

**CITY OF TRUTH OR CONSEQUENCES
PLANNING & ZONING COMMISSION
AGENDA
TUESDAY, FEBRUARY 18, 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, February 18, 2025, at 4:00 p.m.

INTRODUCTION:

ROLL CALL:

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

1. APPROVAL OF AGENDA

2. APPROVAL OF MINUTES:

a) December 9, 2024

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

4. PUBLIC HEARINGS (5 Minute Rule Applies):

- a. Discussion/Action: Special Use/Variance Request at 320 Marr Street. The applicant is requesting to build 2 tiny homes at this location. A Special Use/Variance Request may be needed pertaining to Development Standards as the current code does not identify tiny homes. Traci Alvarez, Assistant City Manager

5. REPORTS FROM THE BOARD

6. REPORTS FROM STAFF

7. ADJOURNMENT

**CITY OF TRUTH OR CONSEQUENCES
PLANNING & ZONING COMMISSION
MINUTES
MONDAY, DECEMBER 9, 2024**

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, December 9, 2024 at 4:00 p.m.

INTRODUCTION:

ROLL CALL:

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

ALSO PRESENT:

Traci Alvarez, Assistant City Manager
Jay Rubin, City Attorney
Katy Martinez, Deputy City Clerk
Jessica Jenkins, City Clerk Admin Assistant

1. APPROVAL OF AGENDA:

Vice Chairman Buhler made a motion to approve the agenda. Member Luchini seconded the motion. Motion carried unanimously.

2. APPROVAL OF MINUTES:

a) October 7, 2024.

Member Kent made a motion to approve the minutes. Vice Chairman Buhler seconded the motion. Motion carried unanimously.

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

There were no comments from the public.

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

4. PUBLIC HEARINGS (5 Minute Rule Applies)

- a) Public Hearing/Discussion/Action: Variance request at 1095 E Riverside. Applicant is requesting a variance from Sec. 11-14-2.

City Attorney Rubin: Mr. Chairman and board member the reason I'm here today is Mrs. Alvarez thought it might be helpful to the board if I should up. I know you have to go through procedures. I'm here to assist you. I don't know if you want my input at this point on how we can proceed or do you have a plan how you usually do things, however you want discuss.

Chairman Sisney: I have no plan. I was going to go down the list. Do you have anything that we need to do?

City Attorney Rubin: What we are doing is called a battle shell procedure. We are having a public hearing, the reason why you a sworn in the law requires that you have sworn in testimony while the planning and zoning board considers the application, considers your comments for or against what the proposed application states. I believe what we have done in the past you have staff testify first. Mrs. Alvarez will go first and she will give you an over view of what is going on. Is that what you have written down? People can ask her questions after she testifies including the commission can ask her questions. Then you usually have the proponents. Who I believe is here. After the proponent we go to the opponents. That is my advice on how we should proceed.

Assistant City Manager Alvarez: Chairman members of the board what you have in your agenda packet is our applicant is requesting a variance from our municipal code the applicant has what we call a non-conforming lot which is a lot that does not meet normal standards. Per our municipal code you can build on a non-conforming lot as long as you can meet the required setbacks. Due to his lot size, he is unable to meet some of the required that our code justifies for the RR1. You will see that in the large plans that I had submitted to you in person it's a little different then what you had received in your packet. From the front it is required 25-foot set back and he is looking at 6-foot on one portion of the structure he is planning on building and 16-feet from the other side of the structure for a setback form the front. On one side of his property where the structure would be built, he is looking at a 2-foot set back instead of a 5-foot at the utility easement in the rear of the property is a 15-foot requirement set back which he shows and on the other side of the property a 5-foot set back which he shows. The applicant is requesting a variance from that section of the code so he can build a structure. I do believe that when he gets up and speaks you will find that this isn't a full-time structure this is a something that they use on the weekends. The applicant has come into town in the past with

his RV on his property. Our code is a little unclear on that section. You can't live in an RV on a property unless you are in an RV park technically, they don't come and live they come visit on the weekend because they enjoy coming into town a visiting our town and doing stuff. They would park there for the weekend and then they would leave and their RV would leave with them it was not parked their full time. Because of our RV code and it being a fine line they are opting to build a small house so then they have a house on their property so they can come and vacation in T or C. With that I stand for any questions.

Chairman Sisney: This drawing here these lines aren't lining up.

Assistant City Manager Alvarez: Chairman member of the board think I have tried to explain this a few different times. That is an over lay that the Sierra County Assessors does. Sometimes their lines don't look nice and perfect like the survey that is just a snapshot picture kind of an idea of where the property lines are. I can't change where the lines lie one the assessor's parcel map.

Chairman Sisney: It looks like there is a hurricane fence right here a chain link fence and it looks like the red line is to the left of it. If you are looking at the drawing if I held it like this. It looks like there is also another chain link fence here and it looks like the red line is a little to the left of that. If everything lined up with the fences where is the 10-foot utility easement.

Assistant City Manager Alvarez: The 10-foot utility easement doesn't show on the map that you are looking at. The easiest to look at is the large mapping. We are still trying to find the official mapping from the county they were still looking for it prior to this meeting. His property line and then there is the 10-foot utility easement right next to it. The line on his property line is where the fence is located. In essence his structure would be built 2-feet from that fence. The utility easement is actually on the other property next to it. It's not on his property.

Chairman Sisney: The neighbor has the easement inside of their fence?

Assistant City Manager Alvarez: Correct.

Vice Chairman Buhler: Has Paul Tooley been contacted the fire chief?

Assistant City Manager Alvarez: No because the municipal code states 10-feet before between structures. Paul is contacted once the approval is done; he reviews as well. They will meet the 10-feet between structures that is not a concern for where the building is and the 10-feet Paul is very forgiving on that if they are metal roofs to metal roof. That usually stands for wooden

structure things that catch fire very easily. He doesn't usually review this portion on fire code until it gets to building section. Right now, we are not at the building.

Member Luchini: So, you are wanting to build something to stay in? And the RV won't be coming.

City Attorney Rubin: Before that ordinarily I would say we should finish up with Mrs. Alvarez's questions that you have but if everyone ok with kind give us a little bit more fluidly if you need since you are trying to get some information. I'm ok with Mr. Saiz giving his testimony. I'm just commenting that we are doing it a little bit differently than really just sticking to a formal approach.

Member Luchini: So, you are building a structure to use?

Ambrosio Saiz Applicant,: Yes, it's going to be a residence. It's going to meet all building codes it's going to be a beautiful home.

Member Kent: With the size of the lot and the size of the proposed come would there be parking, off street parking?

Ambrosio Saiz,: Applicant Yes, there is 16-feet from the front of the house which is a covered patio which is going to be covered patio parking area.

Member Kent: You will have no cars parked on the street? During the time of the build there might be cars parked on the street.

Vice Chairman Buhler: What type of a home would you build?

Ambrosio Saiz, Applicant: It's going to be a single-family dwelling. It's going to be my retirement home.

Vice Chairman Buhler: One story, how many square feet?

Ambrosio Saiz,: Applicant Its 899 square feet.

Member Kent: One story?

Ambrosio Saiz, Applicant: One story yes. I'm old to be climbing stairs.

Chairman Sisney: One car under the awning:

Ambrosio Saiz, Applicant: One car under the awning plus a motorcycle.

Assistant City Manager Alvarez: The municipal code does all for parking on the street in residential areas as well.

Member Kent: I though it also required some off-street parking. Or maybe I'm wrong about that.

Assistant City Manager: I believe you are correct. But he does have off street parking.

Member Kent: That was my initial question.

Ambrosio Saiz, Applicant: Can I take a step back and introduce myself?

Vice Chairman Buhler: Yes, I think that would be a good idea.

Ambrosio Saiz, Applicant: My name is Ambrosio Saiz I'm from Albuquerque. I'm a native New Mexican. I was born and raised in Albuquerque. For the life of me I have always wanted to live on a river. As a young man I built a house on a river, and was promised it would be willed to me and it got taken away and I didn't get the house. This gives me an opportunity to redo my life and start building my house that I wanted on the river. I am a career construction person. My whole life in concrete construction. Building house and everything I'm a general contractor I carry a GB-98 and a GS-05 contractor's license. So, I'm very familiar with building and how it needs to happen and how it needs to be built. When I designed this house when I looked at the lot, I was told by the realtor that it was a nonconforming lot and I would have to jump through some hoops. I didn't have a problem with that at all. I'll make it happen whatever we have to do.

Chairman Sisney opened the public hearing.

Proponents:

Opponents:

Malene Shelton: My main concern is the size of the lot and the close proximity to the adjacent lots and fire safety. Last year there was a fire on the vacant lot on the other side of one of the proponents' properties. The person started the fire called the fire department it took them 15 to 20 minutes to get there which was great they did a great job. If a fire where to start on that little tiny lot and nobody is there or even if somebody is there and a fire starts and they can't get there both adjacent properties are in danger of having fire damage and possible from flying debris or flying ashes other properties close on the other side of the street even.

Member Kent: It's my understanding that the easement on the side of the lot is conforming. It is supposed to be 10-feet between buildings so this proposed plan there will be plenty of space between the adjacent properties is that correct?

Assistant City Manager Alvarez: There is 5-feet on one side and 2-feet on the other. The code requires 5-feet.

Member Kent: It says 5 on here.

City Attorney Rubin: I think we need to go back. Your questions right now should be directed to Mrs. Shelton.

Chairman Sisney: Mrs. Shelton are you on this map?

Malene Shelton: I live across the street.

