



**Planning Commission Meeting
February 14, 2013
6:00 p.m.
City Council Chambers
405 N. Paseo de Onate, Espanola, New Mexico
Agenda**

I. Call to Order

II. Pledge of Allegiance

III. Approval of Agenda

IV. Public Concerns.

V. Items for Consideration

1. Commercial Site Plan Review. Stephanie Gallegos, applicant, is requesting commercial site plan review for the operation of a landscaping material business from a vacant lot belonging to Richard Quintana, located at 614 S. Riverside Drive. The property is zoned B-2, General Commercial District.

VI Approval of Minutes

January 10, 2013

VII Matters from the Planning Commission

VIII Matters from the Planning Staff

IX Adjournment

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MEMO

Date: Prepared for February 14, 2013 Planning and Zoning Commission Meeting
To: All Members of Planning and Zoning Commission
Via: Russell Naranjo, Planning Director
Prepared By: Larry Valdez, Planning Technician

Commercial Site Plan Review. Stephanie Gallegos, applicant, is requesting a commercial site plan review for the operation of a landscape material business on property owned by Richard Quintana, for which there has never been an approved development plan, The property is located at 614 S. Riverside Drive and is zoned B-2, General Commercial District.

Recommendations:

The request was reviewed by Staff, whereby development code requirements were reviewed against this proposal. Recommendations for approval have been addressed.

Executive Summary:

In accordance with the City of Española, Development Code, Article IV, Section 153, **Development Plan Approval**, the applicants shall comply with the following:

1. *Applicants for new construction of individual buildings or additions shall receive Planning Commission approval of a development plan prior to issuance of a building permit. A development plan is required in the following circumstances:*
 - a) *Any new commercial development*
 - b) *Any application for subdivision into three or more lots for residential or commercial use*
 - c) *Any expansion of an existing site for which there has never been an approval development plan*
 - d) *Any change of use for an existing site with or without an approved development plan*
 - e) *An expansion of more than 2000 square feet of gross floor area and/or land use area for an existing site with an approved development plan.*

 2. *A development plan for approval by the Planning Commission. For the purpose of this section, "development plan" means a plan drawn to scale, certified by an engineer and/or architect, showing the locations of existing and new structures; location map, lot coverage, height and gross floor area of structure; lot area, the placement and arraignment of buildings and the uses to be included; on site drainage, retention and detention areas, drainage flow, proposed lighting of the premises; internal*
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vehicular and pedestrian circulation; vehicular and pedestrian ingress and egress from adjoining streets; recorded and proposed easements; location of off street parking and loading facilities, any significant natural features, including drainage and vegetation; location and type of landscaping; and the type of visual screening such as walls, fences and landscaping. If it is proposed to develop the plan in phases, the phases of development shall be indicated along with any other information requested by the Planning Staff, DRT or Planning Commission.

Summary:

The applicant, Stephanie Gallegos, is proposing the operation of a commercial landscape material business on the property located at 614 S. Riverside Drive. This lot was occupied previously as a used car dealership. The applicant has submitted a business plan indicating the sale of flagstone, railroad ties, latillas, metal pipe, boulders, cacti and other assorted landscaping material.

The applicant is also requesting permission to allow for the use of a recreational vehicle as an office/security space for a period of at least (6) six months. Thereafter, or during the (6) six month period, the applicant will replace that with a removable modular type building, as shown on the submitted architectural plan in order to meet commercial building requirements for ADA compliance. Water and wastewater connections are available on the site, which the applicant will acquire an account from the City to connect.

Screening between the residential and commercial properties is also shown on the submitted plans, which also is a requirement of development code for use of commercial properties abutting residential properties.

The use of a sign structure located in the north east corner of the property for signage will be allowed following the proper permitting process. Licensing and bonding will be required as in any other commercial business.

Conditions of Approval:

1. Buffering, as proposed, will be required prior to the operation of the business.
2. If approved for use, the RV will be required to be connected to City utilities.
3. The RV will act as an office and be available for customer use.

Comments:

At this time staff has not received any comments from adjoining property owners or neighborhood groups.

