

MINUTES OF THE
SANTA FE COUNTY
PLANNING COMMISSION

Santa Fe, New Mexico

May 16, 2019

I. This meeting of the Santa Fe County Planning Commission called to order by Vice Chair Frank Katz on the above-cited date at approximately 4:00 p.m. at the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

II. & III. Roll call preceded the Pledge of Allegiance and indicated the presence of a quorum as follows:

Members Present:

Charlie Gonzales, Chair
Frank Katz, Vice Chair
J J Gonzales
Susan Martin
Leroy Lopez
Fred Raznick
Steve Shepherd

Member(s) Excused:

None

Staff Present:

Paul Kavanaugh, Building & Services Development Supervisor
John Lovato, Development Review Specialist
Vicki Lucero, Development Review Team Leader
Rick Word, Assistant County Attorney
Gabriel Bustos, Case Manager

IV. Approval of Agenda

With no changes to the agenda, Member Lopez moved to approve as published. Member Martin seconded and the motion passed.

V. Approval of Minutes: April 18, 2019

Member Katz moved to approve. Member Raznick seconded and the motion passed without opposition.

SFC CLERK RECORDED 08/19/2019

VI. Consent Agenda: Final Orders

- A. **CASE # CUP 18-5240 Cedar Grove Auto Repair.** Shawn Meek, Applicant, requests approval of a Conditional Use Permit to operate an automotive repair and performance facility as a Medium Impact Home Occupation. The facility will occupy an existing 1,275 square foot garage/shop and 392 square foot office structure adjacent to a 3,405 square foot residence located in the Residential Estate Zoning District, at 10 Meek Road off of Hwy 344, within T11N, R7E, Section 23, SDA-2 (Commission District 3) (Approved 7-0) John Lovato, Case Manager

VII. New Business

- A. **Case #19-5070 Roadhouse Custom Welding Appeal.** Stephen Klinksiek, Appellant, is appealing the Land Use Administrator's Decision to Approve Development Permit No. 18-4076, Roadhouse Custom Welding (Anthony Riojas), to Allow a Low Impact Home Occupation for a Mobile Welding Service. The Site is Zoned Residential Estates (RES-E). The Property is Located at 5 Reina Ct E, Within Section 27, Township 11N, Range 7E (Commissioner District 3). Gabriel Bustos, Case Manager [*Exhibit 1: Revised Staff report, dated 5/16/2019*]

MS. LUCERO: Mr. Chair, Commission members, there is actually an issue that has come up in regards to this case so Gab, is going to hand out a revised memo [*Exhibit 1*] to the Planning Commission but I'll summarize it briefly.

To explain the issue, the appellant, Mr. Klinksiek, failed to comply with the legal noticing requirements of the SLDC. He was required to send out letters to all property owners within 500 feet of the subject property and to place an ad in the newspaper 15 days prior to the meeting. That was not completed. The staff is requesting that this case be tabled to allow the appellant to complete the notice in accordance with the SLDC. However, the issue with the tabling has created a hardship for the applicant. We approved his home occupation approval back in February and he actually made the submittal in October so he's been going through the process for six months. An additional month would create additional hardships for the applicant.

There is a chapter within the SLDC, it's Chapter 4, Section 4.5.4, that says a timely filing of an appeal shall stay future processing of the application unless the Administrator certifies to the Planning Commission that special circumstances exist. So up until this point, we have not allowed the applicant, Mr. Riojas, to operate his home occupation because the appeal was filed. However, because of the hardship that this presents to him, we are requesting that the Planning Commission lift the stay and allow Mr. Riojas to operate his business while the appeal process continues.

So we would request that the Planning Commission would take action to table the appeal request, if they so see fit, and also to lift the stay so Mr. Riojas can begin operation of his business while the appeal is going through the process.

And I know this is additional new information, so if you would like to take some time to look it over I'll stand for questions when everybody is ready.

CHAIR GONZALES: Do we want to have a discussion within the Commission? Any statements, thoughts?

MEMBER RAZNICK: Question. To date, has there been any objections to this application from the public?

SFC CLERK RECORDED 08/19/2019

MS. LUCERO: Mr. Chair, Commissioner Raznick, are you referring to the appeal or the application itself?

MEMBER RAZNICK: The appeal.

MS. LUCERO: The appeal, the only people we have heard from in regards to the appeal is the appellant.

["May I speak to it?" Someone in the audience asks.]

CHAIR GONZALES: Not at this time yet. Okay, anybody else here have any questions or comments? Okay, I guess I'm kind of confused of where to go from here?

MS. LUCERO: Mr. Chair, I think what staff would be requesting is that the Planning Commission take action on the tabling/staff's recommendation to table the request and also on staff's recommendation to lift the stay. So I believe that would need to be done in the form of a motion.

