow a food truck in there, putting patio seating in there, definitely high priority in beautifying that lot. Taking a vacant lot and making it fit in well with the Foch Street project that's coming next month. All the timing is just working out beautifully, that we have this Foch Street beautification happening, and just wanted the lot to meld in with all of that new beauty coming to that area, rather than just being an empty plot.

Member Kent: So, you are planning to develop it to some degree and you're not just doing this to sell it? At least at the moment.

Kari Fasquez Owner of 412 Main: At the moment, I do not have plans to sell.

City Manager Whitehead: The future disposition is not relevant to the conversation. Whether she chooses to divide and sell it is irrelevant.

Vice Chairman Buhler: How have you incorporated your drainage into this project?

Kari Fasquez Owner of 412 Main: That's a good question.

City Manager Whitehead: The permit is not in question here, what she's asking for is whether or not you approve the subdivision of this by our code, that's all she's asking for. She doesn't have to get any further permission than what she did through the current Planning & Zoning code. So those questions would have been asked by our engineer and by staff.

Vice Chairman Buhler: And they have been asked?

City Manager Whitehead: If she has a permit, it would have been approved by us, it would have been formally sent on so that she could then apply. The state of New Mexico requires, on their applications for a building permit, a signature from the Planning & Zoning of the jurisdiction in which the permit comes from. In order to get that, they would have had to go through us. Again, as Traci has pointed out to you, she's in compliance with her building project, but the

building project is not subject to this change of application here. If you could, just stay within the context of discussing and looking at the 7 findings of facts, as it related to the subdivision code of it. Thank you.

Member Kent: I don't have any other questions.

Chairman Sisney: Does anyone have any more questions?

All Commission Members: No.

Chairman Sisney: I will make a motion –

Vice Chairman Buhler: Does the public have any questions?

Chairman Sisney: Does the public have any questions?

Deputy Clerk Martinez: It would be if we have any proponents or opponents for the public hearing.

Chairman Sisney: Do we have any proponents or opponents for the public hearing?

Assistant City Manager Alvarez: Did anyone sign up?

Deputy Clerk Martinez: No.

**Chairman Sisney closed the public hearing.**

**Chairman Sisney made a motion to recommend approval to the City Commission for a Conditional Use Permit at 303 Jones St. Member Kent seconded the motion. Roll call vote was taken. Motion carried unanimously.**

## **5. WORKSHOP:**

### **a. Variance, Conditional Use Permit and Special Use Permit**

Chairman Sisney: I want to ask a question of Ms. Alvarez. When are we able to put conditions on the stuff that comes before us? I would like to be able to make a recommendation to approve with conditions in many cases. We tried to ask some questions earlier, so it's going to be hard to put conditions on it, but I'd like to know when I can put conditions on an approval of a Variance request.

Assistant City Manager Alvarez: I think at the last shipping container that came before you guys, you did put a condition on your recommendation, and that went to our City Commission, and they honored your recommendation. That recommendation was that you would recommend approval of that shipping container, but only if it was moved to the rear yard, even though our code didn't mandate it had to be. I think that there are situations where you can make that recommendation as long as it's within your 7 findings of facts to do so.

City Manager Whitehead: If I could just add, we think a problem with the code is that it really doesn't define the difference between Conditional Use Permits, Special Use Permits, and Variance Requests. It would seem that as we clean up the code, this is the area we really need to look at. In this particular case, let's use this as an example, if it's going to be a Conditional Use Permit, that means that there should be some conditions on being able to do it, which would say, "You have to paint it." or "It has to match the aesthetics." Or "It has to have something to make it work." Some conditions that follow the 7 findings of facts. Part 2 of that is, does that condition go with the property or does it go with the owner? So you would say, in this particular case, if they decided to sell the property, well then the shipping containers, in this case, as the Conditional Use Permit, might then have to be removed or reapplied for, someone would have to come in to say, "We're going to buy it, we're going to keep it a secondhand store. We really like it, so we've got to continue that condition." So, I think as we think about them, first of all, Traci is correct, you are able to do that, but then it's, what does that mean? Moreso, what is a Special Use?

Member Kent: I emailed Chris and Gary, I probably should have emailed Traci or Katy, but I was reading the comprehensive plan from 2014, and in there, there's a section about Planning & Zoning where it specifically says that this board does have the power to make decisions under certain things, and currently we send everything to the City Commission. In there, it did say that currently we don't have a board, so the Commission is filling in, but actually we do have a board, so I think we need to understand what that statement means and make sure the right people have the right roles. That was just an interesting thing I found.

City Manager Whitehead: I do apologize, I saw the email, I read it, and I meant to go back to Traci and take a look at it. The comprehensive plan would have been taken at that time, that engineering firm would have looked at all the documents and read that from somewhere, so I would be curious. But the comp plan doesn't set the rules, the rules are the rules. But if the zoning rules said something different than what they say now, we would need to review that.

Member Kent: Anyways, since we're kind of on that topic, that was just another point that I thought I would add.

Member Hammer: And it's published on the website, so it's public. That's what, I'm assuming, we should be steering towards, if we do have an overall plan. When we make these decisions, we should be aiming to go for the larger picture if it's already been established. Because you're right, all of our decisions – Conditional, Variances, Special Use Permits, should be dictated by our 7 findings of facts, but also what the overall municipal plan or urban plan is.

Vice Chairman Buhler: Well and they should be by code also.

Member hammer: Yeah, of course.

Assistant City Manager Alvarez: I think that's why these workshops are really important, because sometimes our plans and our codes don't match, as you see. So, you reference a plan that was done in 2014, but a good reference is on the code that I provided you for the storage containers. If you go to the very back page, and on the very bottom, it references an ordinance. This ordinance was put in place August 10<sup>th</sup> of 2022. So what might have been in the code in 2014 - which this particular section wasn't - it might have been changed by an ordinance, but when the approval, process, and public hearing of changing the ordinance was done, it maybe wasn't cross-referenced in the plan, so what is in the plan isn't law, per se, what is in the ordinance is. That's the disconnect between our plans and our ordinances.

Member Hammer: Does the city have a plan to update the plan? Because it does need to keep evolving with our ordinances so that they do match.

Assistant City Manager Alvarez: We are in process on the comp plan right now, we have a comp plan steering committee. Member Kent can attest to that. She actually sits on the steering committee.

Member Hammer: Like compensation plan?

Assistant City Manager Alvarez: Comprehensive plan, sorry. And that's just an update that's in the process now, and that will be coming once we get a draft ready. That'll be something that'll be presented out, we'll have the process of getting that out to the public, and then you guys and the City Commission. Depending on our timeframe, it may be an all-in-one shot that's taking a little bit longer to go through the update process.