Chairman Sisney: This is the property we are discussing you are not here or here you are over here.

Malene Shelton: Yes.

Chairman Sisney: Ok, Thank you.

Member Luchini: This 2-feet is 2-feet away from what?

Chairman Sisney: That would be next to the 2-feet before the easement so they should be 12-feet.

Member Kent: There is nothing here.

Chairman Sisney: There is supposed to be 10-feet there but the 10-feet is inside of their property line over here or inside their fence line it's not their property they fenced it in.

Member Kent: But there is no structure?

Chairman Sisney: No.

Joe Sorg: This is my mother property she is 85 years old. She has lived there for probably 25 years. My problem is sure they say they are going to park under this car port but when they start parking out on the street which they will.

Chairman Sisney: Which lot are you talking about?

Joe Sorg: I haven't seen the map.

Chairman Sisney: I haven't seen the map.

Joe Sorg: This is my mom's property.

Chairman Sisney: Ok.

Joe Sorg: She is 85 years old. She has a hard time backing out and sure the speed limit on Riverside is 25 miles an hour but they never go that speed in fact they go down that street going 40-45 miles an hour. She has to back out, which he will be parking on the street he can say he won't but he will. Then she won't be able to see to back out of her drive way on to Riverside. As soon as there is a car there and she has to back out and she has to every day then that is going to be a problem. I'm just looking out for her safety. They are trying to cram this little tiny house into this little sliver of property. Which it should be more of a drainage then even a piece of property. Then someone thinks they are going to build this little tiny house in there and shove it into this little tiny slot is beyond me. I mean he said he paid \$50,000 for this little lot. New Mexico is huge go down Riverside a little further and buy you a big piece of property for \$50,000 instead of this little tiny sliver.

Chairman Sisney: How long has your mom owned the property?

Joe Sorg: Since 1997.

Chairman Sisney: Do you know how this piece got cut off from the rest of the lot?

Joe Sorg: There was an apartment complex across the street they use to own that and then they sold it to somebody for \$6,000. They use to come across the street there was a bench out there and they would sit under the tree. It was for the people at the apartment they would walk across the street and sit on this bench and look at the river. Then all of a sudden, this property was sold and sold and this guy ended up with it. You're not going to be able to build a little house on there and be safe. There is no 10-foot variance on either side. It is just a sliver is all it is. I don't know how you are going to plan on cramming a little tiny house into that piece of property is beyond me.

Vicki Sorg: When we bought our piece of property that little piece of property belongs to Birdsong Apartments and they had water right they used for the river and that's how they did

their watering. It got sold off a couple times I think the last owner was Steve Faukas he wanted to put a trailer or something on it I don't know what happened there. My concern is there is no sewer, water and electricity to that property. To put a house on there is going to take a lot of construction the lot is not at all level and it rolls off into the river. I'm wondering if her would be responsible to damage to my property with all the heavy construction that is going to go on there.

Chairman Sisney: I'm not a lawyer but I think he would be responsible for any damage he did to your property.

City Attorney Rubin: That is not the issue. She is raising an issue but I don't think we need to address it.

Chairman Sisney: Right, thank you.

Vicki Sorg: I was talking to somebody at the assessor office and for years that property has been assessed as a non-buildable lot. I have been told many times that nobody could ever build on that property. At one point I heard the city was going to take it for a wash for the water that backs up into our yards could be diverted into the river that way I don't know if there is any truth to that but that's what I was told.

Nanetta Landry: I live on the other side. We were not given these building plans. We don't know any of this. We are here without any idea

Member Kent: It's just a street view. This is probably taken off google maps.

Nanetta Landry: But she has the building plans. We don't know what it is. We have no idea what's going on as far as that goes

Assistant City Manager Alvarez: It was all in an agenda packet and it's published.

Member Kent: It's been published it was all published.

Nanetta Landry: The map was not. We have no idea about any of that. I do say that we need to have the 5-feet on our side of our property from the fence not 2-feet. Also, on her side there would not be a 10-feet because her property comes to the fence so 5-feet from that would only put 5-feet to her property. I had to set mine back because of the utility easement. It is also my understanding that there are utilities on the other side. That's what Bo the electric company told me. He also told me that they could never put electricity on that property because her utility pole, my utility pole and that utility pole are too close together and it would create a massive fire hazard. That was something that was told to us when they came out for the electricity which we were told that there was already electricity on the property but there is not. We have to start over and do it all again. I to agree that 16-feet is not a good enough set back. We put our houses 25-feet back because that is the requirement. We have a truck and so

does he and that truck has to be parked at an angle to fit in our fence. If he has a little car then yes but since he's come here to visit several times people come to visit him and they are parked all over the place. Our drive way is right there and Vicki's drive way is right there and they have already blocked our drive ways a few times and so that is an issue. He's saying he is going to do the 15-feet in the back that was not told to us either but that is the thing our bank is really fragile last year we had 3 miner flood and part of our bank disappeared and now we have to fix it. Anything upstream from us that causes issues affects our bank also that is an issue. The other thing I would like to say is that if we had to follow all of the zoning rules under distress that we had to so these things everything from gutters, we have been threatened many times by code enforcement which I don't understand why. The purpose of this is to have low density but if you guys approve this that won't be low density that will be awful. If you do this, we have already had people, say well if they can do that then we can do that and so you are setting up a system where other people will be asking for these variances and you may as well remove the RR1 code because it won't be being followed anywhere on Riverside Road.

Norman Landry: I have been in construction my whole life also and that shouldn't matter at all codes are codes if other people have to follow them, everybody has to follow them. Just can somebody can come in and buy a little gutter, where all the water just flows from the neighborhood down. I just don't understand how this can be done safely. It can't be done logically. I am a 26-year Vietnam veteran. If we have to have back ground. I fought for my country. I'm using the benefits I got to buy my property. It cost me a lot more to get set up then that little piece of property sold for. Like my brother back there said if you got the money go buy somewhere else in fact, he can buy mine for half a million. This shouldn't happen. I'm 77 going on 78 I'm 100 percent disabled. I don't need this kind of guard it sets me off. He's already parked with his awning across our fence, so I have to pay to raise the fence. He had his generator going and his truck and motor home going all night long. Every time we turned around, we would go out there and check on it and it was on. I have to have oxygen and that really doesn't do me a lot of good. When the wind is blowing my way, I get it. When the wind is blowing the other way Vicki gets it and we are kind of in the same boat. We can't handle all of this stress. Then to have somebody come in and say like he said to one of the guys working "I'm going to put a house there" I forget but it was nasty remarks things like weather you like it or not I'm going to put it there. I fought for this county I fought for that piece of land. I'll fight to keep it even if I have to go to court. They can't take my rights away just because they have more money. I'm living on benefits I can't move. I don't have a choice. If they put his thing in there our neighborhood is going to turn in to a squalor.

Chairman Sisney: Mr. Landry do you have any more facts for us?

Norman Landry: we had to go by the code and put 25-foot. I could have used a lot more out there to do things with but they told us no it stops here. We had expended our money on those codes.

Chairman Sisney: Mr. Landry there is 10-feet missing. Do you know where that 10-feet is? There is supposed to be a 10-foot easement for utility, and it appears that it may be inside your fence. Who put the fence up?

Norman Landry: That is the main property line. They told us that everything had to be removal in case they had to get in there so all we had in there was my boat.

Chairman Sisney: So, you're confirming that the easement is inside of your fence line then.

Norman Landry: Yes.

Chairman Sisney closed the public hearing.

Member Kent: I realize that your plans are for a 899 sq. ft home, which is not particularly huge, but have you considered something smaller that would be more confirming to the codes?

Ambrosio Saiz, Applicant: Yes, I have but this is what I can build on the piece of property. Legally, I know I can build it, so I don't think there's going to be any structure fires. I'm building a structural house.

Member Kent: When are you going to build it?

Ambrosio Saiz, Applicant: We have a concrete foundation down, and not only that. I feel that this is going to raise the value of all these people's houses. It's going to be a beautiful home.

Member Kent: Do we know if all of the utilities can be put on that property?

Assistant City Manager Alvarez: He has already filled out a utility request form, but I don't send that out to those departments until the approval is done here. The water/wastewater has preliminary approval. I haven't talked to electric on it yet. They are usually a little bit easier to process the electric. In regards to the square footage of the home, also please note that the requirement is an 800 sq. ft. home, so even if he went smaller, he would be able to go much smaller before he'd be standing back here in front of you anyway.

Chairman Sisney: Is there sewer on Riverside down there? Is everybody connected to sewer?

Assistant City Manager Alvarez: Yes. I don't have the utility request finalized. I will also say that we did send out all certified letters to the adjacent property owners, as well as to Brent Tanzy at the Bureau of Reclamation, and they contacted me as well. Brent was going to review everything because of the riverside, they always look at anything from the river, and submit anything in writing or attend the meeting if there were any concerns.

Member Kent: I'm not familiar with building on the river. Are there any requirements for flood or having to reinforce the banks or anything?

Assistant City Manager Alvarez: If he is in the flood zone, he will have to get flood plain approval when they go through the zoning approval. If the approval to build is there, then they will have to go through the building zoning approval process, and Travis does require flood plain. Travis Atwell had to sign off on that.

Chairman Sisney: Can we table this without having to go through the whole process again?

City Attorney Rubin: Do you mean the testimony?

Chairman Sisney: I mean, having to put it in the paper and go through all of that stuff.

Assistant City Manager Alvarez: Can I ask why you would want to table this?

