

**PLANNING AND ZONING COMMISSION
REGULAR MEETING
MONDAY, NOVEMBER 16, 2015
5:00 P.M.
SCHIEFFELIN HALL**

- I. CALL TO ORDER** Chairman Jennings called the Meeting to order at 5:00 p.m.
- II. PLEDGE OF ALLEGIANCE** Chairman Jennings led the Planning and Zoning Commission and the general public in a recitation of the Pledge of Allegiance.
- III. ROLL CALL**
- | | |
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| Commissioner David Bales | Absent |
| Commissioner James Hofmeister | Present |
| Commissioner Bruce Nielsen | Present |
| Chairman Russell Jennings | Present |
| Vacancy | |

A QUORUM WAS DECLARED

IV. APPROVAL OF MINUTES

Regular Planning and Zoning Meeting Minutes for May 6, 2015

MOTION by Commissioner Nielsen, **SECOND** by Commissioner Hofmeister to approve the minutes for the Regular Planning and Zoning meeting for May 6, 2015.

DISCUSSION: None

VOTE: 3/0

MOTION: Carried

VI. NEW BUSINESS

- A. DISCUSSION AND ACTION:** Request for variance at 812 E. Fremont Street, Parcel No. 109-13-092-0, Zoning B1 by Edward J. Manriquez

Chairman Jennings asked Mr. Manriquez to step forward and state why he would like this variance granted.

DISCUSSION: “**Edward Manriquez;** “(Inaudible) this horse was brought down from Phoenix, Arizona; my mom had cancer. I bought it for her. A good thing for her. She passed in 2013 and I have had the horse ever since. Nobody has ever

complained about the horse. It has always been in the back (inaudible). (Inaudible) kept clean, everything well kept (inaudible) has helped me. (Inaudible) people here to support me; but this is a good thing. If you want to come by my house and see the museum we have here; it is well kept and the horse is well kept. (Inaudible) retired from A.P.S for 14 years (inaudible) supervisor; come home stay home; where I was born and raised. All I asked you people is let help take care of my horse. He is in good hands and he is not in someplace where he is not taken care of. That's all I ask you guys.

Chairman Jennings; "Thank you. I would like to take a moment and hopefully won't bore you but give you a little basic insight on my views on planning and zoning and why we have it. Many years ago people came West and they would find a place; property that they liked build a home, raise their families. Pretty soon other people would come. Pretty soon you had enough that settled near each other; I guess that's where the term "settlement" comes from. They would get together and they would talk about what they wanted to do as a group of people. Well as they grew they begin to say well there is too many of us to get together. So why don't we ask Charlie and well ask John if they would meet and work these things out and that is what we do when we elect people. We ask them to do a job for us. In zoning, zoning is there strictly to protect your neighbor from you and you from your neighbor. What do I mean by that well; I read a story once and it pretty well touched my ideas on this. Some folks bought a piece of property; it was zoned for single family and they envisioned it being like their grandfathers place as he remembered it being as a child. A great big oak tree in the back and many columns like his grandparents had. He would put a swing out there where the children could grow up like he did. So they bought it, built that home, they being to raise their children. They had a child grew, another child grew, had the swing everything was great and one day the kids are in school then they have families over they are doing their barbecue out back; just like he though it would be. Then one day one of the kids was going to get married. They have a celebration in the back. He has it all planned out. They get their for the barbecue, the wedding and the stench is so bad it ruined it. The guy next door had put in a pig farm. So the zoning when he bought his property he said that can't happen to me because the zoning says one house per (inaudible) and he wasn't expecting that. So what we do is zone things to protect each other from each other. That being said there comes a time when the will of the people; I believe out weights the will of other people. I notice that here you have all the neighbors in favor and let me say for the record that the building inspector met with me and he's definitely opposed to this variance that you have request and I asked him why? His answer was with some validity; if you allow it for one you must allow it for everyone. So my question to him was if all the neighbors agree to it and we allow you to have a horse. Now this guy wants a horse and all the neighbors agree to it, this guy wants a horse all of his neighbors agree to it and so forth and so forth you will have horses everywhere. My question was isn't that the will of the people. So with that being said I also understand his qualms about horses in a residential area, smell, flies, etc., etc,. I have discussed this with other people from City government which had the same questions. Well the neighbors are for it now but what happens when the files start and the manure starts? Then I said; then we stop it. It seemed simple to me. I am going to recommend to our Planning and Zoning Commission and the other people that are here that we grant a conditional variance. Condition on that you maintain it

the way you said that you were doing. It is your responsibility to make sure that it doesn't become a fly problem. We're not changing anything about hay restraints in the City limits because that is a fire problem. You can't store...you can't become a hay farmer. (Inaudible) hay bales that you can do and so all I can see is to grant you a conditional variance that says as long as you maintain that and the horse is protected and I haven't seen....is there a cover for the horse?