Member Hammer: Is there a specific area in the comprehensive plan for Planning & Zoning? Is that like a section? There was in the old one, I did read that also, but is there a new one?

City Manager Whitehead: A comprehensive plan is a very broad scope or painting of what the community should be looking like. They're intended to be updated every 5 years. Unfortunately, most of the value of a comp plan has been checking a box when you apply for a grant. If you go to some... I don't even know where I would pick one to be fair, but they would say, "Does the city have an active comprehensive plan?" And we would say, "Check." And you move on. So, in fairness to them, they've really not been used probably as they should have been, which is to say, this is a road map of where we want to go in the next 5 years, and then you review it. So, it does have references to the code, where it might say, "The city needs to do more housing. They should look for more development. They should look for ways, and they might want to review their Planning & Zoning documents to make sure it's consistent with development." That's what a comp plan would say. It would then be our obligation to read the comp plan and say, "We'd better go read the Planning & Zoning and make sure it's consistent with our housing plan." And those kinds of things. But the comp plan is not going to go take our Planning & Zoning code, break it down in its entirety, and say, "We recommend that you make these changes." Or "We should". It's going to say, you have to have a good Planning & Zoning code if you want good housing and you want good economic development. All of those are consistent with a good Planning & Zoning code.

Vice Chairman Buhler: I have a question, we use the IRC, the International Residential Code, do we use that here? It's a code that's established for New Mexico.

City Manager Whitehead: I would say yes, but as it relates to building codes, the city's currently not responsible for it, we don't have a building inspector. What would happen is, somebody would come in, like what's happened here, make all the applications, and if everything is within the code, then Traci would sign off. Planning & Zoning would say, "Everything that they're asking to do is acceptable." And then that goes onto the state for their building, and that's how they would then assess and look at their building plans based on the international building code, or the state building code. The state of New Mexico could use any form that they want. It would be hard for us because we're not, and I certainly would defend Traci in saying that she's really not looking, in most cases, she has an engineering firm which we have on staff, that she sends those off to, to have them review and make sure they are compliant. So, she's not even really making the decision whether or not the applicant is compliant, she's having a third-party review that.

Vice Chairman Buhler: That's good.

Member Kent: I'll be honest, I'm not sure I completely understand the difference between a Conditional Use and a Special Use.

City Manager Whitehead: I will be honest too, I think I agree with you.

Assistant City Manager Alvarez: One of the biggest differences between Conditional Use and Special Use is that Conditional Use is subject to an annual review. Conditional Use also does not transfer to new owners, and that is stated within the code, Section E.

Vice Chairman Buhler: Does that mean also that if someone became really non-compliant, you could pull it and make them take it out of there? Say, if it were a container or something like that.

Assistant City Manager Alvarez: That's why they're scheduled for an annual review, then it could –

Vice Chairman Buhler: If it were to become a problem.

Assistant City Manager Alvarez: Yeah.

Vice Chairman Buhler: That's good.

Assistant City Manager Alvarez: And there are provisions for Conditional Use. There are some in the section of the code I submitted to you, section A, so that's where you'd maybe look at wanting to add additional conditions in there, these are very broad conditions, but it does have some conditions for Conditional Use. It's the same, like with the shipping containers, it specifies certain conditions that must be met in order to get that Conditional Use as well. So, there's a little bit of breakdown, it's just very broad.

Chairman Sisney: I'd like to ask a question to either of you. Would we be able to turn a Variance Request into a Conditional Use Permit in here? Or is that already predetermined?

Assistant City Manager Alvarez: Well by our code right now, I think it's predetermined. Especially a Variance, a Variance is much more identifiable than Conditional Use versus Special Use.

Chairman Sisney: Well, let's say for instance, somebody wants to bring in an old mobile home. My question is, we don't get to see the mobile home before we approve it, so could we make it conditional so that if it's a year down the road and it is not bueno, can we make it a conditional in that type of situation?

City Manager Whitehead: Let me try to answer it in the spirit of having a conversation. It would seem that when you look at the Variance, it's founded on 4-5 set principles; it has to be a hardship, it has to meet certain criteria. When I discussed it with Jay, again I will disclose, I went through a Variance to ask about a particular issue, so you've got those findings. Jay's interpretation of the law is that our code is written so that the Planning & Zoning Commission and the City Commission have the ability to make a decision on anything that's in the code that somebody feels is a hardship. I think, as we go forward and we think about Variances, we need to kind of decide that. Does the Commission want to make sure that at any time somebody wants to change something, that it gets a good hearing and you either like it or you don't. It's okay for the board to all vote no if you think it's a bad decision or doesn't fit. Or does the code have to be as restrictive? Let's take that particular issue, do we really want to say, "You can't bring something into the city that is beyond that old building code." I always heard that 1977 was the year manufactured homes kind of began to get some standards, and built with copper wires instead of aluminum, the insulation is now of a good R-value, you know, there's probably a standard where that line got crossed where you would say, "You know what, it's probably as good as a site-built home." So do we want that to be the line in the sand, and it's a hard no, where Traci would say, "There's nothing we can do, it's a hard no." so as we think about those conditions, we have to decide how the code and how the city wants to deal with everything. Is it black and white or is there some flexibility? I hope that my answer makes sense.

Chairman Sisney: Well, it was a good answer.

City Manager Whitehead: Just a thought.

Chairman Sisney: But going back to my question, could we make something like that conditional? That it has to be approved. And if we approve it like 5 years in a row, I think at that point you could probably say, "Yeah, no one's going to complain about this, it turned out well." Because what I'm thinking is, I kind of feel like, processing like a dad, the answer's always no. You ask your dad something, he always tells you no, and then you work on him a little bit, and he says yes, okay. But that gives you opportunities to get conditions in there, because you know, most of the stuff that comes in here, my first thought is that I'd like to vote no, but I know that people want it done, and if it was up to me, I'd say no, but it's not up to me. I'd like to be able to put some conditions on some of these things, that way it's easier for me to say yes.

City Manager Whitehead: I would just say, again, back to the points I was making, first of all, we would have to determine what's permanent and what's moveable, because that's going to tell

you what level that is. I'll use mine as an example, it's done, it's set in stone, and in my particular case, it could still be taken away, because you could still ask and I could add in that area. But if someone brought that manufactured home in, it was beyond the code, and we gave them a variance, we couldn't go back to them next year and say, "You know, we've decided you violated this and now we want you to move it." that creates the hardship. Which opposes the shipping containers, where we would say, "This is the condition and you have to meet it." so I think it's about us thinking through each of the conditions that might create one of those, and decide where it falls, if it is a Conditional Use or a true Variance.