Chairman Sisney: Because people are saying a bunch of stuff that I can't confirm. We need to talk to these people to figure out if what they are saying is correct. I think Mr. Saiz knows what's going on, but there are a lot of people that are saying other stuff. I think they ought to get a chance to figure it out.

Ambrosio Saiz, Applicant: My father was a veteran of the Civil War. The 10 ft. easement has their fence on it. Their fence continues into the river which is against the law. Game & Fish told me that these guys have their fence going into the water and deterring people from fishing in that area.

Chairman Sisney: His property line goes down half way across the river, so he can do whatever he wants with it.

Ambrosio Saiz, Applicant: I don't think he can impede our fishing lines.

Chairman Sisney: People can't walk up and down the bank because that is his bank so there is no fishing to worry about.

Assistant City Manager Alvarez: The picture that you have in your packet is an old picture. I can only pull up what is current on the mapping. So, if you don't see a fence there, it doesn't mean that it doesn't exist. It just means that it wasn't there when this image was taken. I can't get any current pictures unless I would go do it myself.

Ambrosio Saiz, Applicant: It was said that I have my generator running all night. I've been an RV owner for many, many years and I know what the rules are. You shut off your generator at 9:00 p.m. and that's what I did. They did send a young man over; I think his name was Moises. He tried to strong arm me and threaten me at one point. He's right, I did have my awning over the fence line about 2 ft. Moises came over and said Hey, can you move your awning, and so I pulled it back. I could have sat there and said, hey, this isn't your property, but I didn't do that. I did try to be cordial and nice to these people. I've introduced myself to them and they called

the police on me I think 4 times now and then they sent Moises to come and confront me, which I kind of laughed at, but it's okay because that's what they felt that they needed to do. One of the things I'm going to tell you is where I am set there is 5 ft. from the structure to the fence to the next structure, there's another 5 ft. So that gives me 10 ft. On the west side of my property. I'm 2 ft off the property line to my structure. And there's a 10ft utility easement so that gives me my basis there. The front part of the house shows a 6ft. access from the property line to the structure. That's just going to be a utility room entrance to the house. We are perfectly clear on how the structure is going to sit on the property. I don't even have a police record. I'm a good citizen. I don't know why these people are giving me such a hard time.

City Attorney Rubin: I think the rules are pretty informal here, so if you are okay with that, then I am okay with that.

Assistant City Manager Alvarez: Can I ask you how often are you in town right now?

Ambrosio Saiz, Applicant: Maybe once every two months.

Assistant City Manager Alvarez: I know you talked about this eventually being your retirement home. When do you think you would be looking at a permanent move.

Ambrosio Saiz, Applicant: Probably in about 4 more years when I would do a permanent retirement.

Member Kent: So, you are going to build this and use it part time?

Ambrosio Saiz, Applicant: Yes.

Member Kent: Then you would live in it permanently at some point?

Ambrosio Saiz, Applicant: Not permanently, but I think I'd spend a lot more time there.

Marlene Shelton: She talked about him running his generator in the summer when she had her door open and she had her tv on and the generator was not turned off at 9 p.m.

Member Kent: Well, if he builds a house then he will not have a generator. Let's just look at the finding of facts.

Chairman Sisney: There's a lot of stuff that goes on that has nothing to do with us.

City Attorney Rubin: It is also important to keep in mind, when you are at the point when you start deliberating, you do have the finding of facts check list in your packet and I will encourage you to follow that in making your decision.

Vice Chairman Buhler: I don't agree with any of it. I think it sets a precedence. This is just what we have to look at to go by. Increased danger of fire, detour orderly growth and development of the community. It sets a precedence. Impair of public health.

Chairman Sisney: Mr. Sorg. Do you have a point of order?

Joe Sorg: Yes, I do. He's saying that he has 10 ft. on each side, he doesn't.

Chairman Sisney: We know he doesn't. That's why we are here.

Vice Chairman Buhler: Lers take a vote:

Chairman Sisney: Before we get a second on the motion, Ms. Buhler, can you tell me what you see on here that does not meet the 7 findings of facts.

Vice Chairman Buhler: #2 traffic. We already heard that there has been some parking problems on the street.

Chairman Sisney: It doesn't mention any parking.

Vice Chairman Buhler: Well, traffic could be parking.

Chairman Sisney: Traffic seems to be moving to me.

Vice Chairman Buhler: Increased danger of fire. I don't agree with being able to live in your camp trailer on that lot, because that is a recreational vehicle. It doesn't have any smoke detectors in it and it creates a danger when people live in them on their property in town, unless you're in a park.

The members from the audience tried to speak, both Deputy Clerk Martinez and City Attorney Rubin informed them that we are past the point of testimony.

Vice Chairman Buhler: I think it can affect property values. You may build a wonderful place that would have to meet all of the codes including being raised up 4 ft. to fit in the flood zone.

Assistant City Manager Alvarez: I don't review for structural. That goes to the state CID and our flood zone. I only do the zoning approval so I could not tell you what the flood requirement is.

Vice Chairman Buhler: Well, there is a requirement. I'm sure there is. Public Health, I don't know there, but it could affect the general welfare of the city with a lot of these little homes going in everywhere on slivers of property, and it could affect your property values. He may build a great place, but the next person might not. I feel that we would be setting up a bad example by not following the code in this situation.

Vice Chairman Buhler made a motion to not recommend the building of a tiny home on this lot because she believes that it sets a bad presence for other people to do the same thing, and codes should be followed. I do consider the findings of facts checklist as well.

Motion failed due to a lack of a second motion.

Member Kent: I realize that there are a lot of rules. There are setbacks and size requirements and a lot of things going on when you try to build a mini lot, but if this footprint could maybe be adjusted to conform more, and that might work better?

I can't tell you to re-plan your home, but that what I was thinking.

Member Luchini: Yes, there are codes and there are committees to ask a variance for. Sometimes they are granted and sometimes they are not. I appreciate the applicant and I appreciate all of you coming and voicing your opinions. It seems like there is a little bit of contention between the parties and no matter what is decided here, it doesn't end here. I hate to see the contention. I do believe in all of you if that helps. What happens if we don't move on it?

City Attorney Rubin: I suppose you would still send it up to the City Commission with the thought that you listened to all of this and there were some questions that came up on both sides and you are just not in a position to make a recommendation.

Chairman Sisney: Is he allowed to have this RV on his property?

Assistant City Manager Alvarez: The Municipal Code says that you can't live in an RV on your property, but he was not living in an RV. He would come in occasionally on the weekends, and he would bring his RV and camp there not knowing that we had changed our Municipal Code. Prior to that RV code going into effect within the last 2 years. That was allowed to be done with our new municipal code change we didn't address in that code somebody that might have a property here in T or C and just bring their RV in occasionally on the weekend and camp in it. It just wasn't something that come up when we were revising our code it hadn't been addressed and we were looking more at the people that were coming and parking RV full time living on properties when we revised our code. He was not doing that so I want to make sure we make that clear. He was coming in occasionally on the weekends or code doesn't specify that he can't come in and park on his property for 24 or 48 hours. The RV was never left there if he wasn't there the RV went back with him to Albuquerque. We did receive complaints that went through our police department as well as our code enforcement officer unfortunately our code enforcement office was unable to attend, he got an unexpected call out. They responded to these complaints and there were no violations when they came out whether it be a noise complaint, a complaint because the RV was there. It was found to have no violations when we there. It's a not a great answer to your question. My apologies. Because or code does not say that he can't bring his RV to his property and park there for 24 to 48 hours.

Chairman Sisney: If you are to bring your RV onto an RV lot are you allowed to run a generator in an RV lot?

Assistant City Manager Alvarez: I believe so. I guess that would be up to individual RV park and what their rules are as far as our municipal code is we have a noise ordinance it doesn't give a time frame it just says anything that is unreasonable. Which is why when the complaints would come in, he was found to not be in violation because the noise of the generator was not considered to be an unreasonable noise. That was determined by our code enforcement and it wasn't running all hours of the night.

Ambrosio Saiz, Applicant: My RV has back up batteries that is what I run on. I have owned an RV my entire life so I know what I'm doing when I check my RV out.

Chairman Sisney: I understand that but if you were next to me and your generator was running, I don't care where we are you're going to upset me, I don't like those things.

Ambrosio Saiz, Applicant: This is a motorhome. It's very nice almost new.

Chairman Sisney: It's got a nice muffler on it?

Ambrosio Saiz, Applicant: It's got a very nice muffler on it. The loudest you will hear is a hum.

Chairman Sisney: Mr. Rubin how do we get out of this without doing anything.

City Attorney Rubin: I know Ms. Buhler made a motion and of course it was not seconded. I assume that Ms. Kent, Ms. Luchini and Mr. Sisney you just don't feel comfortable your recommendation either way is that what I should be understanding?

Chairman Sisney: I think there is a lot of people that don't have enough information right now.

City Attorney Rubin: Is that how you feel Ms. Luchini and Ms. Kent?

Member Kent: I feel like I have information. I want to see it come back with a different plan that maybe is more conforming.

Vice Chairman Buhler: I can make the recommendation again.

City Attorney Rubin: I'm thinking yes. I'm thinking the 3 board members just don't feel comfortable really either way I think we can have the minutes reflect and we can conduct the public hearing. Everybody got a chance to testify you just don't feel comfortable you can make a recommendation either way. It will go to the city commission and my recommendation to the city commission may very well be that they may have to take some more testimony.