CHAIR GONZALES: Frank, go ahead.

MEMBER KATZ: There are obviously a couple people here who are probably the appellants and is it okay for us to have them comment on this or would that be inappropriate?

RICK WORD (Assistant County Attorney): Mr. Chair, members, I suppose that is the appellants, I do not know either party in this matter, but there are people in the audience who seem to be listening quite carefully. I would suggest that if it's going to be tabled that they not speak to the merits of the application but rather the process question that you're addressing right now.

MEMBER KATZ: But only if they are parties?

MR. WORD: If they are a party, correct.

MEMBER MARTIN: This is sort of going on Frank's question, my understanding is that what is before us is a possible Commission action on a decision to lift the stay but the public hearing would be postponed; is that what you're saying?

MR. WORD: Mr. Chair, members, yes, that is my understanding. Again, the issue is defective notice and if the appellant is here perhaps they can address that. The concern, as I understand it of the Administrator, is the affect of the delay of the hearing on the applicant and the memo addressed – and I'm sorry, I was having a sidebar when that was being covered – the code does authorize the Planning Commission to recognize certification by the Administrator that special circumstances exist that warrant lifting the stay pending the appeal. It is my understanding that the administrator has done that. But I think it would be proper for the Commission to take action acknowledging that and actually lifting the stay pending the appeal.

CHAIR GONZALES: JJ, did you have something?

MEMBER JJ GONZALES: The question I had is that we can allow to lift the stay but can we, as we've done in the past that I recall, is that when there is a tie vote or the Planning Commission did not vote on a recommendation or table it, can they just send it to the BCC and save 30 days and they can just appeal it to the BCC? Or does the Planning Commission have the final say?

MS. LUCERO: Mr. Chair, Commission member Gonzales, the Planning Commission has the final decision on the initial appeal and if any of the parties who weren't in agreement with that decision could then file a separate application appealing that to the BCC.

MEMBER JJ GONZALES: Would we be in line if we table it without a recommendation and send it to the BCC and that way they don't have to wait another 30 days?

MS. LUCERO: Mr. Chair, Commission member Gonzales, I don't believe so. As I stated the Planning Commission has the final authority on this appeal. So it wouldn't get to the BCC unless a new appeal was filed.

MEMBER JJ GONZALES: Okay.

MEMBER SHEPHERD: Mr. Chair.

SFC CLERK RECORDED 08/19/2019

CHAIR GONZALES: Mr. Shepherd.

MEMBER SHEPHERD: To the staff, it says in the thing you just handed out that the applicant shall provide notice at least 15 days prior; do you know if that notice has occurred and it just was late or is it yet to be notified?

MS. LUCERO: Mr. Chair, Commission member Shepherd, the only portion of the notice that was completed was the public notice sign. Staff posted that public notice sign but the rest of the notice was never completed.

MEMBER SHEPHERD: And then my understanding is that until the appellant satisfies the requirements, we really can't go forward in the case is the recommendation. So as such, we probably shouldn't hear any testimony for or against this tonight if we're tabling it because it really needs to be put forth once the conditions have been satisfied and we can actually proceed forward with a decision. And the second part of this on my understanding is that the way that the law currently reads is when somebody appeals a decision, that decision is suspended until the appeal is completed and that's why Roadhouse Custom Welding has been unable to perform their work for the last six months; is that true?

MS. LUCERO: Mr. Chair, Commission member Shepherd, that is correct. Once an appeal is filed then we can no longer continue to process the application.

MEMBER SHEPHERD: So part of the discussion tonight is whether or not to override that general understanding and consciously say that, Roadside Custom Welding can continue until such time at which the appellant comes forward and we have the discussion as to whether or not they can proceed even further; is that correct?

MS. LUCERO: Mr. Chair, Commission member Shepherd, that is correct. There is a provision in the Sustainable Land Development Code that does allow for that.

MR. WORD: Although, Mr. Chair, members, if I could clarify that. It's my understanding that the business has not commenced. There are still further steps that he would need to take. He was granted a permit but the appeal was timely submitted and under the code the permit was stayed, or the action approving the application was stayed and any further processing. And there are some other steps and it is my again my understanding that he has not commenced business, the business he intends to if he is able to get his permit approved.

MEMBER SHEPHERD: Mr. Chair. Do you know which conditions have yet to be met by the welding company?

MS. LUCERO: Mr. Chair, Commission member Shepherd, the conditions that were imposed were all basically conditions that follow the requirements of the SLDC just limiting him to certain provisions as far as the number of employees that he was allowed to have and as far as the number of appointments he was allowed to have, signage and so those conditions are conditions of when he actually begins the business. They are limitations to how he can operate the business.