Vice Chairman Buhler: Or you could say temporary or permanent, in a way.

**b. Shipping Container/Conex**

Vice Chairman Buhler: I prepared a sheet for the containers. I didn't get it on the agenda, I apologize for that, because I was not well. I have a copy for everybody, and we could put it in as part of the minutes for the next meeting.

Assistant City Manager Alvarez: I think shipping containers are on the agenda. You can discuss your sheet.

City Manager Whitehead: The idea is to workshop the shipping containers because we've had 2 looks at them over the last 2 meetings, where you guys were able to make that 1 decision, and then this one.

Vice Chairman Buhler: I will probably read it out loud really quick. The 2025 Conex Containers Rental, Commercial. Number 1 – temporary or permanent. So, the permit would be required for all containers, also there could be foundation requirements. Everything that I've read said that you shouldn't set them on the dirt, they should be stabilized. Utility connection must meet code and may require an additional permit. That's if people want to put electric in them for lighting and things like that. Conex container color approved by city or mono in color.

Responsibility of owner to keep graffiti off. So that means if somebody marks up the container, you have to restore it back to how it was before, you can't just leave it all graffitied up. I've read lots of things about that, and it happens. People like to markup containers, they're like trains.

Member Luchini: Containers and garages.

Vice Chairman Buhler: And then also, some communities are restricting them from residential use. You know, I think that's important, because people can get carried away with these boxes and they're ugly, and they don't really belong in residential areas in my opinion. At the very end here, HOA deed restrictions may also restrict them. That's a point that needs to be, you know in a subdivision, most of them have HOA's.

Assistant City Manager Alvarez: Municipalities don't fall under HOA's, we aren't governed by HOA's.

Vice Chairman Buhler: Do we have any here in town in any of the subdivisions?

Assistant City Manager Alvarez: I've heard we have, but I have no record of them. In reaching out to the New Mexico Municipal League, outsourced municipalities don't follow those. We aren't governed by HOA's.

Vice Chairman Buhler: Say you had an HOA, you would have a convenance, and you would have deed restrictions within the convenance of what you can and can't do. So, you know, it's a factor that needs to be given some thought.

Member Kent: Yeah, but the HOA would have to comply with whatever the city allows, and then they could possibly restrict more. But they couldn't restrict less.

Vice Chairman Buhler: Well, if they had it within their bylaws.

Member Kent: No, they'd still have to comply with what the city allows to happen in residential neighborhoods or wherever.

Member Hammer: City code supersedes.

Vice Chairman Buhler: And then lastly, I had the IRC adopted by New Mexico should also possibly be consulted. That's it, those are my notes on that.

Assistant City Manager Alvarez: I know the international building code and those items are referenced within our code. I'm not sure the IRC is.

Vice Chairman Buhler: Yeah, you have to pay for it. It's not a free service, but it is a good service. We don't have a building inspector, which I personally think we need because we're going through a lot of growth, and a lot of things are going on, and you have to go to Las Cruces for anything that you get.

Assistant City Manager Alvarez: So again, just for clarification, I agree with you. It would be nice to have a building inspector, but in 2018, the state changed the law, and if municipalities want to have a building inspector, we need a building inspector that is certified in all portions. They have to be HVAC, plumbing, electrical, a general contractor, which there are not many building inspectors that are certified in all items, and the city's not going to be able to afford – we have new city management, so he may go a different direction, but finding somebody that we can employ to do building inspection, it's just not been within our general fund allowance, we have not had the funding to be able to pay somebody that's that certified, that's here in town. We might be able to look at going out for contractor in the future, maybe finding somebody and contracting that out, but I know that comes up a lot and I keep trying to explain, the reason we don't have one is because in the past, we've not had the funding within the general fund to pay a building inspector that the state allows at the pay rate that they would want. I don't know how to say that better.

Vice Chairman Buhler: How much would that cost?

Assistant City Manager Alvarez: Gosh I wouldn't even be able to guess, Robbie was our last one in 2018, and I'd have to go back and look at the records, and he was only a general contractor, it's the reason he retired. Because as soon as the state made that rule, he said, "I'm out. I am not getting certified in everything." And we did reach out in 2020 and then again in 2021 or

2022 to the county, Elephant Butte, and the Village of Williamsburg, because they're all under the same thing, they only do zoning approval, they don't have a building inspector. The county doesn't even do zoning approval anymore, they just refer it up to the state to see if they would potentially be interested in all of us banding together to maybe hire somebody within there, and nobody wants to. We've got other priorities, we've got water running down the street, is that a priority versus putting money towards hiring a building inspector, you know, it's just a tough one. And we can't hire laborers lately, I don't know if we could hire an inspector.

City Manager Whitehead: In fairness to that conversation, I might approach it a little bit differently, I just haven't had anybody really tell me what a building inspector would do to change the game for us. I think if we're really looking at that, it would need to get to a level where there was significant value, and I just don't see that yet, I don't see 20 houses going up, I don't see subdivisions coming on board, and those kinds of things. We're really processing small stuff here, and the state seems to be keeping up with the contractors. As it relates to a salary, I think you would be primed to say to someone with the caliber of Andy, who has, potentially pretty close to that skillset, what would it be worth for him to say, "I don't want to be a private contractor anymore, I want to go be a public building inspector."

Vice Chairman Buhler: I'm going to talk to him about it.

City Manager Whitehead: You could, it would be interesting, because I would think he would say in 2 veins: they can't pay me enough, and I wouldn't want to deal with that headache, because I have a feeling it's not a simple space to jump into. I don't think having a building inspector is as important as making sure, first, that where we're going now, is that our codes allow us to at least make some more reasonable decent decisions going forward, if that makes any sense. Going up the list, I agree with the group, the city is never going to be the keeper of an HOA or a covenant. We're going to avoid that like the plague, if you will, because we would want that developer to say, "These are the rules to live in my subdivision, and if the owners are going to violate those rules, that's a civil matter, it's between the 2 parties, not between the city." And I know that coming from the county, that was always our biggest concern, is that people would do a subdivision, the county would approve that subdivision, and 20 years later, people are violating the covenant, and then they want the county to take those people to court, and it's really more of a civil issue, so that would be a tough one for us.

Member Luchini: So obviously we don't need it.

City Manager Whitehead: Need what?

Member Luchini: The building inspector. The state doesn't require cities to have a building inspector?

City Manager Whitehead: No, there's no requirement. There's an allowance, but there's no requirement.