Vice Chairman Buhler: I think the fire chief needs to be notified first. All these things are set up after the fact and it should be before the fact. I don't want to set a bad precedent for the city. I feel like we would be doing that if we say yes. You bought the lot you knew there would be problems.

Ambrosio Saiz, Applicant: When I bought the lot and I spoke to the realtor this property had been on the market for at least 8 months before I purchased it. These people had plenty of time to come up with the money to buy it themselves if they were going to have a problem with someone building a house on it. Since it is a non-conforming lot, I was told by the city that I could build a structure on it and I just have to apply for the variance.

Vice Chairman Buhler: They shouldn't have told you that you could build on it either.

City Attorney Rubin: An idea is maybe this again if you don't feel comfortable making a recommendation because you thought there was more information you needed and you can actually say in your recommendation when city commission considers this here is some additional information you think they should be requesting that you didn't have available to you tonight. These are ideas. I don't want to force anyone to make a recommendation if you don't feel comfortable with it. It doesn't sound like you are.

Chairman Sisney: I just don't know if giving it time is going to clarify any of these questions. I mean he said, she said. Where did this lot come from. Can someone answer how this lot became what it is.

Assistant City Manager Alvarez: I think that the property owners that were across the street probably gave the best explanation. I can check into to see if the assessor's office has a background on it but from what I know of the lot it's been that size lot for a long time. The records that I can access only go so far back. The assessor is going to have to dig into old hard copies to see if it was attached somewhere else. If you look along Riverside in general there are some really funky non-conforming lots some of them have been set like Mr. Buhler's old property there is a across the street area that specific in there it says nothing can be built on that lot its only for river access across the street. This one doesn't have that information that much I was able to ascertain there is nothing that states that there can't be a structure built on here. We have unfortunately and I don't know who did the lotting and the parceling way back in the day we have a lot of non-conforming lots through all over the city especially in some of our down town areas. That is why our municipal code addresses non-conforming lots in it and that is why it address the process to go through. That is all we are doing at this point. He got the non-conforming lot I think the people next door the Landry's. You guys saw the Landry's here through P and Z public hearing when they vacated a lot line on their property. They had to go through a process also to vacate with in theirs 2023 I believe is when they purchased their property next door. Our municipal code puts guidelines and then it gives the ability to come in front of the planning and zoning commission and the commission if they need to something outside of what the code says and that's what we are doing. I can when I go to commission, I

can make sure I have utility information water, sewer, electric and fire chief and make sure that it's presented to the city commission.

Vice Chairman Buhler made a motion to deny recommend to the City Commission for a Variance request at 1095 E Riverside. Applicant is requesting a variance from Sec. 11-14-2. Chairman Sisney seconded the motion. Roll call vote was taken.

Chris Sisney, Chairman voted aye.

Esther Luchini, Member voted nay.

Susan Buhler, Vice Chairman voted aye.

Lisa Kent, Member voted nay

Motion died with a 2-2 vote.

5. REPORTS FROM THE BOARD:

There were no reports from the board.

6. REPORTS FROM STAFF:

There were no reports from the staff.

7. ADJOURNMENT:

Chairman Sisney adjourned the meeting at 5:06 p.m.

PASSED AND APPROVED ON THIS 18th DAY OF FEBRUARY, 2025.

Chris Sisney, Chairman
Planning & Zoning Board



CITY OF TRUTH OR CONSEQUENCES
PLANNING AND ZONING COMMISSION ACTION FORM
DATE: 2-18-2025

ITEM:

Special Use/Variance Request at 320 Marr Street. The applicant is requesting to build 2 tiny homes at this location. A Special Use/Variance Request is needed pertaining to Development Standards as the current code does not identify tiny homes.

BACKGROUND:

Applicant would like to develop the property with placement of 2 tiny homes approximately 399 square feet. Homes are prefab “park model homes”. Property is in the R-3 District. All property owners within one hundred (100) feet have been notified. Applicable application and fees have been submitted.

SUPPORT INFORMATION:

- Proposed Site Plans
- Picture – EXAMPLE
- Code References
- 7 Findings of Facts Checklist

Name of Drafter: Traci Alvarez	: Assistant City Manager	
E-mail: talvarez@torcnm.org	Phone: 575-952-0565	



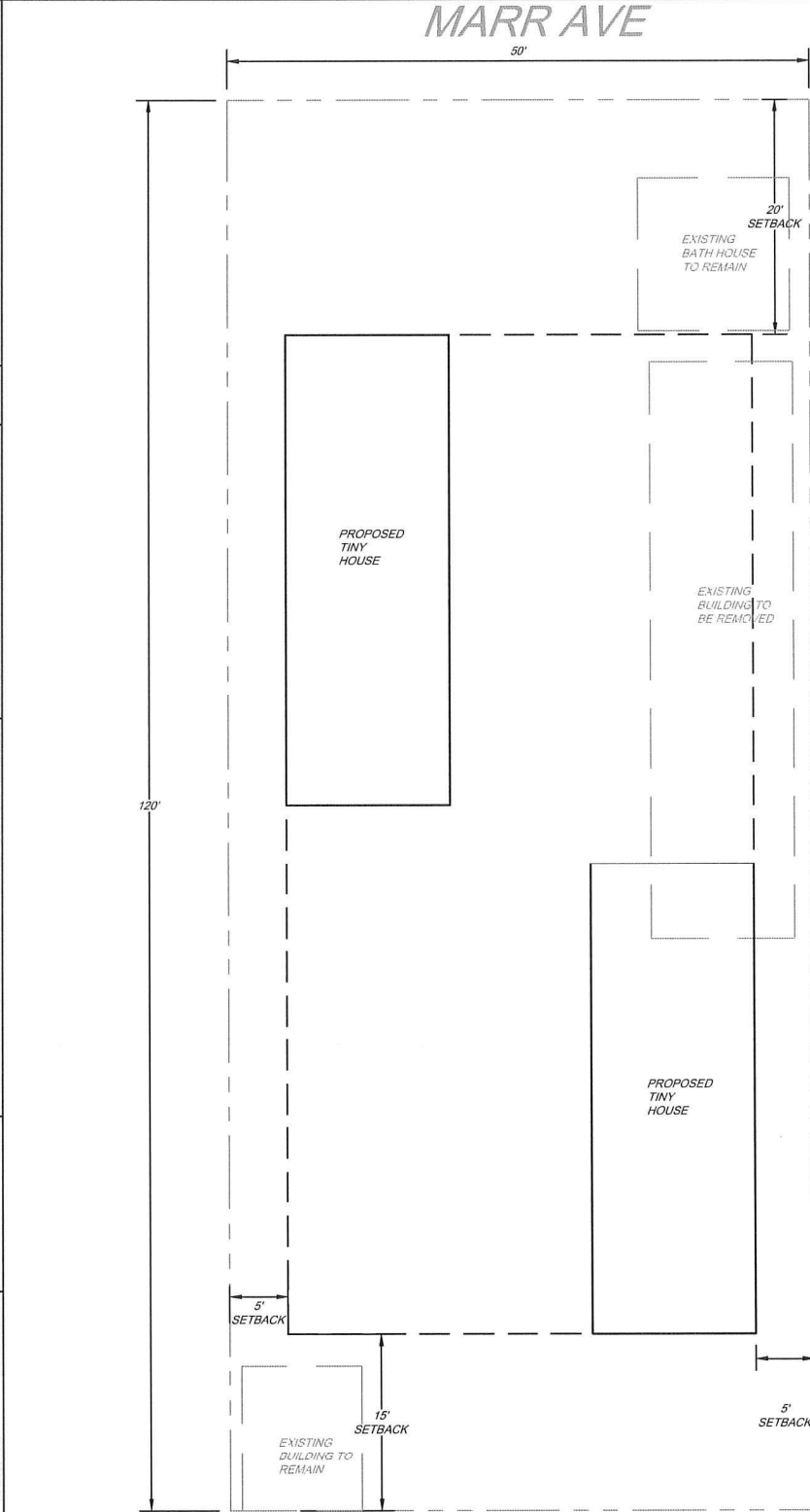
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DETAILER: STAFF	STR. NO. 2
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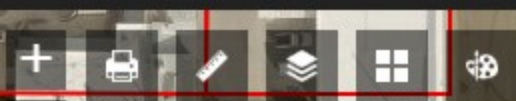
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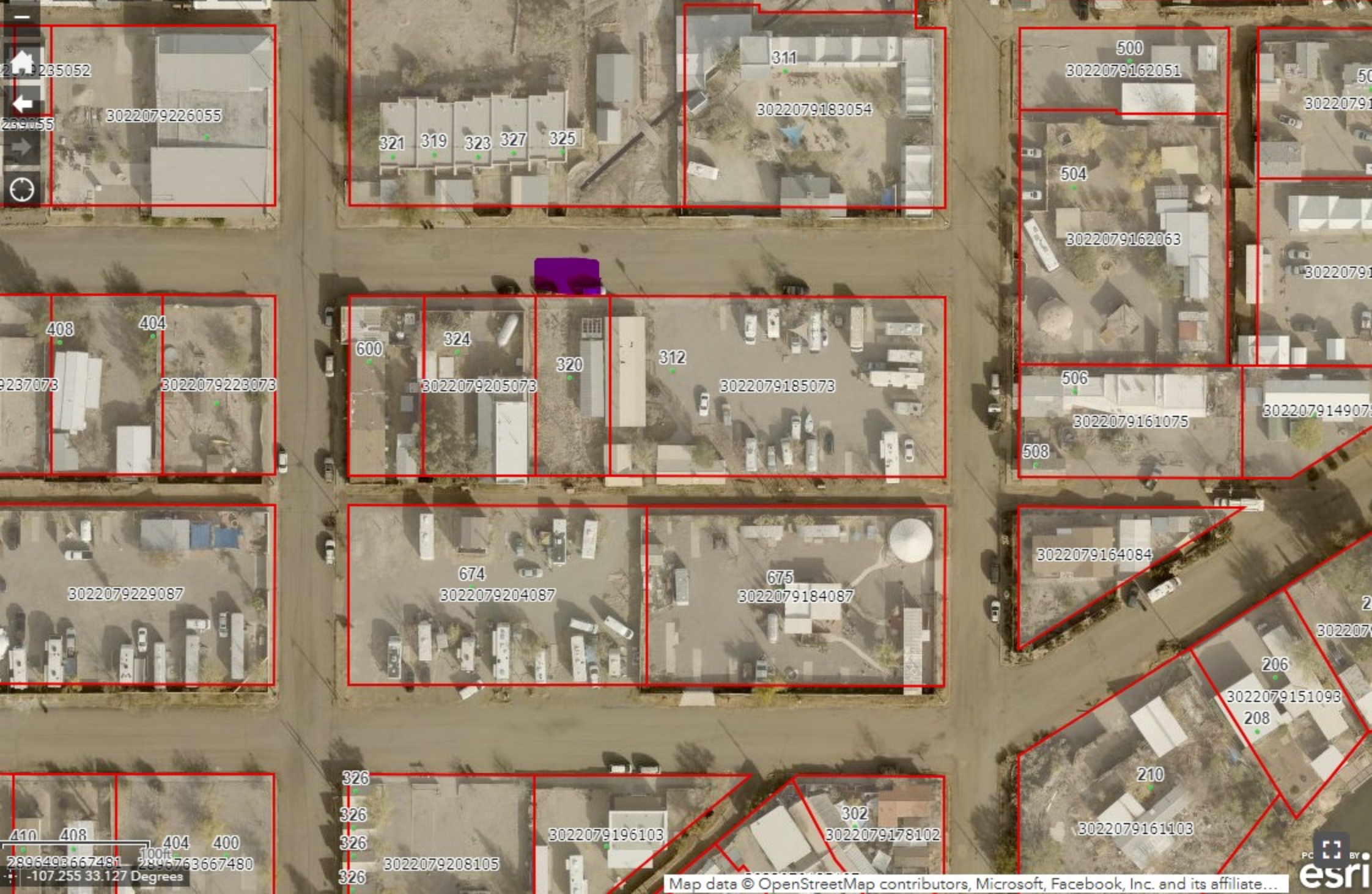