MEMBER SHEPHERD: And at this point in time, the welding company has not met those conditions?

MS. LUCERO: Mr. Chair, Commission member Shepherd, since he has not begun to operate the business, he has not complied with the conditions. But, like I said, they are conditions that limit how he were to operate so technically none of those can be satisfied until he's actually in operation.

MEMBER SHEPHERD: Thank you.

MEMBER RAZNICK: Mr. Chair.

CHAIR GONZALES: Yes, go ahead.

MEMBER RAZNICK: It was difficult to hear with some of the feedback. So it's my

SFC CLERK RECORDED 08/19/2019

understanding this is not a functioning business yet; is that correct?

MS. LUCERO: Mr. Chair, Commission member Raznick; that is correct. The applicant has not begun operations.

MEMBER RAZNICK: Okay, thank you.

CHAIR GONZALES: Thank you. Yes, Frank.

MEMBER KATZ: There is nothing that would prevent the applicant from temporarily leasing space outside of his residence to operate his business, is there, if he complied with all other licensing rules there?

MS. LUCERO: Mr. Chair, Commission member Katz, the only thing that the applicant is doing onsite right now is he's just got a vehicle, his work vehicle parked there, but he's not operating. If he were to rent a space in a different location, I think that's what you were referring to –

MEMBER KATZ: Yes.

MS. LUCERO: -- we would, if it were in Santa Fe County, we would have to ensure that that type of use was permitted in that location.

MEMBER KATZ: Okay.

MS. LUCERO: And he may have to go through an additional process if not.

MEMBER KATZ: And what were the other notification things that were not met?

MS. LUCERO: The appellant was required to publish an ad in the newspaper of general circulation 15 days before this public hearing and also send out letters to all property owners within 500 feet of the subject property.

MEMBER KATZ: Thank you, that is helpful.

CHAIR GONZALES: Okay, anybody else? Okay, so who do we have out there today? Do we have the appellants and the applicant? If I let you speak it will be only to cover the process of the posting; correct, staff?

MR. WORD: Mr. Chair, yes, that's correct. I would advise that they not wander into the merits of the appeal.

CHAIR GONZALES: If you want to speak, please come up front, be sworn in and we are only going to listen to your concerns about the posting process or the timing of it and concerns about that, okay.

[Duly sworn, Anthony L. Riojas testified as follows]

ANTHONY L. RIOJAS: Good afternoon, my name is Anthony L. Riojas. I reside at 5 Reina Court East in Edgewood.

My wife and I purchased the home about a year ago and originally we're from in California. We relocated out here. I had the business prior at my previous location where I was living and everything was legal. This business is a portable, part time business and I did my application back in October with the County. Did all the steps that was required of me and needed permits for structures on the property, which I did and notified my neighbors as to the County's specifications which has all been documented. I saw a posting of the opposing recently so my wife and I put together letters that I have here and we went to most of our neighbors with the letters stating about what we're about, and what the hearing was. And we even got two of them back that signed that they are for us and one of them actually has a note here to the Commission that everybody has been for us and not against us.

CHAIR GONZALES: Okay. Any questions?

MEMBER SHEPHERD: Chair.

CHAIR GONZALES: Yes, Steve.

MEMBER SHEPHERD: It talks about a hardship but you're not in business yet so can you explain how a month or two delay would cause you more of a specific hardship.

MR. RIOJAS: Sure. Well, due to that I was laid off a full time job last year so that's what prompted me to get my license squared away for New Mexico so I can operate my portable business. The only thing I use my home for is an office, that's it. Any other work that is done on my property is for personal use and I even signed a statement with the County on that note. The hardship is I've been out of work for awhile and been having to do odd jobs here and there to keep bills made and just recently picked up a full time job, but our savings is about out and I'm just trying to make ends meet. I'm a disabled veteran and so I'm also kind of on a limited income as well as I'm sure my neighbors are. I'm just trying to make a living and help the general public because before I even started this, I talked to several people in town, in Edgewood, that were looking for portable welders to do work and so I explained to the people in the city that I'm working on that actually and even paid to put an ad out for my business to help provide a service for people that might be disabled and can't do work themselves.

MEMBER KATZ: Is there some reason why you couldn't sort of speed things along and temporarily rent a desk in somebody's place to operate out of?

MR. RIOJAS: We hadn't looked into that. A lot of it is just cost and time. Just in the meantime my wife and I are in Albuquerque most of the day and that's what our neighbor never bothered to ask us. Not once did he bother to ask me what my business is about and he would understand that it is fully portable. I do it every once in a while to help supplement our income to make sure our debts are paid.