Assistant City manager Alvarez: I work really closely with the state, building inspectors, and contractors. If somebody comes in wanting to do a build and they go to the state to get their building permit, the state shoots them back to me and they can't get their building permit

without zoning approval. I either do an email letter, because a lot of people submit electronically now, back in the day it was a lot of signatures on their application forms, I still do those as well. Once somebody comes to me, they get zoning approval, and from there, my request is always that they give me a copy of their building permit. Unfortunately, once they've gone through me and they've got their building permit, they're hitting building and they're not necessarily getting me a copy, but that's no problem because you can go online to the state website and you can pull it up by address, so I can see that they've got their state permit. Those are things I follow up on, and occasionally there are people out there that skirt all of that. They give me a phone call, I can reach out to them, stop their work, so they can submit their stuff, and at the same time, I also reach out and notify CID as well to make sure they're aware somebody is doing a build, because that's a concern as well.

Member Hammer: I spoke with the deputy assessor last week on an unrelated topic, and I asked her about permitting. She said that when they go to assess every year, they go to every property every year and if they see something they will check the state records and then raise the issue with Traci as well. So, there's some kind of feedback loop.

Assistant City Manager Alvarez: I work really close with Mike and Keith from the county, yes.

Vice Chairman Buhler: I will say one other thing. Deming does not allow any Conex boxes in their residential area.

Assistant City Manager Alvarez: And that's why we're having this discussion, you guys can make determinations to make those changes, or recommend those changes. Of course, it will go through the public hearing process, and the City Commission process.

Member Hammer: I'd like to add to my position paper, because I think some good conversations came up today. With respect to curb appeal, I think it's really important not to contaminate residential districts with a shipping container right next to the house, so I feel like one of my positions would be that it needs to be in the backyard. There should be a fence or some kind of aesthetic veneer or outside to have it blend in with the main structure of the house. Lisa, you brought up something today, I understand why you voted no on the shipping container because I do think we need to preserve a historic district and the look and feel of a historic district, and not have it look like a commercial zone. I do think that's important, and we want to keep the quaintness of our town and style, and it can start looking like a shipping yard after a while. I would personally recommend, if we're stating this on record, that maybe we don't approve for the main street historic district area, shipping containers. Unless they were behind a big fence or they had the veneer that looked exactly like the main structure, something like that. I just wanted to add to my position paper there.

Assistant City Manager Alvarez: If I could explain to you a little bit how storage units and shipping containers ended up – you have to remember, we went through COVID, so a lot of people were out of work, a lot of people started doing work from home and started their own businesses. Building materials went sky-high, and all of the sudden, through the Planning & Zoning section, we had a lot of people contacting us about using an building them as houses, using them as dwelling units, putting them as storage, because now they were opening home

businesses, and our code had absolutely nothing. So we did some research on what we found at the time, our chief of police that we had at the time, who was overseeing a lot of code enforcement and working very closely with code enforcement – because it was kind of new, it had just been put back over to the police department – he did a lot of research as well, and the shipping container ordinance was one that's new, it was added in 2022, we had nothing prior to 2022. It was kind of a first-time shot at it, now that we have it in there and things are coming up, maybe it is time to take a look and say, "Okay these circumstances aren't happening as much now, so now we need to revise."

Member Hammer: I have a question about the code. We're still not recommending or approving shipping containers as residential homes, is that correct?

Assistant City Manager Alvarez: Correct, it still says they cannot be used as a dwelling unit.

Member Hammer: Because it says here, "As long as they are not used for dwelling purposes, and with the following exceptions" oh *and* with the following exceptions, I didn't see the *and* before, never mind, sorry. I was looking at B on Section 11-10-4.

Member Kent: I did not submit a position paper, I'm sorry, I did not get one done. But I do, to the most degree, agree with everything people are saying. I'd like to say, in terms of the residential, I personally, I don't love the idea of them being there. However, I think, depending on the size of the lot, probably 1? I guess it depends on the size of the lot, a smaller lot, maybe 1 20-foot one. If you've got a larger lot, maybe it's 1 40-foot, I don't even know what that looks like. But I think it's important that it be behind privacy fences, so that your neighbors aren't like, "Oh great there's a shipping container when I sit out on my patio and try to have dinner." Because they're not the prettiest things, I don't care, you can paint them all you want, but they're very industrial-looking, it's not necessarily the look and feel that people want when they're living in a nice residential area with pretty homes. That's my opinion on that. I'm going to stand strong on, I don't really think the historic downtown is a place for shipping containers. I don't even know, and again, I don't know that many residential areas are, but if they were hidden behind privacy fences and limited on the number and length based on lot, maybe. Because I understand that people do want them as an office. You could go buy a Tuff Shed at Home Depot and use it as an office, and nobody would say anything. Or you go get a shipping container to use as your home office, and all of a sudden you've got to go through a lot of red tape. I understand there are perfectly good uses for them, so yeah.

City Manager Whitehead: The value of shipping containers, and you have to consider where we're at too, is affordability. Keeping it in context, I think that everything should be done, even when we talk about the animal side of the kennel, is done by additional dwelling units and square footage. What does the code say? So, if I can use 20% of my available space based on the size, that would dictate what I could put. Then you would say, those that have to be in the backyard, they have to be behind a fence, and they have to be there. So then, is a shipping container okay? I would say, when it comes down to affordability, yeah, because it helps somebody to meet the requirement, it keeps stuff out of the weather, so that feels good to me from a storage room standpoint. I could either build a storeroom, I could buy a Tuff Shed, or I could buy a Conex box. Either one of those are the right size, they're fit to my property, and

they're in that. But then you bring up the next question, which is, what do we do for an additional living space? Where someone is going to make it a casita. Do we want to go down that path? Those are the questions. Third, when I think about these downtown, I think that there is some value to that. I think, certainly here today, using it as a retail space, that got my attention because I certainly wouldn't want anyone to come in and say, "Hey I got 2 40-footers, I'm going to put them downtown." Because I think they would need ADA access, they would need heating and cooling, there would be some requirements, and I don't know if the fire chief would say yes, because the building has to be inspected before it can have occupancy. It wasn't a condition, it wasn't relevant in this conversation, but I think as we go forward, we have to make sure that we don't let these become more than we want, but I would be remiss to not remind us that we have an affordability factor here across our community that we must keep in front of us. That's just an opinion here, it's not a demand, it's just me advocating for someone that says, "I can buy a shipping container for \$1,200 from a guy in Deming." Because they won't let him have it, so do we want to allow that under good conditions?