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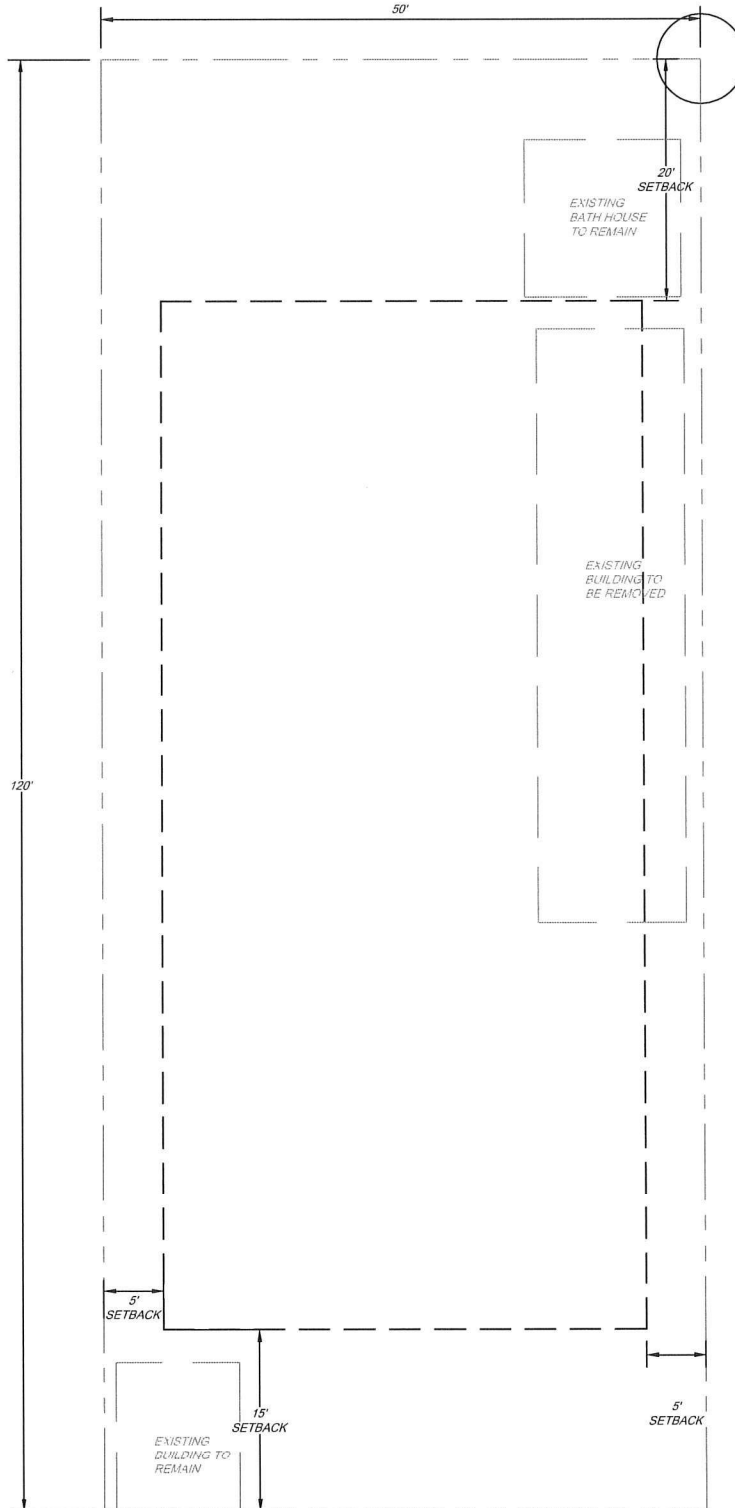
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LOT 6&7 Block 40 Palomas Hot Springs

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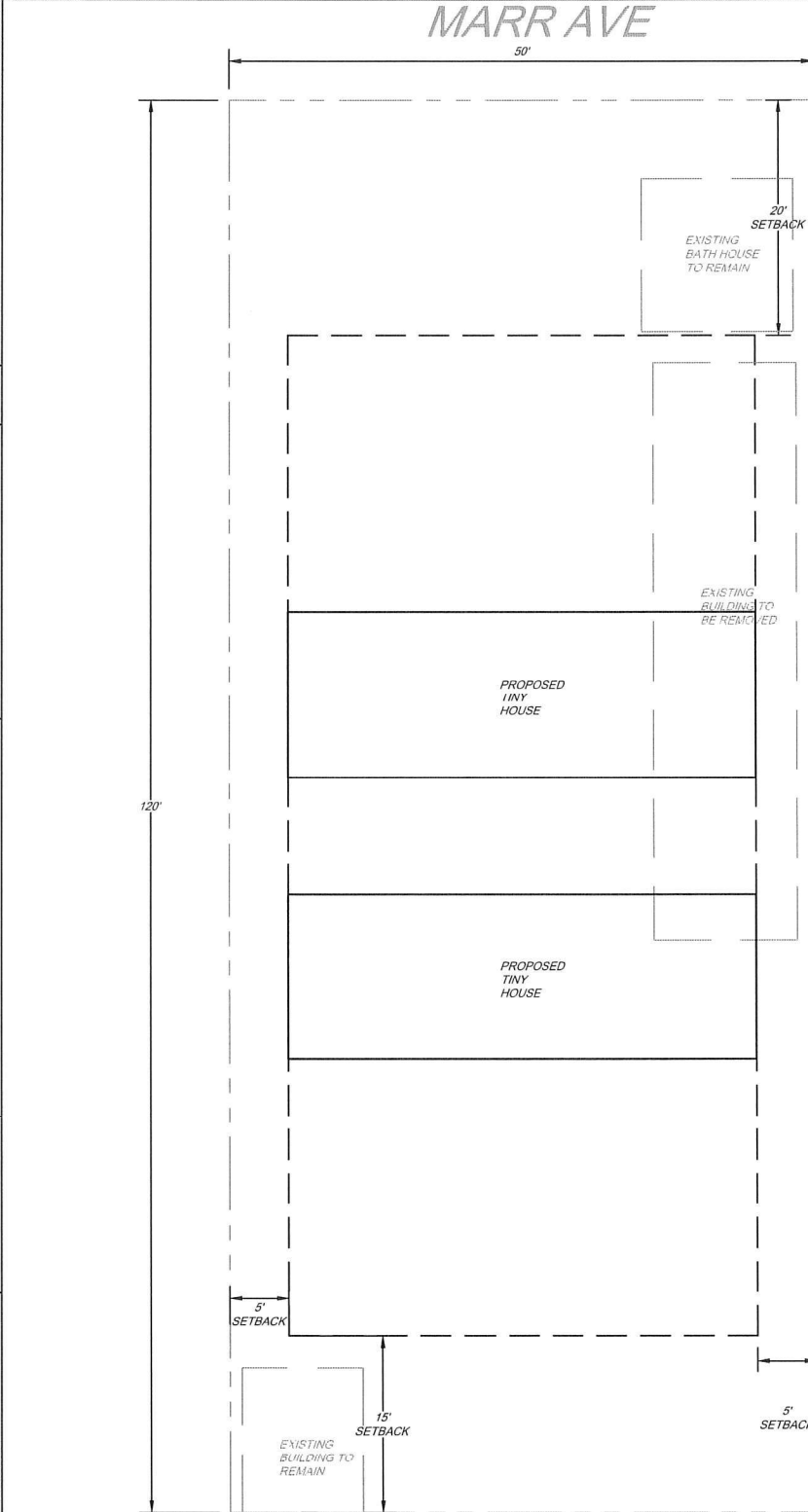
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SITE PLAN

LOT 6&7 Block 40 Palomas Hot Springs

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Sec. 11-9-4. - R-3 High Density Residential District.