CHAIR GONZALES: Let's hold off. I think we're getting kind of deep into it now.

MR. RIOJAS: Okay.

CHAIR GONZALES: Let's hear from the appellants. Please come forward and be sworn.

[Stephen Klinksiek and Elizabeth Hunt Klinksiek were duly sworn]

STEPHEN KLINKSIEK: My understanding is that I'm only allowed to address the issue of whether or not he should be allowed to continue the business until it's –

CHAIR GONZALES: No, we're talking about the posting.

MR. KLINKSIEK: Okay. About two months ago or so, I went to visit a doctor for the first time in 25 years maybe, something like that. By last Friday I was handed my death sentence. It's over for me. It won't be soon because we're going to try and figure out a way to extend it a little bit and in the interim time I have to deal with a person who wants to have a business in a neighborhood that is basically 90 percent retirement people.

CHAIR GONZALES: Sir, we're here to talk about the posting.

MR. KLINKSIEK: Please, just let me finish this part as far as – I didn't pay full attention to the paperwork that came from the office. There's only one small section in the paperwork where you can actually get out of it that I was the person that was supposed to send out the notices to all of the people that are within 500 feet of his residence. I'm sorry. I mean, like gee whiz, let's hand you your death sentence on Friday from stuff you've been going through for two months and perhaps you might have this problem as well. Okay.

As far as Mr. Riojas being able to park his truck, or whatever that was, or continue his business off the property, isn't that the entire notion of a mobile welding shop?

CHAIR GONZALES: Yeah, again, we're just here to talk about the posting. We need to cut it there.

MR. KLINKSIEK: Okay, so I beg your forgiveness.

CHAIR GONZALES: We understand it but on both sides of an issue that are obligations that each party has to do. Obviously, you didn't finish yours and that is fine, we'll just have to do what

we have to do.

MR. KLINKSIEK: Okay.

MEMBER SHEPHERD: Mr. Chair, I have a question for him.

CHAIR GONZALES: Mr. Shepherd.

MEMBER SHEPHERD: Based on what you're required to do, when will you have it complete?

MR. KLINKSIEK: I can notify the neighbors within days. We are friends with all the neighbors.

CHAIR GONZALES: Okay, that's what we want.

MR. KLINKSIEK: There's only like 12 of them.

CHAIR GONZALES: We just need that done so we can continue through the process.

You want to speak too? Sure.

ELIZABETH HUNT KLINKSIEK: My name is Elizabeth Hunt Klinksiek and I'm trying to clarify what Stephen was explaining. We were in the midst of medical emergencies when we received the email from Gabriel Bustos. And our understanding, our reading of it, was because we had to pay \$200 to appeal this license that the County and the zoning commission would be notifying the neighbors because we submitted petitions that was signed by probably at least 10 of our neighbors that listed their home address and their phone numbers. So that is where the confusion originated.

When it was explained to us that we were responsible for it, we said that we would be happy to do it and we will, but the – and another thing that I should tell you is that the notice was posted at the corner of Ruby Run and Reina Court East and it either fell down or somehow it was not visible. And I put it back up one time and the next time I drove up that intersection it was down again and it was not a windy day.

So, we will take care of notifying all the neighbors. There was a lot of confusion today because see we have other neighbors who wanted to be present and when they called Santa Fe they were told that the hearing had been postponed until next month and that they would receive a letter so they did not drive all the way out here like we did.

CHAIR GONZALES: Okay.

MEMBER SHEPHERD: Mr. Chair.

CHAIR GONZALES: Yes, Mr. Shepherd.

MEMBER SHEPHERD: Just to clarify: "The applicant for the appeal shall provide notice of the public hearing in a newspaper of general circulation at least 15 days prior to the date of the hearing." So let's assume the date of the hearing is our next hearing in June, okay, because you said you could do it almost right away. And, "The applicant shall mail notices at least 15 days prior to the hearing to all landowners within 500 feet of the subject property." Can you do both of those within 15 days of our next meeting?

MS. KLINKSIEK: Yes, we can but I also need to clarify one cannot purchase a copy of the *New Mexican* in Edgewood. It is not sold anywhere. It's not sold in Sandia Park. You have to go to Albuquerque. There are two local newspapers that are only published once a week, *The Independent* out of Moriarty and *The Telegraph* out of Sandia Park, I believe. So could you specify which publication you'd like for us to use, we'd be happy to do that.

CHAIR GONZALES: I think staff has dealt with that problem before, Vicki.

MS. LUCERO: Mr. Chair, that's correct and in those circumstances we've actually required them to publish in what used to be the *East Mountain Telegraph*, I'm not sure if that's what it is still referred to but I think given the time frame to the next meeting, I think that that is something that we can accomplish.