Member Kent: They were never designed to be lived in. There's a lot you'd have to do, you'd have to do all kinds of insulation, they have no windows, they're not wide enough, I mean, they're not really meant to be lived in. Putting a small office, a workshop, storage, things like that are more reasonable. As far as downtown, there are cities that have shipping container areas, they've taken an old block and they've rebuilt them and it's these funky shipping container things that they stack and build off of, but that would be a whole separate project. That's not a one-off, like, "There's an empty lot next to Suzy and I got my hands on it, and I'm going to go plop a shipping container on there and I'm going to open the front of it and sell something." No. But maybe if someone had some land off somewhere, and they said, "I want to do this project." That would be a Special Use Permit, then maybe you talk about that. But you can't just go start plopping them down in empty vacant lots and putting lighting in them and saying, "Okay, look at me I've got a storefront." And/or I don't even think you should use them as a storage.

City manager Whitehead: And just to add to that, either we are or we're not all aware of the brewery in Albuquerque that is shipping containers on San Mateo.

Member Kent: There are a couple of those food courts, the Green Toucan and Green Genes or something, I can't remember.

City Manager Whitehead: At the end of the day, if you go look at them, they are built to a high-standard with proper construction code. So, they're really just an aesthetic. But they didn't just take it and put it down there and, like you say, put an extension cord with some lights, and a couple tables and say, "Now we're a brewery." I would ask you to open your minds to think that if it's done correctly, they may be relevant, but we can't allow them to become a shortcut to get a home. It goes against manufactured housing, and all those standards. They can't be a shortcut.

Vice Chairman Buhler: Well, you would have to have a permit from the state or something like that.

City Manager Whitehead: Exactly, yeah.

Member Kent: And even if it was going to be a project downtown, like a brewery, we have one so we don't need that, but anyways, that would be a whole project. They're going to come in and say, "We need a Variance, we want to do this project." So, I don't think we should have anything written in our code that says, "Go ahead and stack up a bunch of shipping containers and put in a business." But not to say there couldn't be an exception to that rule someday if somebody approached with the concept of a development project.

City Manager Whitehead: Right. Would we write into the code something that's open to say that we're willing to look at alternative building structures, provided they meet all the standards.

Member Kent: In the commercial district, not residential.

City Manager Whitehead: Okay.

Assistant City Manager Alvarez: One of the things I'm going to send out to you guys is article 10 in our municipal code, it's just for accessory building, so it's separate from the shipping containers. This is probably where one section of our code doesn't talk well with the other. In this particular section, the very first part, 11-10-1 defines an accessory building as, "A subordinate building, the use of which is incidental to and located on the same lot with the principle building. An accessory building shall not exceed one-fourth (¼) of the use or area of the main business or building." Then it goes on to talk about a temporary accessory building size, and a permanent accessory building. This is a section of the code that I refer to when someone comes in to put a storage unit, building one, or bringing in one of those pre-fab ones. We look at this section of the code for the requirements they have to follow, whether it's a temporary or permanent structure. So maybe this is something that needs to also kind of incorporate within the shipping container area.

Member Hammer: Very good point.

City Manager Whitehead: You would want to say, if Alan was here I would say the same, in this particular case, how much square footage do you have inside your building and the lot? This is how much square footage you could have with an outside accessory building. That's the first thing that this says, that's the square footage you have available to you. Then it becomes, what are the conditions we want to add to that particular thing, which would lean into the chairs idea, which is to say, "These could be allowed, they're done, but they can come with a set of conditions" either you say that they can't be downtown or not, and that opens up another box, do we potentially make a historic district? I think it's referred to in the code, but I don't see anywhere where it was a set thing. Take Riverside, it was done R-R and it opens the door, it clearly defines that in this area, we're going to give different restrictions to, we want bigger lots, we want you to have animals, etc., because of the conditions that existed when that development was done, but I think the historical downtown doesn't really have that. Which, I was kind of surprised when I finally got in to look, to see that nobody ever thought about saying, "All of this area is the hot water district and it should have some additional

requirements to it." I don't know what they would be, but I'm just saying, I think it's odd that we don't have that.

Member Kent: I would agree with you.

Chairman Sisney: Again, I'm having remorse about 1 of our approvals. They want to be able to let people go into that Conex, which we just approved. I think we should have put something on there saying they can't, because I'm sure that you're not allowed to have a retail space without electricity and fire extinguishers, and all that stuff.

Vice Chairman Buhler: And handicapped accessible, when permitting, I mean some of our older buildings in town are not handicap accessible.

Chairman Sisney: Well, they're grandfathered in. You don't have to do that until you build.

Assistant City Manager Alvarez: So again, that falls out of the realm of zoning approval. The city does not review for ADA accessibility, structural integrity, electrical, plumbing, we don't do any of that in zoning, that is all at the state level.

Vice Chairman Buhler: If they go to the state. And we have cases here in town where people are just –

Assistant City Manager Alvarez: And there again, Vice Chairman Buhler, I told you, if you know of places, please notify me, because I do have people that reach out to me and they say, "Hey, my neighbor is doing something, I don't think they've got a permit. They don't have anything." And I am on top of it, I will review my zoning stuff, and if they've done the zoning approval, I will ensure that I go through and make sure that they have the permit. If they don't have a permit, and they're not listed, I reach out to the state.

Vice Chairman Buhler: What about the house on Riverside that's next door to... I don't want to mention the name...

Assistant City Manager Alvarez: There again, you can reach out to me –

Vice Chairman Buhler: I turned it into you.

Assistant City Manager Alvarez: Off the top of my head –

Vice Chairman Buhler: It's right there at Magnolia.

Assistant City Manager Alvarez: You can ask the city manger, we have so many people coming in for Planning & Zoning, I can't even begin to keep track off the top of my head. If you wanted to reach out to me directly and give me an address, I'd be happy to go through my stuff, for sure.

Vice Chairman Buhler: Well, it's right there at Magnolia and Riverside.

Assistant City Manager Alvarez: Okay.

Vice Chairman Buhler: It appears to be like a Tuff Shed. They have an air conditioner in the window.

City Manager Whitehead: We'll take a look.

Assistant City Manager Alvarez: I think that's one you talked to me about before and I followed up on.

Vice Chairman Buhler: Yep.

Chairman Sisney: What's our next topic? Let's move onto ADA/Tiny Homes.

Member Hammer: So, I got a little overzealous with my position paper.

Chairman Sisney: That wasn't on the list.

Member Hammer: I know, so Katy and Traci came back to me and said, "We're not going to be discussing those, only the workshop items that are on our agenda."

Chairman Sisney: So then should we make recommendations for our next workshop, the items that will be on the next workshop.

Member Hammer: If we have time.

Chairman Sisney: Wait, we've got to do.

Member Hammer: Kennel Permit

**c. Kennel Permit**

Member Hammer: My major concern with the dog kennel ordinance right now, and I put this on here on my position paper, we've got to have better setbacks for dog kennels. In a residential area, or commercial, you've just got to have some space between you and the next property, period. Whether it's 200 feet, 400 feet, I did some research on what other municipalities are doing, and this was kind of the average of what I saw, "Must be at least 200 feet from a lot line of any property zoned or used for residential purposes. If sound-proofed, setback may be reduced to 100 feet. Also, a minimum of 40 feet from rear property line." This is just an example.

