

**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 its 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-foot 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 where across the street probably gave the best explanation. I can check into to see if the assessor's office has a back ground 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.

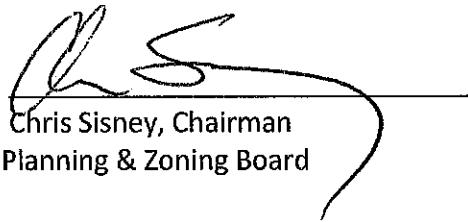
6. REPORTS FROM STAFF:

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