CHAIR GONZALES: Okay, so it looks like we are all in agreement here. You are going to get the submittal in and we'll get this thing going; correct?

MS. KLINKSIEK: Yes, absolutely.

CHAIR GONZALES: Thank you all for coming to Santa Fe and thank you for your time. Okay, JJ, do you have something?

MEMBER JJ GONZALES: I would like to make a motion on this case #19-5070, I would like to go with staff Land Use recommendation to lift the stay and also table this case.

MEMBER MARTIN: Second.

CHAIR GONZALES: Okay, can that be done in one motion together or does it have to be separate?

MR. WORD: Mr. Chair, members, I don't see a reason why it couldn't be done in one motion since lifting the stay relates to the tabling.

CHAIR GONZALES: Sounds good to me. Okay, so we have a motion on the floor, do we have a second? Oh, I'm sorry.

MEMBER SHEPHERD: Mr. Chair, discussion. I support the tabling to a date specific, let's say next month. As I understand it, there is a time sensitive issue and so I'm hearing the appellant say they can get it done quickly so let's get it done quickly.

I'm also still confused to what the exact hardship is given that it's a mobile welding service and I don't understand why that can't continue by some means or another while he is waiting for his home business to get approved. So I'm not sure I support the – and the other part of it is and my understanding is that he doesn't satisfy the requirements yet. So unless somebody is going to say to me that, I can satisfy all the requirements in like three days, so that I have some part of this month to actually run my business, I don't understand why we need a stay if he's not in business anyway and it's going to take longer than a couple of weeks to get it in business. It sounds like a waste.

CHAIR GONZALES: All right. Frank.

MEMBER KATZ: My understanding is that the conditions are just how he operates nothing that he has to do before he started operating. So if the stay is lifted he can start operating later this afternoon as long as he does it in compliance with all the conditions and please correct me if I am wrong on that. My other reason for being in favor of lifting the stay is if for some reason he does not operate in an acceptable manner that certainly will inform our decision on the appeal.

CHAIR GONZALES: Okay.

MR. WORD: Mr. Chair, just a point of clarification. Was that proposed as a friendly amendment that the tabling be to a date certain – I don't believe that was in the original motion.

CHAIR GONZALES: I think it was just a comment, right?

MEMBER SHEPHERD: I would like to see to a date certain if we can modify the motion.

CHAIR GONZALES: Okay, what does the Commission think; JJ?

MEMBER JJ GONZALES: I would agreed with the friendly amendment with date certain. And can we have the motion repeated. June 20th next meeting. No, the motion I wanted to make was to go with staff recommendation and also lift the stay and also have a date certain with Mr. Shepherd's comments. I think that covers things.

CHAIR GONZALES: Okay, is the attorney okay with that? Okay. So we have a motion and a second.

The motion passed by majority [6-1] voice vote with Member Shepherd voting against.

CHAIR GONZALES: The motion passes. And thank you very much for coming. We'll see you on June 20th.

VIII. Petitions from the Floor

None were offered.

IX. Communications from the Committee

Ms. Martin announced she would not be present for the July meeting.

X. Communications from the Attorney

None were presented.

XI. Matters from Land Use Staff

Staff indicated that the updates to the SLDC were tabled by the BCC for an additional public hearing.

XII. Next Planning Commission Meeting: June 20, 2019

XIII. Adjournment

Having completed the agenda and with no further business to come before this Commission, Member Martin moved to adjourn and Member Katz seconded. Chair Gonzales declared this meeting adjourned at approximately 4:35 p.m.

SFC CLERK RECORDED 08/19/2019



Approved by:

Charlie Gonzales

Charlie Gonzales, Chair
Planning Commission

ATTEST TO:

Geraldine Salazar

GERALDINE SALAZAR
SANTA FE COUNTY CLERK

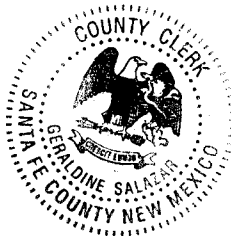
COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

PLANNING COMMISSION MI
PAGES: 18

I Hereby Certify That This Instrument Was Filed for
Record On The 19TH Day Of August, 2019 at 04:10:59 PM
And Was Duly Recorded as Instrument # 1894412
Of The Records Of Santa Fe County

Submitted by:

Karen Farrell
Karen Farrell, Wordswork

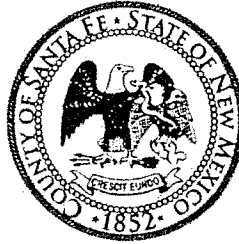


Witness My Hand And Seal Of Office
Geraldine Salazar
Deputy *Estrella Martinez* County Clerk, Santa Fe, NM