Chairman Sisney: Well, that would pretty much take care of everything in town, which is fine with me, I don't think they belong in town.

Member Hammer: Yeah, I agree.

Chairman Sisney: In any form or fashion. If I had to live next to more than 1 dog, it would drive me insane. That's my position.

Member Hammer: So that brings up another point, and I don't have that on my position paper, but should we somehow limit a number of them per mile radius, or half mile radius? I don't know if we can do that legally. Because I think people are trying to find a way to make money, and that might be appealing to them. "Hey, my neighbor's doing a kennel, I'm going to run a kennel too." So then everybody has a kennel in a certain neighborhood, and I just don't think that's right. But we don't have an ordinance or code to prevent that from happening. Anyway, just something to think about.

Assistant City Manager Alvarez: Most of the kennel permits, I think with the exception of 1, that we've seen come through Planning & Zoning aren't money-makers, they're people that have too many pets outside of what's allowed by the code, so they're required to get a kennel permit through our code, because they have more.

Member Hammer: Regardless of the money issue, I think there still needs to be some restrictions.

Chairman Sisney: That's a fair point actually. So, what are the chances that we could write our code to say that we don't allow kennels in residential areas? Or at least not in R-1 where people are living next to each other.

Member Kent: Even in R-3 where they're living even closer to each other.

Chairman Sisney: I just don't think it's appropriate to have.

Member Kent: I mean I have dogs on every corner by me, and I feel like I live in a kennel section.

Chairman Sisney: I couldn't imagine, I mean, I'm so blessed, I hope things don't change where I live, because I'm telling you.

Vice Chairman Buhler: What if it's cats? We have one lady.

Chairman Sisney: You don't hear a cat.

Vice Chairman Buhler: Well, that's what I'm saying, people have them in their homes for the most part. We've had people come here and the one lady was very good. She had a.

Assistant City Manager Alvarez: Habitat.

Vice Chairman Buhler: Yes! People came and spoke for her, how good she was with her animals. Then you have the other thing, where people won't tell you. If it becomes too restrictive, people will not tell you and they'll do it anyway.

Chairman Sisney: Well then we can get them.

Member Hammer: How about poultry, how about chickens and roosters? We've got a similar situation. I know we're going a little off-topic here, but I can hear a rooster at 5am from like 3 blocks away from where I live.

Assistant City Manager Alvarez: The crazy thing on our municipal code, that's one of the first things I dealt with as Code Enforcement, when I first started taking this on, and I thought, nobody moves to the downtown of T or C to hear a rooster. Why would you live in downtown? You would not want to hear a rooster. So, we sent out a code violation letter to a property owner, and we found out that we were in violation, in the sense that our code does not say they can't have it. It doesn't say they *can*.

Chairman Sisney: Can we fix our code?

Member Hammer: I know we have it for ducks.

Assistant City Manager Alvarez: We have sections that say you can have the animals, there are T-1 areas, there's R-4, Riverside Residential identifies horses in that area, there are certain areas that identify, but there's nothing in R-1 or downtown area that says you *can't*.

Member Hammer: Or R-3, I mean, anywhere.

Assistant City manager Alvarez: So, because it doesn't say, "These animals are not allowed." We have no teeth when they have them down there.

Member Hammer: Don't we have one with wild animals? I feel like I read something somewhere, like ducks, that weren't chickens.

Chairman Sisney: Well, a duck is not an wild animal.

Assistant City Manager Alvarez: I don't recall that.

Member Hammer: No, okay maybe I read that somewhere else when I was doing this.

Chairman Sisney: A lady used to have geese on my street.

Member Kent: Well, I think allowing chickens, ducks, geese even, if you really want them, is fine, it's the rooster. A lot of places don't allow it. I mean, I lived in Salida for many years, people had chickens all over town, you cannot have a rooster.

Assistant City Manager Alvarez: 100%. Like I said, our code doesn't say you can't.

Member Hammer: Can we make that recommendation?

Assistant City Manager Alvarez: The code doesn't say that you can't have a goat or a pig in your backyard in the downtown district.

Member Kent: Well, I lived in downtown Denver and someone had a pig. Pigs don't get up at 4am.

Vice Chairman Buhler: They can smell.

Member Luchini: How about the doves? Should we go shoot the dove that comes around too?

Member Kent: The owls.

Chairman Sisney: There's no ownership of a dove.

Member Hammer: We're talking about a kennel and raising your domestic animals.

Chairman Sisney: There's no reason for that.

City Manager Whitehead: Let me just bring some things around to keep it timely, I think some of this stuff is good, but we do live in an agricultural environment. I think it becomes difficult to be restrictive because it won't take on the credibility that you're really looking for to say, "We're not going to allow that." because of the nature of who we are, what our heritage is. So be thoughtful in that, is all I would encourage. I'm already getting pushback on the animal control ordinance as it relates to livestock and those kinds of things. I think we have to strike

the right balance and the right tone in what we change, as it relates to the heritage of who we are.

Member Hammer: There's a noise nuisance with that.

City manager Whitehead: There is. Let me also say, as it relates to your setbacks, most lots here aren't 200 feet long. They're only 140 feet.

Member Hammer: Then they don't qualify.

Chairman Sisney: That's why I was saying, they wouldn't be able to put one.

Member Hammer: I'm just making an example here, it could be 100 feet and then 50 feet.

City Manager Whitehead: Part 2 of that point I was going to make is exactly Traci's point, which is, in most cases, we're dealing with someone that has 6 dogs, they just can't say no. They just keep going and adopting and now we have a problem because they're barking, and we go in and they say, "Well these are my dogs now, I need these for whatever." And we say, "Well then you have to apply for a kennel permit." So those are the things, and that's where we can't say, "No, you can't do it." but we have to have decent rules that would say that you have to meet certain criteria. If we get it like I'm thinking, where we'd say, "Based on your square footage and your accessory building, you have to have 400 square feet." something like that, "So you can really only have 5 animals." But I think that's really what we're after. What happens is we get stuck, animal control goes up and there's nothing they can do to someone that has 10 dogs, 12 cats. So, these are the provisions, and it's really how we're trying to interact with them.

Vice Chairman Buhler: Well, if they disturb the peace, there is something, if people don't bring their animals in at night, and they're left out, and they bark incessantly, there are remedies for that.

Member Hammer: That is in the code.