Mr. Manriquez; "Yes"

Chairman Jennings; "Okay!" "The horse is taken care of?"

Mr. Manriquez; "Yes, these are all witnesses here."

Chairman Jennings; "I figured they were." Would any of the members here like to say something?"

Commissioner Nielson; "Yes, Bruce Nielson this is my first day with this committee, and basically everything has been said. The neighbors agree with that and back in California lived in (inaudible) Canyon we had twenty horses and I know what it takes to take care of them. We would clean and feed them twice a day and we would mitigate the flies and that is basically it. Neighbors were happy, everybody's happy." "Real simple."

Commissioner Hofmeister; "I am also inclined to go in favor. One question that is; is it possible to (inaudible) after a year."

Chairman Jennings; "It's totally conditional forever!" "Forever!"

Commissioner Hofmeister; "what happens if a neighbor changes their mind a year from now?"

Chairman Jennings; "if he has a legitimate complaint; "legitimate" is the key word; not because he didn't buy a hat from you but because he is violating what he said he would do. Taking care of the smell, the files. At any time it can be revoked." "It is a conditional variance!" "It is never permanent!" "It is your responsibility to keep it maintained the way it should be!"

Mr. Manriquez; "Believe me it will be."

Chairman Jennings; "and if the property is sold the variance is revoked!" What I am doing with it here is setting it for when the next person comes in we are giving the same (inaudible)." "Very fair." "Neighbors are important!" (inaudible) with some control that six months down the line you violate the (inaudible); can't stand the stench, and so forth!" That being said the people in government are here to serve the people not the other way around." Is there anyone out there that would like to say something against it? Against what I have said or what the other commissioners have said?"

No response from general public.

Chairman Jennings; "I would entertain a motion to grant a conditional variance to Eddie Manriquez at 812 E. Fremont Street, maintain premises for a horse under the conditions that was stated tonight and if there is a legitimate complaint made I am sure that the building inspector would love to come and talk to you.

Mr. Manriquez; "I would like to say something about the variance fee. I told the Mayor that I would like to donate memorial they are building down at the cemetery. That would be a good thing.

Chairman Jennings; "I commend you for that and I am sure that he will be happy about that.

MOTION by Commissioner Hofmeister, **SECOND** by Commissioner Nielsen to approve conditional variance for 812 E. Fremont Street, Parcel No # 109-13-092-0 for Edward J. Manriquez.

VOTE: 3/0

MOTION: Carried

B. DISCUSSION AND ACTION: Approval of amendment to the boundary lines for annexation of Reach #3

Chairman Jennings; "Everyone should have the map." We had previously submitted to the City Council our recommendation of Reach #3 annexation into the City would receive votes back and areas that received the no votes in six thirty two, thirty three and yes votes four and a portion of thirty three. We are amending boundaries to take up Section four to the yellow line, up through section thirty three all the up to the top of 28 half way down and across to pick up the Border Patrol checkpoint which is the main emphasis for doing this. Since everyone is here you probably haven't heard this before the Border Patrol Check Point raises five to six hundred thousand dollars a year into the coffers of the County. By annexating that portion and bringing that into the City we will see that money. That is money from confiscated vehicles, fine money and if you are caught with drugs or caught with illegals' you lose your vehicles it goes to the County they have auctions and the fine money that comes in from that one check point is anywhere from four to six hundred thousand a year. Marshal Cloud when he was Marshal here he recommended to us that back in 2011 that we annex that into the City of Tombstone and which we did at that time but for some reason the City never acted on it. Here recently we did it again and the City acted on it. We moved into the annexation phase; letters have all gone out we've got those back; no votes, yes votes and since the no votes did not want to be in the City we are changing the boundary line to keep them out and we are still able to come and pick up the Border Patrol check point and bring those funds in and the few people that's in the white area have voted yes for it.

We will be doing Section 4 remaining portions that are not in the City limits at this time and the left half of Section 33 that's not existing in the City up to half of Section 28 all of the rest of 33 coming down are where are boundary line are for annexation.

I would entertain a motion that we change those boundary lines and submitted it to City Council.

MOTION by Commissioner Nielsen, **SECOND** by Commissioner Hoffmeister to approve changing Section 4 remaining portions that are not in the City limits at this time and the left half of Section 33 that's not existing in the City up to half of Section 28 all of the rest of 33 coming down are where are boundary line are for annexation.