Henry P. Roybal
Commissioner, District 1

Anna Hansen
Commissioner, District 2

Rudy N. Garcia
Commissioner, District 3



Anna T. Hamilton
Commissioner, District 4

Ed Moreno
Commissioner, District 5

Katherine Miller
County Manager

DATE: May 16, 2019

TO: Santa Fe County Planning Commissioner

FROM: Penny Ellis-Green, Growth Management Director ✓ for PEG
Vicki Lucero, Building and Development Services Manager ✓

FILE REF.: Case # 19-5070 Roadhouse Custom Welding (Anthony Riojas) Appeal

The Appellant, in this matter Mr. Stephen Klinksiek failed to comply with the legal noticing requirements of the SLDC. Chapter 4, Section 4.6.3 of the SLDC (Applications requiring a public hearing) states, for all applications, the Applicant (in this case Mr. Klinksiek is the Applicant for the Appeal) shall provide notice of the Public Hearing in a newspaper of general circulation at least 15 days prior to the date of the hearing, the Applicant shall mail notices at least 15 days prior to the hearing to all land owners within 500' of the subject property, and notice of public hearing shall be posted by the Applicant on the parcel at least 15 days prior to the date of the hearing. (Exhibit 1)

Staff provided the Appellant with the noticing and requirements via email on April 23, 2019 (Exhibit 2). Staff posted the public notice sign as to not have the Appellant trespass on Mr. Riojas property. However, the Appellant failed to send out the letters and did not publish notice of the meeting in the newspaper on April 26th as required. **Therefore, staff is requesting that this case be tabled to allow the Appellant to complete the notice in accordance with the SLDC.**

Mr. Riojas has stated that it has been a hardship for them and will continue to be a hardship if the case is postponed as this business helps to supplement their income (See letter from Mr. Riojas in Exhibit 3). He also stated that he was laid off last year from a full time job which prompted him to get his license to properly conduct his business.

Chapter 4, Section 4.5.2 of the SLDC states, "...The timely filing of an appeal shall stay further processing of the application unless the Administrator certifies to the Planning Commission that special circumstances exist." (Exhibit 4)

County Staff reviewed the application that was submitted by Mr. Riojas' on October 3, 2018, for a Low Impact Home Occupation and determined it was in compliance with the standards and regulations of the SLDC. The application was approved on February 22, 2019.

SFC CLERK RECORDED 08/19/2019

Based on Mr. Riojas' statement that this has been a hardship for him and his family as this has been in the process since October of 2018 and he needs to operate his business to supplement his income, and the fact that the failure to comply with the noticing for this public hearing was not at the fault of Mr. Riojas, the Administrator finds that special circumstances exist and requests that the Planning Commission make a decision to lift the stay and allow Mr. Riojas to operate his business while the appeal is going through the process.

EXHIBITS:

1. Chapter 4, Section 4.6.3 of the SLDC
2. Email from staff to the Appellant regarding notice
3. Letter from Mr. Riojas
4. Chapter 4, Section 4.5.2 (Appeals of an Administrative Decision) of the SLDC

SFC CLERK RECORDED 08/19/2019

4.5.2. Appeals of an Administrative Decision of the Administrator. An aggrieved person with standing may appeal the decision of the Administrator to approve, deny or approve with conditions an application to the Planning Commission. An appeal from a decision of the Administrator shall be filed in writing with the Administrator within five (5) working days of the date of the decision. If no appeal is filed within five (5) days, the decision of the Administrator shall be final and not subject to further appeal, review or reconsideration. The timely filing of an appeal shall stay further processing of the application unless the Administrator certifies to the Planning Commission that special circumstances exist.

4.5.3. Appeals of Subdivision Decisions Under Summary Review. Any person with standing who is or may be adversely affected by a decision approving or disapproving a final plat under summary review must appeal the decision to the Board within five (5) working days of the decision. The Board shall hear the appeal and shall render a final decision.

4.5.4. Appeal of a Final Decision of the Planning Commission. Any party with standing may appeal a final decision of the Planning Commission to the Board. The application seeking an appeal of a decision of the Planning Commission must be filed with the Administrator. An appeal from a decision of the Planning Commission must be filed within thirty (30) working days of the date of the decision and recordation of the final development order by the Planning Commission. The application shall be forwarded by the Administrator to the Board. The Administrator shall provide to the Board a copy of the record of the proceedings below of the decision appealed. The appeal shall be placed on the docket of the Board for consideration on the next available agenda. An appeal of the decision of the Planning Commission shall be reviewed *de novo* by the Board. The timely filing of an appeal shall stay further processing of the application unless the Board determines that special circumstances exist.