City Manager Whitehead: It's in the code and in the new code, the direction would be to try to come up with a way the officers could determine that. Because the current issue we have come across is that someone violates the noise ordinance, well did they really? Well, I don't know, when we got there it was quiet. When we left, it was loud. So, we're in this silly loop for us, where I'm getting calls saying, "So and so is loud all night." So, they're trying to define if a dog constantly barks, so if you're there for 15 minutes and the dog never stops barking then the officer can say, "I timed it, the dog was here, now we're going to cite you for doing that."

Vice Chairman Buhler: Or if they were to get statements from the neighbors, that should also count.

City Manager Whitehead: And we end up in the enforcement side, which is a challenge, which is our next challenge.

Chairman Sisney: Well, let's fix the code on this, so that the complaint he has the cards, instead of the person being complained against. If you have a rooster, and it keeps people up, you

shouldn't have that rooster. You've got dogs that bark all hours of the day and night, that's a problem to me, personally. That's my pet peeve.

Vice Chairman Buhler: Couldn't you fine them?

Assistant City Manager Alvarez: That's the enforcement side.

City Manager Whitehead: I think yes, but it's all on the enforcement. Everyone is innocent until proven guilty, so you go through the process and you cite them. A) The current code's not restrictive enough, it doesn't give clear definitions, so we tighten that up, and then if we get it tightened up, the question becomes, how fast can we get you in front of the magistrate judge, or do we need to begin to change the way we enforce codes to come up with a process for enforcement?

Member Hammer: How about a wall of shame on the website?

Assistant City Manager Alvarez: I can tell you from talking with our code enforcement officer, he has some cases that have been sitting for 6 months to a year, waiting for a court date. He has done the citations, he's done everything he's supposed to do, it's just sitting in the courts right now, waiting for that date. So it's easy to say, not so easy to go through. Is that our lead in for our direction for Planning & Zoning? I think that's a good lead in to finish off.

City Manager Whitehead: Yes. Let me say, you had good representation at our hearing for the animal control workshop, Esther was there, she presented the Planning & Zoning position, that we need to do something, and we will continue to work to merge between the Planning & Zoning and code, and Animal Control, to make sure that as it relates to the kennel, we'll do the best to make sure those 2 things are tied, and create spacing and the right kinds of things. I don't know if we'll get to the 200 feet, but you are heard, and your comments are part of the record.

Vice Chairman Buhler: And you'll let us know?

City Manager Whitehead: We'll let you know once the animal code comes, and we'll tie the 2 together as we prepare. That brings us to, I've made a decision in the office, and we are going to bring Tyler Knull, Code Enforcement, we'd hoped to bring him today but he is at a state Planning & Zoning conference, so we will begin to start training him to take over for Traci. In the manner of not stepping away, it will take a couple of years to create a smooth transition, so what we will do is have Tyler come in and do what he did with the animal control ordinance, let him take the entire code, he has a little more time, and start breaking it down, redlining, and adding things. Over our plan here, to try to come up with something in January or February to present to the Commission, we're going to use Tyler to do that, which will help him get up to speed with the current code, and it will help us add all the comments that you've made to create a potential draft document that we could then present to the Commission, and follow the steps, as we've done with the animal control ordinance. We put it out, we have some public hearings, we get feedback, but that's our process going forward.

Member Luchini: As to the number of kennels that the city will permit, is that something the city could control?

City Manager Whitehead: I'm always nervous when we start talking about the ability to take private property rights, I don't know where that leads or where that would take us. A lot of folks have talked to me about limiting the number of Airbnb's. Like, we just need to set a number. I believe that the number would be set by competition, that's just what I believe. There are only going to be so many people that will use them, if you have a good Airbnb, if it's worthy of staying, you're going to get all the business. I think it will be the same with this, if it's really about money. If people are opening a kennel for 10 dogs, that's all they can do, and they want to sell them, what scares me is I think the condition is more what Traci described, which is, we have a violation where somebody just ends up with 8 dogs, and we're just using it as a tool to try to get them to calm their dogs down, not have 8 dogs, and get to a number. So, I don't know if limiting it would get us to a result. I think we would still have people that say, "Take me to court. I want my 12 dogs tied to trees." I don't know.

Vice Chairman Buhler: Have we ever had a case with an animal hoarder?

Assistant City Manager Alvarez: For a kennel permit?

City manager Whitehead: Well just any in general, have we ever had an animal hoarder?

Assistant City Manager Alvarez: That would be a really good question for Tyler, because I don't deal on the code enforcement side, I can say yes, but I can't give you the details behind it. I know that they've dealt with both in the city limits and the county with hoarding situations. And I know most of you weren't on the board back in 2020, whenever we did the animal ordinance, I don't have it in front of me, but if you guys recall, one of the first kennel permits the city had to do was a lady that had the dogs before our ordinance was in place. So once our ordinance came into place, she was technically out of compliance with our code. She came to the city, wanted to make sure she was in compliance, she had, I don't remember how many dogs, I think 8, they were her own personal dogs, she had the parents who had puppies, they ended up getting the parents fixed, but then they fell in love with the puppies and didn't want to get rid of them, no plans to get any more and move on. But the decision that came before you guys, and then ultimately to the City Commission, was that if you deny that person the kennel permit, this person who had their dogs for upwards of – I think the younger one was 3 or 4 years old, and on up to 11 or 12 – you guys make a decision not to approve that permit, then in essence, you're telling somebody to get rid of – and this is where the Commission struggled – to get rid of a pet that they've maybe had and taken care of for 4-5 years.

Member Kent: Yeah, but that's kind of the grandfathered in scenario, right? She came and did the right thing, the rules didn't exist when she got them.

Assistant City Manager Alvarez: I'm just preparing you for any changes you make in the code.

Member Kent: I know, but I think with a lot of this, you have to remember that there are people that are all the sudden going to be out of compliance. Maybe you say, "Okay as long as you're not causing a nuisance in your neighborhood, and people aren't mad at you, whatever, that's fine, you get to keep it. Nobody loses their Airbnb, nobody has to get rid of their pet.", you know what I mean?

Assistant City Manager Alvarez: Right.

Member Kent: But, things are going to keep moving forward, and someone new, they know that they should not go get 12 dogs when they live on this little lot, you know. It's kind of a from this point forward sort of thing, not all these other people get punished.

City Manager Whitehead: I think any rule, any ordinance changes, always requires the language that would allow for a grandfather. The public body is not allowed to take a right, you wouldn't want to be in a situation where we change that, we would end up in court. So, your thinking is correct, whatever we do really is a move forward kind of situation.

Member Luchini: How about a time limit on the kennel that is allowed?