Exhibits:

1. (8) Eight page applicant proposal.
 2. Aerial photos of project location.
 3. Copy of P & Z Application.
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Planning & Zoning Commission Meeting
Thursday, February 14, 2013 — 6:00 pm
City Council Chambers, City Hall
405 N. Paseo de Oñate, Española, NM

I. Call to Order:

Chairwoman Martinez called the meeting to order at 6:07 pm with the following in attendance:

Commissioners: Anissa Martinez, Chairwoman
Clyde Vigil
Erle Wright, Vice Chairman
John Ricci
Julie Atencio
Richard Beaudoin

Commissioners
Absent: Amrit Khalsa

Staff: Russell Naranjo, Planning Director
Larry Valdez, Planning Tech
Desirae Medina, Addressor/GIS Tech

Others: See Attached Sign in Sheet (*Attachment A*)

II. Pledge of Allegiance:

Commissioner Ricci led the Pledge of Allegiance.

III. Approval of Agenda:

Commissioner Atencio made a motion to approve the agenda as presented, seconded by Commissioner Wright: Motion carried 6-0 vote.

IV. Public Concerns:

There were no public concerns.

V. Items for Consideration:

- 1. Commercial Site Plan Review.*** *Stephanie Gallegos, applicant, is requesting commercial site plan review for the operation of a landscaping material business from a vacant lot belonging to Richard Quintana, located at 614 S. Riverside Drive. The property is zoned B-2, General Commercial District.*

Mr. Valdez read memorandum from staff. (See Attachment B)

Commissioner Wright stated that conditions of approval did not specify how long the RV will be allowed. He asked if staff would like a timeframe or a specific date. Mr. Naranjo stated that six (6) months have been requested; however, it would be up to the commission to set forth criteria. He added that staff would appreciate a specific date.

Chairwoman Martinez asked if the request had been reviewed by the Development Review Team (DRT). Mr. Naranjo stated it had not been reviewed by DRT. It was a pre-existing business and utilities had already been identified on the site. Chairwoman Martinez stated that she was under the impression that there has never been an approved plan where DRT would have made a review. Mr. Naranjo stated that it was something that staff felt had some review due to the existing utilities.

Commissioner Atencio asked if the RV would be handicapped accessible. Mr. Naranjo stated that at this point the RV would not be required to be ADA compliant; however, at the minimum an ADA parking space must be established. He expressed that if the business is a success, then at that point a structure would be installed and required to meet all ADA requirements. Commissioner Wright stated that to meet the ADA requirements the parking needed to be paved or hard-surfaced and since there was no parking plan submitted, it complicated things. Mr. Naranjo informed that sheet AC-1 illustrates a 24X24 compacted base course surface for ADA parking. Commissioner Wright asked if that was adequate. Mr. Naranjo confirmed that it is an allowed use for compaction.

Phillip Chacon stated that he will be the agent on behalf of Stephanie Gallegos. He explained that she and her husband would like to establish a landscaping business on the property zoned B-2. He stated that they have reviewed traffic studies for the area and visited multiple lots and they are excited to rent this space. He expressed that due to the hard times that businesses are experiencing there is a risk of placing a building when there is uncertainty if the business will take off; therefore, they are requesting the placement of an RV for a period of six (6) months. He stated they are proposing a barrier such as the ones used on baseball fields. He informed that there is an existing retaining wall that has been there for years. Richard Quintana, property owner, stated that a lot went into the construction of the retaining wall and explained its construction.

Mr. Chacon stated the objective of a barrier is to block lights from the neighboring homes. *Mr. Chacon passed out photos to illustrate the proposed barrier.* He proposed a screening on the chain link fence that would be higher than the neighboring windows and bordering lots. He questioned if it would be acceptable.

Commissioner Wright stated that the purpose is to buffer between the intensity of uses. He explained that typically commercial zoning transitions to residential; however, Espanola's zoning doesn't have that transition so the buffering aides in maintaining privacy and noise. Chairwoman Martinez stated that there was some verbiage within the Development Code. *Chairwoman read the Official Development Code 2003-15, Article IV, Section 153(g.v.): Site Plan Review Criteria.* She asked if the required height was 6 feet. Mr. Naranjo replied that it requires a solid screening and they are typically manufactured at 6 feet; however, he would quickly review the Code to locate height specifications, if any.