- A. *PURPOSE*. The R-3 District is intended to accommodate multiple family dwelling units and accessory structures and uses. The District is intended to maintain and protect high density residential development that is characteristic of apartment, townhouses, condominiums and manufactured home subdivisions. This District also permits one and two family homes, modular homes, and manufactured homes.
- B. *DEVELOPMENT STANDARDS*. Development standards and other requirements are provided in Articles X through XIV.
- C. *R-3 PERMITTED USES*: The following uses are permitted by right in R-3 Districts:
1. Accessory Buildings.
 2. Apartments.
 3. Boarding House.
 4. Condominiums (Residential and Professional).
 5. Child Care Center, Nursery or Similar Use: Play areas shall be in accord with state licensing requirements and enclosed with a solid wall or fence five (5) feet in height.
 6. Construction Yard or Building (Temporary Use): Such yard or building shall be removed upon the completion of construction or within three (3) years from date of permit, whichever is sooner. Construction yards and buildings shall be maintained in a neat and orderly fashion and open yards shall be enclosed by a sight-obscuring fence at least six (6) feet in height. However, there shall be no fence or wall more than three (3) feet in total height above street-curb located within the clear sight-triangle of a street intersection as defined in this Code.
 7. Dwellings: Single or multi-family units, apartments, townhouses and condominiums.
 8. Garage or Yard Sale or Similar Use: Three (3) sales are permitted in a one (1) year period at a single address. A sale shall not exceed three (3) consecutive days.
 9. Greenhouses (Non-Commercial), Garden Sheds, and Tool Sheds: When detached from the main dwelling, such structures are subject to the provisions of Accessory Buildings.
 10. Home for Handicapped, Disabled, Retarded or Retired: Subject to state requirements of the New Mexico Statutes, Section 3-21-1, Paragraph C, as amended. A minimum of two (2) parking spaces must be provided, in addition to one space for each five (5) persons.
 11. Home Occupation.
 12. Manufactured Home Subdivision.
 13. Manufactured Home Park.
 14. Manufactured Homes.
 15. Kennel (Private, Residential).

16. Private Club or Lodge: Permitted when used in conjunction with non-profit organizations such as Lions Club, Elks Lodge, and the like. Building(s) shall not be located within one hundred (100) feet of an R-1 or R-2 District. Private clubhouses and game rooms are also permitted when used as a part of an apartment, condominium, or townhouse complex, provided such building(s) shall not be located within fifty (50) feet of an R-1 or R-2 District.
 17. Public Park, Playground, Ball Field and Tennis Courts.
 18. Real Estate Office (Temporary): Permitted only when used in conjunction with a residential subdivision provided such use shall be discontinued upon the completion of the development or within three (3) years from date of permit, whichever is sooner.
 19. Storage (Recreational Vehicles): Storage of personal recreational vehicles, boats, trailers, or similar uses shall be limited to a maximum of one (1) per dwelling unit in the side yard, with no limit in the rear yard, separated at least five (5) feet from any property line.
 20. Swimming Pool (Private): Permitted only when a protective fence four (4) feet in height is provided around the yard, lot or pool area. The pool shall be no closer than five (5) feet from any property line, and approval from all utilities is required to insure overhead safety.
 21. Tennis Courts (Private for residential use).
 22. Townhouses (Maximum of eight (8) attached units).
- D. *R-3 SPECIAL USES*. The following uses require a public hearing and approval of the City Commission after a recommendation by the Planning and Zoning Commission. Provisions for special use permits are stated in Section 11-5-6 of this Code.
1. Athletic Clubs and Bathhouses.
 2. Barber and Beauty Shops.
 3. Bed and Breakfast Inn.
 4. Church.
 5. Community Building (Public or Private).
 6. Gas Regulating Station (Public or Private Utility).
 7. Golf Course and Country Club.
 8. Halfway House and Quasi-Institutional Houses.
 9. Offices in Historical Structures.
 10. Offices: Offices which provide health services such as medical, chiropractic, or rental and certain professional offices which have a low traffic volume such as attorneys or accountants, provided such offices maintain the residential character of the neighborhood where they are located.
 11. Residential Vehicle Park.

12. School (Public, Private, or Parochial).
13. Swimming Pool (Public or Commercial).
14. Telephone Exchange Station.
15. Television and Radio Towers, and all other Free-standing Towers (Private Use): Towers shall have manufacturer's specifications to withstand a 75 mph wind and shall be constructed to meet New Mexico Building Code standards.

ARTICLE XIV. - DEVELOPMENT STANDARDS

Sec. 11-14-1. - General Development Standards.

All lots, tracts, buildings and structures in the City shall be developed in accordance with this Article and other related provisions of this Code. All development standards of this Code shall apply to each lot, tract, or parcel independent of all other lots, tracts, or parcels.

Sec. 11-14-2. - Standards For Districts.

District	Lots: Minimum Front Setback	Yards: Minimum Rear Setback	Yards: Minimum Side Setback
R-1	25'	25'	8'
R-1	25'	20'	6' or 0'*
R-3	20'	15'	5' or 0'*
R-4	25'	25'	5'
RR-1	25'	15'	5'
C-1	20'	15'	5' or 0'*
M-1	25'	25'	5' or 0'*
T-1	25'	25'	15'

* As permissible per Section 11-14-3 and 11-14-4.

District	Lots: Minimum Area	Lots: Minimum Width	Dwelling: Minimum Area	Maximum Height
R-1	9,000 s. f.	60'	1,200 s. f.	26'
R-2: Single-Family	5,000 s. f.	60'	900 s. f.	26'
R-2: Two-Family	4,000 s. f./unit	60'	650 s. f./unit	35'
R-2: Multiple-Family	3,500 s. f./unit	60'	600 s. f./unit	35'
R-2: Apartments	3,500 s. f./unit	60'	500 s. f./unit	35'
R-2: MH*	5,000 s. f.	60'	900 s. f.	26'
R-3: Single-Family	4,500 s. f.	45'	700 s. f.	35'
R-3: Two-Family	3,000 s. f./unit	45'	500 s. f./unit	35'
R-3: Multiple-Family	3,000 s. f./unit	45'	450 s. f./unit	35'
R-3: Apartments	2,000 s. f./unit	45'	400 s. f./unit	35'
R-3: NM*	4,500	45'	550 s. f.	26'
R-4	1 acre	75'	1,200 s. f.	26'
RR-1	5,000 s. f.	50'	800 s. f.	26'

C-1	5,000 s. f.	60'	" "	35'
C-1: MH*	4,000 s. f.	45'	550 s. f.	26'
M-1	" "	60'	" "	35'
T-1	21,780 s. f.	100'	800 s. f.	35'
T-1: MH*	21,780 s. f.	60'	550 s. f.	26'

* Not located within MHP

Sec. 11-14-3. - Residential and Transition Districts: Additional Provisions and Exceptions.

The following provisions shall apply to all development in a residential or transition District:

A. *SETBACK EXCEPTIONS:*

1. A minimum side yard setback of zero (0) feet in a residential District only, providing all the following requirements are met:
 - a. The setbacks are authorized by the City Commission as part of an approved development.
 - b. There shall be no less than ten (10) feet, including roof overhang, between structures, except approved condominium and townhouse developments with common wall construction.
 - c. All zero (0) lot lines shall be on the same side of all lots in a development.
2. The minimum setback distance shall be maintained for both front yards of a corner lot. A lesser setback for one front yard of a triple frontage lot shall be considered upon application for variance to the Planning and Zoning Commission.
3. New dwellings may be erected as closed to a front property line as the average distance established by existing dwellings on that side of the block, provided the lots on the same side of the block are fifty (50) percent developed.
4. An addition to a main dwelling shall be permitted as an extension of existing building lines, which have non-conforming setbacks. Setbacks for such addition shall be the same as the main dwelling.
5. There shall be a minimum setback of one (1) foot for each foot in height of any building, other than a single or two family dwelling, abutting on R-1 or R-2 District.

B.

FRONT-YARD PARKING. Parking areas shall not cover over one-third ($\frac{1}{3}$) of any open area between the front of a dwelling and the front property line; except in cases of a cul-de-sac, two-thirds ($\frac{2}{3}$) of a front yard can be used; and on existing lots less than fifty (50) feet, a twenty (20) feet parking area is permitted. Townhouses and apartment lots may use three fourths ($\frac{3}{4}$) of the front yard for parking.

- C. *MINIMUM DISTANCE BETWEEN STRUCTURES.* There shall be no less than ten (10) feet between buildings or structures located on the same lot, tract, or parcel.
- D. *EASEMENT ENCROACHMENTS.* There shall be no permanent structures located on easements without written approval of the City Commission.

Sec. 11-14-4. - Commercial and Manufacturing Districts: Additional Provisions and Exceptions.