VOTE: 4/0

MOTION: Carried

Chairman Jennings; We have a problem in Tombstone with population. The minimum population for a city in Arizona is thirty five hundred people. The population for a town is fifteen hundred people. Tombstone last census was thirteen hundred and thirty two people I know of four that have died since then. If you will notice we have had a lot of walk downs; we have lots of notices of deaths. You don't see birth notices. Our population is of the age group where we are not having many people born here in Tombstone. To get our population up; let me take a moment to say why it is important to get it up. The funds that we get from the State and the Federal government for infrastructure for your towns, cities is based on your population. The last few years we have been getting a cut because our population is declining. So the money that we used to get to fix pot holes, fixed lights and all the infrastructure things has been diminishing. We have to get our population back up. In discussion with some of the City Council members, the Mayor's office I have come to the conclusion we have to take some action to bring population into Tombstone. Now there are certain areas that have population but like most places, oh I don't want to be in the City because I don't want them to raise my taxes! Well that is a myth in that the Fire District pay that you pay the County equates to the tax that you pay here in the City. Convincing them of that is another problem. So I talked with the Mayor and there are sections of population that I think we can entice to come in to the City and one of the areas is Section 16 and for those who don't have maps Section 16 in all townships are reserved mainly for Arizona State Land. Trust Land; in every township there are two sections that become Trust Land which means the State can do stuff on it but they collect the money for the State. If there are minerals there, if there's logging, anything they do those funds go into the general fund for everyone in the State of Arizona. So in Section 16 you will see that's one of the Sections reserved for State Land but there is about fifteen patent mining claims that's in that section and a patent mining claim is a claim that you own the surface rights and the mineral rights. Only one is getting mined at this time. To give you an idea where that Section is; if you take Charleston Road headed for Sierra Vista just about at the top of the hill before you head down that area off to your right is Section 16. So to entice these people to join the City we are going to recommend to the City Council that we move for annexation and change the zoning from R-4 to R-2. Which means that all the people that own land there; and I will go on record as saying I own land there, but that is not why I am doing this. By splitting from R-4 to R-2 it now allows you to have two houses for four acres instead of just one. It increases the value of the land. Now they can have the in-laws house there, they can sell those two acres

and someone else can move into the community and double the population and we will be looking at doing that in other populated areas as an enticement for them to come into the City. Right now most of those areas are R-4, RU-4, one house for four acres. So if you own property out there you would be enticed to say hey I can now split that sell the two acres and bring more people in. It is an enticement for them to join the City that they are not going to get from the County. That's where were moving. After that we will be moving into other sections that are populated to bring population to City limits and that not only brings in those people but it also starts raising the funds that we are getting from the State and the Federal level.

Chairman Jennings; "any questions from the Commissioners?"

Commissioner Nielsen; "you can see how in the earlier conversation about the horse how the County inspector; he's only an inspector. Not that important. I used to be an inspector. Would you rather have the City on your side or the County on your side to tell you what to do."

Chairman Jennings; "this was just hearing. The next is for me to go to the Assessors office and get a list of all property owners in that area and start my due diligence with them to see if they are in agreement with this. If so then we will come back to a hearing on annexation we will make our formal plea, send it to the City Council and they decide if they are going to go with our recommendation or not. If they do then the ballots are sent out to everyone in the annexation area. We have to have fifty one percent of all the people that own property and fifty one percent of the valuation of the property (inaudible) before the annexation can go forward. It is not something you do overnight. It is something that volunteers can do.

Commissioner Hofmeister- "given the population requirements of the City versus town are we saying that Tombstone is no longer considered a town?"

Chairman Jennings; "No, because Tombstone is under the Territorial Charter. We still operate under it. If it wasn't for that we would not be a town. We do not qualify by our population.

Commissioner Hofmeister; "but we still lose the money?"

Chairman Jennings; "We still lose the money. So we are trying to get our population up for numerous reasons. If we ever lose the Charter for whatever reasons and who knows what would come down the pike; then we would become part of the County. We would no longer be a town for (inaudible). It's important we move in the right direction and if you're in the City you come get to come to Tombstone and plead your case. If you're in the County you go to Bisbee. I kind of like priding myself in saying we have better people."

Chairman Jennings; "Asked if there were any further questions?"

Mr. Manriquez thanked the Commission.

VII. ADJOURNMENT

Chairman Jennings entertains a motion to adjourn.

MOTION by Commissioner Hofmeister, **SECOND** by Commissioner Nielsen to adjourn the meeting at 5:30 p.m.

Russell Jennings, Chairman