Commissioner Wright asked if the applicant was familiar with the conditions of approval regarding a buffer, the connection of RV utilities, the RV being used as office space and it being available to customers. He recommended setting a date for the RV and questioned if six (6) months would be acceptable or could the timeframe be shorter. Mr. Chacon stated that because this is a seasonal business, the applicant is requesting the six (6) months to sample the business and hopefully accommodate the city's needs at the same time.

Commissioner Wright asked if the ADA parking would be required from the beginning. Mr. Chacon stated that they are willing to do that. Commissioner Wright asked if it would be located as proposed in the final drawing. Mr. Chacon replied that the final plan proposed, shown on sheet AC-1, shows the future building and ramp. He added that the RV would be placed where the ramp is drawn.

Commissioner Wright asked if the retaining wall was engineered. Mr. Quintana stated that the builders were out of Albuquerque and he would have to ask them for information on the wall. Commissioner Wright asked if he knew when it was built. Mr. Quintana replied at least ten (10) years.

Commissioner Wright expressed that his concern is compaction. He stated that given the nature of the business, placing pallets of stone near the perimeter of the wall could be risky if the ground is not compacted. He added that it could also alter the drainage from Riverside and pond on site near the wall. He concluded that he needed to determine if it was engineered to withstand. Mr. Quintana expressed that he would not recommend nor allow stacking pallets near that wall. Mr. Chacon stated that the applicant is willing to keep the heavier items away from the wall and toward Riverside as a condition of approval. He stated that if compaction was an issue, they could put some base coarse.

Commissioner Wright expressed that he is interested in seeing a business there; however, he did not want to put the city, neighbors or owner at risk should the wall collapse due to too much weight or subsiding. He stated that he would consider a setback for stacking dense materials. Mr. Chacon acknowledged the concerns and stated that there is no intention to put anything against the wall since there is enough land for material. He explained that the applicant picks up the material from various yards and this site is mainly for display.

Commissioner Wright stated that they do not know what the site or the wall can support. He questioned what setback would be appropriate for staff and the owner. Mr. Chacon stated that they are willing to place the denser material towards the front of the property where it is more secure. Mr. Quintana expressed that he was not afraid of the wall, but he would like a setback of 5 ft.

Commissioner Wright explained that if specifications could be provided by the firm who built the wall, then they would be more confident on whether or not it could withstand. Mr. Quintana informed that every block is filled with concrete.

Mr. Naranjo stated that the wall was placed before his eight (8) year tenure; however, Joe Duran, Building Official, has been with the city for 30-40 years and would not allow a wall that high without proper construction. He asked if it would be possible for staff to recommend a hold harmless letter to the city if engineering could not be proven. He explained that he felt as if it would be in best interest for the city rather than a setback: He expressed that should the wall fail, the city would still be liable with a setback. Commissioner Beaudoin stated that the City Attorney could give some feedback on whether it was doable.

Commissioner Beaudoin stated that they support their business; however, he questioned who would take ownership of that problem. He asked if they would be willing to look into the cost of an engineering stamp and release everyone from liability.

Commissioner Wright stated that there was a 10-12 ft. drop to both north and south adjacent properties and screening should be provided so that customers could not look into their yards.

Mr. Naranjo stated that he had Mr. Duran on the phone and has questioned him about the wall: He informed that the wall was constructed in the late 80s to early 90s and he ensures that it was engineered. He stated that it was the only way that it would have been approved. He explained that there were records, but they may have met their retention and could be destroyed by now.

Commissioner Vigil stated that it would not take much to get someone to check the density by the wall. He stated that the property owner mentioned that it was constructed with mesh and steel. Mr. Quintana stated that it was a rubber netting with holes an inch and half that came in a big roll. Commissioner Vigil stated that he was familiar with the material and asked who laid it out. Mr. Quintana stated that he, as a general contractor, did. Commissioner Vigil asked if there had ever been a density meter. Mr. Quintana stated no. Commissioner Vigil stated that it was engineering standards to acquire density after each load. He suggested that he get engineering plans for the wall and a density reading, especially where the heavier objects will lie. He also noted that there was not an architect stamp. Mr. Chacon informed that it was a preliminary drawing done by Tom Cordova. Commissioner Vigil concluded that a compaction test would solve a lot of problems. Mr. Quintana stated that he did not have a problem with that and would acquire one for the property himself.