The following provisions shall apply to all development in a commercial or manufacturing Districts:

- A. *SETBACK EXCEPTION.*
 - 1. A zero (0) foot side yard shall be permitted only when:
 - a. A building on the abutting side is at least five (5) feet from the property line; or
 - b. Both buildings share a common wall on the side property line; or
 - c. When the abutting property is undeveloped. Otherwise, a five (5) foot setback is required.
 - 2. There shall be a minimum setback of one (1) foot for each foot in height of any building abutting a residential District. There shall be at least a minimum distance of thirty (30) feet maintained between any residential dwelling and any commercial or industrial structure.
- B. *MINIMUM DISTANCE BETWEEN STRUCTURES.* There shall be no less than ten (10) feet between buildings or structures located on the Same lot, tract, or parcel.
- C. *PRIVATE STREETS.* All non-dedicated streets or private drives shall be a minimum of twenty-four (24) feet In width.

Sec. 11-14-5. - Manufactured Home Parks (MHP's), Manufactured Home Subdivision (MHS's) and Recreational Vehicle Parks (RVP's): Additional Provisions and Exceptions.

The following provisions shall apply to all MHP's, MHS's, and RVP's:

A. *STANDARDS.*

	Minimum Development Area	Minimum Space or Lot Area	Maximum Density/Acre	Maximum Height
MHP	1 acre*	3,000 s. f.	12	26'

MHS R-2 District	5 acres	5,000 s. f.	8	26'
Other Districts	5 acres*	4,000 s. f.	11	35'
RVP	1 acre*	1,250 s. f.	20	26'

* Minimum Distances.

	Lots or Spaces Minimum Width	MH to MH	MH to Primary Building	MH to Secondary Building
MHP	30'	15'	15'	10'
MHS R-2 District	60'	20'	20'	10'
Other Districts	50'	15'	15'	10'
RVP	20'	15'	15'	10'

SETBACKS

	Yards: Minimum Front Depth	Yards: Minimum Rear Depth	Yards: Minimum Side Width**
MHP	15'	10'	10' (main entrance side)
			5' (non-entrance side)
MHS R-2 District	25'	20'	5'
Other Districts	20'	15'	5'

RVP	15'	10'	5'
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* Unless otherwise approved by Special Use Permit

**Whichever is greater of minimum distance between MH and other structure or minimum side width shall govern.

- B. *MANUFACTURED HOME PARK (MHP'S): MINIMUM DWELLING SIZE.* Dwellings within HMP's may be manufactured homes (MH's), trailers, or recreational vehicles. There are no minimum dwelling area requirements for dwellings within MHP's.
- C. *MANUFACTURED HOME SUBDIVISIONS (MHS'S): MINIMUM DWELLING SIZE.* Dwellings within MHS's must meet or exceed the minimum area for Manufactured Housing (MH) units within the District in which the subdivision is located as stipulated in Article 11-14-2. Minimums for R-3 MH shall apply for manufactured homes located in MHS's in Districts for which no minimums are otherwise stated.
- D. *PRIVATE STREETS.* Non-dedicated streets or private drives within a MHP, MHS, or RVP shall be a minimum of twenty-four (24) feet in surface width not including curb and gutter if installed. Streets shall be surfaced with asphalt, double penetration chip seal, or other appropriate surface as approved by the City.
- E. *EASEMENT ENCROACHMENTS.* Structures, home spaces, or recreational vehicle spaces shall not be located within easements without written approval of the City Commission.

Sec. 11-14-6. - Landscaping and Erosion Control: All Planning And Zoning Districts.

Unless left in its natural vegetative state, there shall be yard grass or other measures to control water or wind erosion on all previous areas of development and constructed lots, tracts or parcels.

Sec. 11-14-7. - Landscaping Plans For The C-1 and M-1 Planning and Zoning Districts, Manufactured Home Parks and Subdivisions, Recreational Vehicle Parks and Special and Conditional Uses In All Zones.

- A. *APPLICABILITY: DISTRICTS AND USES.* The standards of this Section apply to all new and all re-development within the C-1 and M-1 Planning and Zoning Districts, to all manufactured home parks, manufactured home subdivisions, recreational vehicle parks, and to all special and conditional uses in other Districts.
- B. *AREA TO BE LANDSCAPED.* A minimum area equal to ten percent (10%) of the total parking area of the new development shall be landscaped.
- C. *TYPES OF LANDSCAPING.*
 - 1. Xeriscaping is a preferred design element in the City of Truth or Consequences.

2. At least one-half (½) of plant materials in the landscaping shall be trees.
3. Minimum requirements for tree plantings is one tree per four parking spaces.
4. All plants shall be selected from the following lists or any other species recommended by the Sierra Soil and Water Conservation District, the Sierra County Cooperative Extension Service or the New Mexico State Forestry.

PLANT MATERIALS LISTS

Trees	
Arizona Cypress	Cupressus glabra
Ash	Fraxinus, sp.
Black Locust	Robinia pseudoacacia
Chinese Pistache	Pistacia chinensis
Desert Willow	Chilopsis linearis
Honey Locust	Gleditsia triacanthos
Italian Black Cypress	Cupressus Italiensis (Negra)
Mesquite	Proposis, sp.
Mimosa	Albizia julibrissin
Oak	Quercus, sp.
Palms	Washingtonia, sp.
Pine	Pinus, sp.
Single-seed Juniper	Juniperus Monosperma
Sycamore	Platanus, sp.

Shrubs	
Abelia (Glossy)	Abelia grandiflora
Acacia	Acacia, sp.
Apache Plume	Fallugia paradoxa
Armstrong Juniper	Juniperus chinensis "Armstrongi"
Bar Harbor Juniper	Juniperus horizontalis "Bar Harbor"
Barrel Cactus	Ferocactus, sp.
Big Sage	Artemisia tridentata
Broadmoor Juniper	Juniperus sabina "Broadmoor"
Buffalo Juniper	Juniperus sabina "Buffalo"
Burning Bush	Euonymus alata
Chamisa	Chrysothamnus Nausaeus
Cherry Sage	Artemisia, sp.
Crepe Myrtle	Lagerstroemia indica
Desert Broom	Bacharis sarothroides
Euonymus	Euonymus, sp.
Forsythia	Forsythia, sp.
Four Wing Saltbush	Atriplex canescens
Fraser's Photinia	Photinia fraseri

Gold Tip Pfitzer Juniper	chinensis "Phitzerana Aurea"
India Hawthorn	Raphiolepis indica
Lilac	Syringa, sp.
Nandina	Nandina Domestica
Oregon Grape Holly	Mahonia auifolium
Pampas Grass	Cortaderia selloana
Pyracantha	Pyracantha, leylandei
Red Leaf Barberry	Berberis thunbergii "Atropurpurea"
Rock Cotoneaster	Cotoneaster horizontalis
Sea Green Juniper	Juniper chinensis "Seagreen"
Silverberry	Eleagnus pungens "Gruitlandii"
Sotol	Dasylirion wheeleri
Spanish Broom	Spartium junceum
Spartan Juniper	Juniperus chinensis "Spartan"
Tam Juniper	Juniperus sabina "Tam"
Texas Sage	Artemisia, sp.
Three Leaf Sumac	Rhus Trilobata
Torulosa Juniper	Juniperus chinensis, "Torulosa"
Turpentine Bush	Haplopappus Laricifolis

Yucca	Yucca pendula
Ground Cover	
Creeping Mahonia	Mahonia repens
Green Santolina	Santolina chamaecyparissus
Grey Santolina	Santolina virens
Vinca Major	Creeping myrtle
Vinca Minor	Dwarf periwinkle
Vines	
Banks Rose	Rosa banksiae
Canyon Grape	Vitis arizonica
Trumpet Vine	Campsis radicans
Virginia Creeper	Parthenocisus quinquefolia
Grasses: Lawn	
Bermuda	Cynodon dactylon
Perrennial Rye	Lolium perenne
Fescue	Festuca, sp.
Grasses: Low Water Consumption and Erosion Control	

Alkali Sacaton	Sporobolus airoides
Blue Gramma	Bouteloua gracilis
Buffalo	Buchloe dactyloides
Indian Ricegrass	Oryzopsis hymenoides
Needle and Thread Grass	Stipa comata
Sand Dropseed	Sporobolus cryptandrus
Grasses: Ornamental	
Big Bluestem	Andropogon gerardii
Purple Treeeawn	Aristida purpurea
Sacaton	Sporobolus wrightii
Threadgrass	Stipa tenuissima

- D. *IRRIGATION SYSTEM.* All landscaping required by this Code shall consists of an underground system with automatic or manual controls that include a reduced principle back-flow preventor, pipes, valves, and heads adequate to provide water to all plants within the landscaped area. The use of drip irrigation systems is preferred.
- E. *INSTALLATION.* The landscaping and irrigation system shall be installed, and the irrigation system functioning, before the issuance of a certificate of occupancy.
- F. *MAINTENANCE.* The owner of the landscaped property shall be responsible to maintain the landscaping in a healthy, clean, trimmed, weed and litter-free condition. Dead plants shall be replaced by the owner with new plants of the same type or an approved alternate type within thirty (30) days of the death of a plant or at the next season best supporting plant survival.
- G. *ENFORCEMENT.* The designated Zoning Official shall enforce this ordinance.
- H. *LOCATION CRITERIA.* At least one-half ($\frac{1}{2}$) of the total area required to be landscaped shall be located between the street curb and the principal structure(s). On corner lots, double frontage lots or triple frontage lots, at least one-fourth ($\frac{1}{4}$) of the required landscape shall be located

within each frontage. All new parking lots with more than one hundred (100) parking spaces shall contain at least one-quarter ($\frac{1}{4}$) of the total required landscaping.