City Manager Whitehead: I think the Commission wants to look at them from a position of, once they come through Planning & Zoning and they get, whatever we're going to call it, a Special Use Permit or Conditional Use Permit, that it's got more time than just annual. I think you're right. Your comment asking if we could restrict them, we should take that and look into it. But I believe we're going to be more likely to get a code passed that just has good restrictions and tight restrictions, versus "No you can't have it." but I think we should explore it. Are the conditions tough enough that if you violate it we would have the ability to take that back? I think you're thinking correctly, if that's a fair answer.

Member Luchini: Thank you, yes.

City Manager Whitehead: And again, those feel like to me, on the animal side, is that they would be some type of a Conditional Use, these are the conditions by which we can approve that, and once you're no longer on that property doing it, that condition goes away, we're not granting you a right, something to sell, something that has value, it's specific. I think that's the way we should go about it. And I think we've got to go look at all those things in the code and find out what should be listed in that, where would it be. The last thing I'll say is, I'm confused with what would really be Special Use versus Conditional Use.

Member Kent: We need to be a little more black and white on that one.

City Manager Whitehead: It might even be, and I'm not picking on him, but it looks like we have a revival coming back, which is fine, the tent. That might be a Special Use. That might be something where they have to come in and we have to say, "Did you do everything? But also this is a one-time, you're here for a short period of time, so we grant you that Special Use, which means everybody looked at it and you know all the rules to do it. But after it's gone, it's over and you'd have to start over."

Vice Chairman Buhler: Temporary.

City Manager Whitehead: It's so temporary, and that creates what a Special Use Permit is. "Hey, we'd like to close the street and have our own private festival." Special Use, and you'd go through a process to say we understand.

Vice Chairman Buhler: What do we have left to discuss? Could we push that over to possibly the next meeting so we can –

Chairman Sisney: Well, I was going to recommend that if everybody's done, if everybody's happy, we close the workshop, and I'd like Molly and Suzy to come up with 3 more topics for our next meeting, since you guys turned in your homework, come up with 3 topics that we'll discuss next time.

Member Hammer: So, one of the topics I'd like to discuss was an agenda item I asked to be put on this meeting, but we decided not to because Officer Knull wasn't going to be able to be present. I asked Chairman Sisney, Traci, and Katy if we can talk about how we are enforcing code violations. And are we giving the property owner or resident permission to stay or continue to violate that ordinance? And for how long until they come before the board and do a Special Use Permit. I want to have a better understanding of what the police department's process and protocol is for that because I feel like there's a lot of, "I'm going to beg for forgiveness instead of permission." And we're just letting people do things even though neighbors are raising an issue, that they don't like and they know they're violating code. The position of, maybe the ordinance officer, is to just let them do what they're doing until they can get their paperwork together. I want to have a better understanding about that and how we might be able to be a little more strict about it. I know that our hands are tied sometimes, whether it's civil or criminal, or the ordinance isn't clear, but I would like a better understanding of that in the next meeting.

Assistant City Manager Alvarez: We can do a code enforcement update at the meeting.

City Manager Whitehead: I would say, that would be a great workshop altogether, just to meet Tyler, kind of open the dialogue with him, and then I think that's a great place to start with, "What are you doing?" That's why I got excited when I thought about it, he's out there doing it. If we put him in the driver's seat to help us, and he wants to be in the space, he was going to leave and go to college to get a degree or certification in this space, so we kind of convinced him to stay, that we would help him and try to work with him, so I think it would be time well-spent just to have that dialogue with enforcement, the code, all that stuff.

Member Hammer: Does Officer Knull report to Chief Tavizon?

City manager Whitehead: He does.

Member Hammer: Would it be possible to ask him to also come if he has time?

Member Kent: Maybe that's good enough for topics for next time, because it might be kind of a bigger one.

Member Hammer: With enforcement, okay yeah.

City Manager Whitehead: Yep, just spend the time with the Chief.

Assistant City manager Alvarez: Just keep in mind, your next meeting is in November, and the only hurdles, I mean, I don't know what anybody's time off or Thanksgiving plans are, we have a use it or lose it on our accrued time by the end of December.

Chairman Sisney: That's the 3<sup>rd</sup> weekend, Thanksgiving is the 3<sup>rd</sup> weekend.

Member Hammer: I don't get paid time off.

Assistant City Manager Alvarez: I don't know where Tyler's at, but he does know. He was bummed he couldn't be here, he wanted to be here, I'm pretty sure he's not planning to be off.

Assistant City Manager Alvarez: I might be off.

Member Luchini: The 10<sup>th</sup>?

Member Kent: Yeah, it would be the 10<sup>th</sup> of November.

Vice Chairman Buhler: Well, I guess I could bring this up at the next meeting.

Deputy Clerk Martinez: Yes, we are looking at the 10<sup>th</sup>.

Member Kent: Anyways, well if someone's on vacation then they won't be here.

Member Hammer: I have another question with regards to making suggestions for ordinance updates. Can we individually just email you instead of having to bring it into a workshop and just go, "I saw this ordinance, I have an idea. Can you just put this in front of the city attorney, and if the manager wants to look at this part of the code." can we just email you directly? This is the questions.

Assistant City Manager Alvarez: I'm going to refer that to the city manager.

City Manager Whitehead: Wow she's tough today, yes. I think you could send it, I would prefer that you include the Chairman. I think, again, this idea about these changes need to kind of just go through this process where we talk about them. We'll begin to add them, and then once we put them into the rules, then we'll get them to the attorney. I'm not looking to send a one-off to the attorney to ask him to review it. I'm thinking, again, you guys bring it, we find a way, we get to that line in the sand, where we need to go forward and put them, and then we just go.

Member Hammer: And it'll come back to the board too. So there is a feedback loop.

City Manager Whitehead: It's going to be a long process to get it, once we have the 2, 3, 4, 6 items we want to change, it'll be a long public process.

Chairman Sisney: So, we're just going to talk about code violations next month in our meeting? That's the only topic.

Member Kent: And enforcement protocol.

## **6. REPORTS FROM THE BOARD:**

There were no reports from the board.

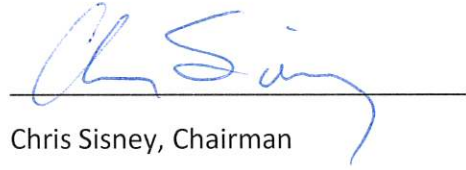
## **7. REPORTS FROM STAFF:**

There were no reports from staff.

**8. ADJOURNMENT:**

**Chairman Sisney adjourned the meeting at 5:45 p.m.**

**PASSED AND APPROVED ON THIS 10<sup>th</sup> DAY OF NOVEMBER, 2025.**



Chris Sisney, Chairman

Planning & Zoning Board