Commissioner Ricci asked how large the trucks were that would be delivering the material. Mr. Chacon informed that the applicant brings the material unto the site himself and there would be no semi-trucks. He added that there is no room for a semi on the site and loading and unloading off Riverside is not allowed.

Commissioner Martinez stated that since Mr. Quintana is willing to obtain a compaction test, it would be appropriate to table the case for 30 days and allow him to submit the results.

Mr. Naranjo stated that if they receive a compaction test, it still will not explain how many pallets it could hold: He stated that it is not an engineer stamp. He expressed that the easiest solution, if the owner is willing, is for him to contact an attorney and draft a letter that holds harmless. He added that holding until next month for a compaction test was not going to provide much information and recommended a full hold harmless letter be drawn up by an attorney of his choice as a condition of approval.

Commissioner Vigil questioned what would be more expensive, a letter drawn by an attorney that accepts all responsibility or an engineering study that can be presented for understanding. Mr. Chacon expressed that the only way to get an engineering study would be to tear the wall a part. Mr. Quintana stated that he would get a compaction test and see if an engineer could review it and write a letter to support it.

Mr. Naranjo expressed that the task of the commission is to protect the city and the options are to show proof of engineering or provide a hold harmless clause.

Commissioner Vigil articulated that they were looking out for the safety and welfare of the public. He stated that in the end someone has to be liable and an engineer would be held liable if a study was performed. Mr. Quintana informed that an architect was involved in the construction of the wall. Mr. Chacon noted that an architect would not have been involved if it was not engineered. He concluded that it would be a major expense.

Commissioner Vigil advised speaking with attorneys.

Chairwoman Martinez opened the public hearing at 7:10 pm.

Gary Sanchez, nearby resident, asked what the minimum requirement would be for a non-fixed load and asked if there was a maximum height requirement for stacking pallets. Mr. Naranjo replied that the only height requirement that the code identifies is that of a structure. Commissioner Wright if the commission could add a height limit as a condition. Mr. Naranjo acknowledged that he had a good point and reiterated that the code does not have anything regarding that.

Commissioner Ricci ask if there was confirmation on the required height for a buffer, since it tied into what would be an allowable height for stacking pallets. Mr. Naranjo informed that the city is doing an overall code publication that will be approved by council. He added that the code they currently have is directly from that publication; however, staff is finding that portions were omitted that need to be in there. He concluded that it does not reflect height for screening, but only that it needs to take place.

Mr. Sanchez acknowledged the applicant for doing things the right way as oppose to the vendors along Riverside. He questioned how the city is responding to a possible incident concerning those vendors and who is liable for them.

Mr. Quintana expressed that buildings are falling down on Riverside and it is more dangerous than the wall.

Commissioner Vigil assured that those issues are being addressed and encouraged the public to speak on items beyond the case during the "Public Concerns" agenda item.

Mr. Chacon stated that there is a lot of illegal vending and Mr. Quintana is willing to accept some of the liability.

The public hearing was closed.

Commissioner Beaudoin asked if the commission was allowed to prescribe a height since the ordinance does not specify one and the intention is to screen intensities. He expressed that a minimum of 6 ft. would be appropriate so that customers could not look into the neighboring windows. Mr. Naranjo stated that it is fair to say that the commission has the ability to decide on a height because there is not one specified; however, anything above 6 ft. will require a building permit.

Commissioner Wright stated that buffering does not necessarily have to be a fence. He expressed that he would not want something like latillas to be wired to the existing fence, and explained that it needed to be separate. He asked what is appropriate screening. Mr. Quintana stated that placing a barrier on the 4 ft. wall would sag and bend.

Commissioner Ricci clarified that the discussion is to not touch the existing fence, but to place something in front of it and agree on a height. Mr. Chacon asked if they had any recommendations to an alternative. He expressed that at this time, live plants was not option. Commissioner Wright explained that a buffer can be a lot of things, including landscaping, soft-scape or a stack of material.

Mr. Naranjo provided more information regarding screening by reading aloud Official Development Code 2003-15, Article VI, Section 212: Screening & Storage. He also cited Article VI, Section 201(d), Grade Level Differences.

Commissioner Beaudoin stated a fabric fence that screens yet allows air, is constructible and de-constructible, may meet the requirements that allow privacy for the neighbors. Commissioner Ricci stated that he would have no objections with the material if they could raise it 2 ft. and attach it. Commissioner Beaudoin noted that the property owner did not want anything attached to the fence or anything that required going too far into the ground.