- I. **SITE PLAN REQUIRED.** A site plan showing all elements of the landscaping, including xeriscape elements, types of plants, irrigation system, and drainage control elements is required.

Sec. 11-14-8. - Height Exceptions.

- A. *SPIRES, BELFRIES, TOWERS, AND SIMILAR STRUCTURES.* Such uses may be constructed in any District to a height ten (10) feet above that permitted by right for other structures.
- B. *TELEVISION, RADIO, AND OTHER FREE STANDING TOWERS.* Towers shall meet manufacturer's specifications and withstand a 75 mph wind. Towers must conform to New Mexico Building Code standards.

Sec. 11-14-9. - Drainage and Grading and Site Plans.

Drainage and grading and site plans shall be required for all developments over one (1) acre, for all development in the C-1 and M-1 Planning and Zoning Districts, and for all Special and Conditional Uses. The designated Zoning Administrator may require that the plans and associated information be prepared by a registered civil engineer.

On-site retention of all drainage created by a development is required.

Sec. 11-14-10. - Site Plans.

- A. *ELEMENTS OF A SITE PLAN.* A site plan shall consist of a scale drawing done at a scale of not less than 1":100', and shall contain the following information:
 1. Location, arrangements and dimensions of all existing and proposed parking facilities, turning spaces, drives, aisles and landscaping;
 2. The name and location of all streets adjacent to the property, and all proposed points of ingress and egress;
 3. Size, location, and setbacks of all existing and proposed structures;
 4. Location of all proposed drainage structures;
 5. Location of all proposed signs;
 6. Location of all proposed exterior lighting;
 7. The location of existing watercourse(s) (if any) that conduct any intermittent or ephemeral flow.

Sec. 11-14-11. - Development in Hazard Area.

All development in flood hazard areas as designated in the City of Truth or Consequences Special Flood Hazard Area Boundary Maps or as otherwise designated by the designated Zoning Administrator shall conform to the requirements for Flood Hazard Areas as stated in Section 4 of the Municipal Code. The designated Zoning Administrator shall require building pads and related construction to be raised or filled above the flooding danger level.

Sec. 11-14-12. - Metal Buildings.

All new metal buildings in the C-1 and M-1 Planning and Zoning Districts shall have a facade or veneer consisting of a non-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.

Sec. 11-14-13. - Propane and LP Gas Tanks.

Propane and LP Gas tanks for the supply of fuel for residential and commercial establishments (not bulk plants, distribution plants or distribution points) can be no greater than 500 gallon capacity.

Sec. 11-14-14. - Subdivision Regulations and Fees.

The Subdivision regulations for the City are found in a separate City Ordinance, fees for the processing of subdivisions and related issues shall be set by City Commission Resolution.

Sec. 11-14-15. - Fees.

The City has an obligation to charge a fee for services to applicants who wish to process a request based on what this ordinance allows. If the City does not charge a fee to recover its costs for processing an application, it may be considered a gifting of public funds, which is disallowed by State law. The City Commission shall impose fees related to this Ordinance in a manner that will offset the cost of providing said service including but not limited to: research, person-hours, filing fees with the county clerk, mailing costs, printing, publishing, etc.

Sec. 11-5-5. Variance.

A Variance may be authorized by the City Commission after hearing the recommendation of the Planning and Zoning Commission. The variance shall provide relief from the strict application of dimension, distance, parking or setback requirements of this Code.

A. *Provisions for variance.*

1. The subject property must be irregular, narrow, shallow, or steep or otherwise, have physical conditions where application of the requirements of this Code would result in practical difficulty or unnecessary hardship to the owner in the use of his land or building.
2. The applicant shall notify all property owners of his/her intent in a manner specified in Section 11-7-2 and shall be subject to a public hearing as specified therein.
3. Variance shall not be granted in such cases where it would adversely affect adjoining properties, impair established property values, or endanger public safety.
4. Variances shall not be granted where spot zoning would occur.

B. *Fee.* A non-refundable application fee as set by City Commission Resolution must accompany each application.

C. *Submission requirements.* The application for variance shall be in the format stipulated by the City and shall contain plans and other information as required by the designated Zoning Administrator. The completed application for a variance, shall be submitted to the City Clerk for placement upon the agenda of the Planning and Zoning Commission.

D. *Revocation.* A variance shall be automatically revoked in the event of building permit for the approved Variance has not been obtained within ninety (90) days, or construction has not begun within one hundred eighty (180) days after the building permit has been issued. The Planning and Zoning Commission may grant ninety (90) days extension if deemed appropriate.

E. *Re-application for variance.* In the event of a denial decision by the City Commission, there shall be no re-application for the same variance for a period of one (1) year after the date of the decision of the Commission.

Sec. 11-5-6. Special Use Permit.

A special use permit may be authorized by the City Commission after hearing the recommendation of the Planning and Zoning Commission. A special use permit is required for a special land use, which is not permitted by right within the District wherein it is requested.

A. *Provisions for special use permit.*

1. In making a decision on a Special Use Permit, the Planning and Zoning Commission and the City Commission shall review the following factors and accord each factor the necessary weight on a case-by-case basis.
 - a. The increase in congestion of streets and other rights-of-way;
 - b. Diminishment of safety from fire, panic and other dangers;
 - c. Diminishment to the health and general welfare of the public;
 - d. Degradation of light and air for all properties in the immediate area of the proposed Permit; increases of overcrowding of land and undue concentrations of populations;

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- e. Adverse affects on provisions for transportation, water, sewer, schools, parks and other public facilities or increases in the effects of natural hazards;
 - f. Increases or facilitation of the unlawful use of structures, buildings or land; and
 - g. Promote the use or waste of energy in the use of structures, buildings, and land.
 - 2. Special Use Permits shall not be granted in such cases where the use will result in negative impacts, which substantially outweigh the positive impacts of the purposed use.
 - B. *Fee.* A non-refundable application fee to be set by City Commission Resolution must accompany each application.
 - C. *Submission requirements.* The application for a special use permit shall be in the format stipulated by the City. There shall be a comprehensive statement included with each application indicating in detail the reason for the request, the purpose and proposed use of the property, all improvements to be made, and a site plan including the following:
 - 1. Location of existing and proposed structures including the dimensions of setbacks;
 - 2. Existing and proposed vehicular circulation systems, including parking areas, storage areas, service areas, loading areas, and major points of access, including street pavement width and right-of-way;
 - 3. Location and treatment of open spaces including landscaping plan and schedule;
 - 4. Lighting;
 - 5. Signage;

A drainage plan, site plan and grading plan shall be required for all developments exceeding one (1) acre and to all new and all re-development within the C-1 and M-1 Planning and Zoning Districts, to all manufactured home parks, manufactured home subdivisions, recreational vehicle parks, and to all special and conditional uses in other Districts. For lesser developments when the designated Zoning Administrator determines said plans to be necessary, the designated Zoning Administrator shall so inform the applicant prior to accepting an application.

- D. *Public hearing and notice procedure.* A public hearing shall be held by the Planning and Zoning Commission for all special use permits. All property owners shall be notified in accordance with the provisions of Article 7 of this Code.
- E. *Review and approval.* The City Commission may deny special use permits, or may grant final approval in accord with certain conditions, with right of appeal in accordance with Article VII of this Code. Approval may also be granted with additional conditions imposed, which are deemed necessary to insure that the purpose and intent of this Code is met and to protect and provide safeguards for persons and property in the vicinity.
- F. *Time limitation and revocation.* If a special use is not initiated within one (1) year following approval or if a special use is discontinued for a period of one (1) year, said permit shall be automatically revoked. The City Commission may impose a different time limitation on a special use permit. All improvements shall be in accord with the development standards of the District except as otherwise authorized by the special use permit. Significant variation from the approved special use and related improvements shall result in the automatic revocation of the special use permit.
- G. *Re-submittal of application for special use permit.* Application for a special use permit shall not be resubmitted or reconsidered for a period of one (1) year after it has been acted upon by the City Commission except that an application may be made for a different special use permit on the same parcel of land six (6) months after such previous action has been taken.

H. *Special use.* Special uses shall not be considered a District boundary change.

PLANNING AND ZONING COMMISSION

FINDINGS OF FACTS CHECKLIST

Request Date_____ Address_____

Findings of facts for recommendations and decisions.

In considering all requests, the Planning and Zoning Commission shall review applicable plans and determine whether the request will:

1. Impair an adequate supply of light and air to adjacent property;
2. Unreasonably increase the traffic in public streets;
3. Increase the danger of fire or endanger the public safety;
4. Deter the orderly and phased growth and development of the community;
5. Unreasonably impair established property values within the surrounding area;
6. In any other respect impair the public health, safety and general welfare of the City; or
7. Constitute a spot zone* and therefore adversely affect adjacent property values.

All actions or recommendations by the Planning and Zoning Commission shall be based on Findings of Facts as to the impacts of the proposal, using the criteria listed in numbers 1 through 7, above. The Planning and Zoning Commission shall review each of the above listed factors and accord each factor the necessary weight on a case-by-case basis in making its determination.

***Spot Zoning:** The singling out of a lot or small area for a District change, which is out of harmony with the comprehensive plan and surrounding land to secure special benefits for a particular property owner without regard for the rights of adjacent landowners.