4.5.5. Appeals of Board Decisions. Any person aggrieved by a final decision of the Board pursuant to this section may appeal to District Court in accordance with NMSA 1978, § 39-3-1.1 (as amended) and Rule 1-074 NMRA.

4.6. NOTICE.

4.6.1. Generally. The notice requirements for each application are prescribed in the Subsections of this chapter and by state law.

4.6.2. Notice of Hearing. Notice of a public hearing to be conducted by the Hearing Officer, Planning Commission, or the Board, shall be provided as described in the resolution adopted by the Board pursuant to the Open Meetings Act. Public hearings shall be conducted according to the Board's rules of order. The name of the applicant and agent if any shall be stated in the notice.

* **4.6.3. General Notice of Applications Requiring a Public Hearing.** All applications not requiring specific notice under subsequent sections shall provide the following notice:

4.6.3.1. Newspaper. Notice of hearing shall be published by the applicant in a newspaper of general circulation at least fifteen days (15) prior to the date of the hearing. The Administrator shall provide the form of the notice to the applicant.

4.6.3.2. First Class Mail. Notice of the public hearing shall be mailed by the applicant by first class mail at least fifteen days (15) prior to the date of the hearing to the owners, as shown by the records of the County Assessor, of lots or of land within 500 feet of the subject property, excluding public right-of-ways. The Administrator shall provide the form of the notice to the applicant.



4.6.3.3. Posting. Notice of the public hearing shall be posted by the applicant on the parcel at least fifteen (15) days prior to the date of the hearing. The notice to be posted shall be provided by the Administrator and shall be prominently posted on the property in such a way as to give reasonable notice to persons interested in the application. The notice shall be visible from a public road. If no part of the property or structure is visible from a public road, the property shall be posted as required in this paragraph and a second notice shall be posted on a public road nearest the property. Posted notice shall be removed no later than seven (7) days after a final decision has been made on the application.

4.6.3.4. Supplemental Notice. Reasonable effort shall be made by the applicant to give notice by first class mail or email, to all persons, COs and ROs who have made a written request to the Board for advance notice of its hearings. Notice shall also be given to any public agency that issued an opinion or withheld an opinion on the basis of insufficient information.

4.6.3.5. Verification. Written verification of the publication, a list of persons sent a mailing, and an affidavit of posting which includes a photograph of the posted notice taken from a public road, shall be provided to the Administrator prior to the public hearing.

4.6.4. Specific Notice of Zoning, Rezoning, Amendment, Repeal.

4.6.4.1. Newspaper. Notice of the public hearing concerning an application to zone a parcel or parcels, or to amend, rezone, supplement or repeal zoning on a parcel or parcel, shall be provided by the Administrator and published by the applicant in a newspaper of general circulation at least fifteen days prior to the date of the hearing.

4.6.4.2. Certified Mail. Whenever a change in zoning is proposed for an area of one block or less, notice of the public hearing shall be mailed by the applicant by certified mail, return receipt requested, to the owners, as shown by the records of the County Assessor at least fifteen days prior to the date of the hearing, of lots within the area proposed to be changed by the zoning regulation and within 100 feet of subject property, excluding public right-of-way.

4.6.4.3. First Class Mail. Whenever an application proposes to zone a parcel, or to amend, rezone, supplement or repeal zoning of a parcel or parcels for an area of more than one block, notice of the public hearing shall be mailed by the applicant by first class mail to the owners, as shown by the records of the County Assessor at least fifteen days prior to the date of the hearing, of lots or of land within the area proposed to be changed by a zoning regulation and within 100 feet from subject property or area, excluding public right-of-ways. If notice by first class mail to the owner is returned undelivered, the applicant shall attempt to discover the owner's most recent address and shall remit the notice by certified mail, return receipt requested, to that address.

4.6.4.4. Posting. Whenever an application proposes to zone a parcel, or to amend, rezone, supplement or repeal zoning on a parcel or parcels for an area of more than one block, notice of the public hearing shall be posted on the parcel by the Applicant at least fifteen days prior to the date of the hearing. The notice to be posted shall be provided by the Administrator and shall be prominently posted on the property in such a way as to give reasonable notice to persons interested in the application. The notice shall be visible from a public road. If no part of the property or structure is visible from a public road, the property shall be posted as required in this paragraph and a second notice shall be posted on a public road nearest the property. A posted notice shall be removed by the

Vicki Lucero

From: Gabriel C. Bustos
Sent: Thursday, May 16, 2019 11:33 AM
To: Vicki Lucero
Subject: FW: Santa Fe County Noticing Requirements
Attachments: Anthony Riojas Appeal.docx

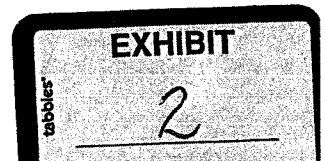
From: Gabriel C. Bustos
Sent: Tuesday, April 23, 2019 3:45 PM
To: 'Stephen A Klinksiek' <saklinksiek@hotmail.com>
Subject: Santa Fe County Noticing Requirements

Mr. Klinksiek, attached are the noticing requirements for your appeal of Mr. Riojas's business license.