Commissioner Wright expressed that they did not know what the soil could take. He acknowledged that the property owner was not supportive of stacking pallets against the wall and stated that the concept of a setback for certain materials could become buffering. Mr. Chacon granted that pallets would not be stacked and spread out.

Commissioner Wright stated that he was not qualified to make a judgment on an appropriate setback. He explained that these could be conditions between the landlord and his tenant. Mr. Chacon suggested a condition that would set a height limit of 4 ft. and a 5 ft. setback.

Commissioner Beaudoin asked that the commission discuss the conditions of approval listed by staff and any amendments or additions for the construction of a motion.

The commission reviewed the conditions of approval including the acquirement of a hold harmless letter.

Commissioner Ricci made a motion to not accept the plan and deny the commercial site plan review: Commissioner Atencio seconded the motion. Motion failed 3-3 vote with Chairwoman Martinez, Commissioner Wright and Commissioner Vigil voting against the motion.

Chairwoman Martinez made a motion to table the commercial site plan review until March 14th and allow the applicants more time to submit a completed package and information regarding the engineering of the wall. Commissioner Beaudoin seconded the motion.

Mr. Chacon stated that they are willing to work with the City; however, he was unsure if they would be able to acquire a stamp. He asked for clarification on what needed to be stamped and expressed that they were well invested in this property. Mr. Naranjo confirmed that an engineer stamp would be required for the drainage plan and an architect stamp for the building, but that would be addressed during the permitting process for construction. Mr. Quintana stated that he could provide a survey of the drainage. Mr. Naranjo explained that with any new development the drainage needs to be held on the property and not flow unto the road.

The motion carried 5-1 vote with Commissioner Wright voting against the motion.

Commissioner Wright expressed that he would like to see the property in use instead of a vacant lot, but buffering needed to be handled. He suggested coming in next month with a hold harmless letter and information

on the engineering of the wall. He concluded that it is the responsibility of the applicant to provide the information and recommended that they work with staff on what needed to be submitted.

VI. Approval of Minutes, January 10, 2013:

Commissioner Atencio made a motion to approve the minutes as drafted, seconded by Commissioner Wright: Motion carried 6-0 vote.

VII. Matters from the Planning Commission:

Commissioner Beaudoin expressed that this case did not have to be this difficult. He stated that the criteria within the code were not met and it is the responsibility of the applicant and staff to provide what is required or the case should not be heard.

Commissioner Vigil agreed and stated that it should be staff's responsibility to make certain that everything is in the packet. He recommended that if a similar situation comes up again that it not be considered.

Commissioner Ricci suggested a quick review prior to the meeting to determine if submittals were missing.

Commissioner Beaudoin stated that is parliament rule to allow the applicant to present any information needed during their presentation. He stated that as soon as the presentation is completed and public hearing is closed, then any discussion shall be made, without interruption, and a motion made. Commissioner Wright agreed that the applicant should be allowed to present and it was important to hold the public hearing.

Commissioner Atencio questioned if the criterion for tabling the item was to avoid a fee or was it truly with the thought that the applicant can provide the information required. Commissioner Beaudoin stated that it gives them the opportunity to have a place on the agenda without re-application: "It is subjective."

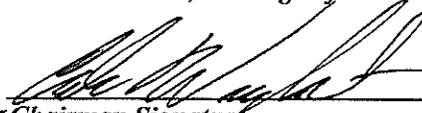
Commissioner Wright asked if an existing "grandfathered-in" business or residence would be required to connect to the city if the Environmental Department is requiring that their septic be replaced. Mr. Naranjo answered yes. He explained that their septic would be legal until failure, but because non-conformity cannot be prolonged, it would be required to hook-up to city if it is within 300 ft. from an existing line.

VIII. Matters from the Planning Staff:

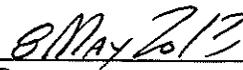
There were no matters from staff.

IX. Adjournment:

Chairwoman Martinez made a motion to adjourn the meeting, seconded by Commissioner Beaudoin: Motion carried 6-0 vote, meeting adjourned at 8:19 pm.



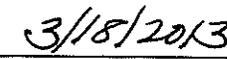
Vice-Chairman Signature



Date



Transcriber Signature



Date