Gabriel Bustos
Development Review Specialist
Growth Management Department
Building & Development Services Division
Phone: (505) 986-6268



SFC CLERK RECORDED 08/19/2019



To be at New Mexican prior to 9:30 am: **April 26, 2019**

To be published in the **LEGAL SECTION** of the paper on: **May 1, 2019**

Case # 19-5070 Roadhouse Custom Welding (Anthony Riojas) Appeal

NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held to consider a request by Stephen Klinksiek to appeal the Land Use Administrators decision to approve development permit No. 18-4076, Roadhouse Custom Welding (Anthony Riojas), to allow a Low Impact Home Occupation for a mobile welding service. The site is zoned Residential Estate (RES-E). The property is located at 5 Reina Ct E, within Section 27, Township 11, Range 7 (Commission District 3).

A public hearing will be held in the County Commission Chambers of the Santa Fe County Courthouse, corner of Grant and Palace Avenues, Santa Fe, New Mexico on the 16th day of May 2019, at 4 p.m. on a petition to the Santa Fe County Planning Commission.

Please forward all comments and questions to the County Land Use Administration Office at 986-6225.

All interested parties will be heard at the Public Hearing prior to the Planning Commission taking action.

All comments, questions and objections to the proposal may be submitted to the County Land Use Administrator in writing to P.O. Box 276, Santa Fe, New Mexico 87504-0276; or presented in person at the hearing.

Please forward affidavit of publication to the County Land Use Administrator, P.O. Box 276, Santa Fe, New Mexico 87504-0276.

Written verification of the publication shall be provided to the Administrator prior to the public hearing.

PLEASE NOTE: To be heard at a public meeting accurate legal notice is required. The applicant shall verify all information is correct and any changes must be approved by the Land Use Staff.

SFC CLERK RECORDED 08/19/2019

To be sent First Class Mail to all property owners within 500 ft. (excluding right of ways) of subject property and any Community Organizations and/or Registered Organizations recognized by the County, within the geographic area in which the development is proposed. Mailings must be sent out on or prior to **May 1, 2019**. A list of persons sent a mailing shall be provided to the Administrator prior to the public hearing.

Case # 19-5070 Roadhouse Custom Welding (Anthony Riojas) Appeal

Dear Property Owner:

Notice is hereby given that a public hearing will be held to consider a request by Stephen Klinksiek to appeal the Land Use Administrators decision to approve development permit No. 18-4076, Roadhouse Custom Welding (Anthony Riojas), to allow a Low Impact Home Occupation for a mobile welding service. The site is zoned Residential Estate (RES-E). The property is located at 5 Reina Ct E, within section 27, Township 11, Range 7 (Commission District 3)

A public hearing will be held in the County Commission Chambers of the Santa Fe County Courthouse, corner of Grant and Palace Avenues, Santa Fe, New Mexico on the 16th day of May 2019, at 4 p.m. on a petition to the Santa Fe County Planning Commission.

Please forward all comments and questions to the County Land Use Administration Office at 986-6225.

All interested parties will be heard at the Public Hearing prior to the Planning Commission taking action.

All comments, questions and objections to the proposal may be submitted to the County Land use Administrator in writing to P.O. Box 276, Santa Fe, N.M. 87504-0276; or presented in person at the hearing.

Sincerely:

Encl: Vicinity Map

SFC CLERK RECORDED 08/19/2019

To the Planning Commission team,

5/15/2019

Good afternoon,

I come to you this afternoon in an effort to uphold the County's decision to grant me my business license, and to argue that my neighbor Mr Klinksiek's complaint/appeal is unfounded, exaggerated and false.

When my wife and I got the notice about the hearing from the posted yellow board in our neighborhood, we put together a petition of our own. We visited our neighbors, explained what my business is, solely portable, shared the information on the hearing, and asked for their support. Upon our visits with our neighbors they shared with us Mr. K's false accusations that we were putting in a "welding and metal fabrication business" on our property, causing excessive fumes and smoke. This couldn't be further from the truth. We explained to them that I signed a contract with the county stating that all work for the business was to be done off site; this license is for a home office. For the record, most of the week we are not even home; 6 days out of 7 we are in Albuquerque and one weekend a month I drill for the US Navy SeaBees. Realistically I might be home 3 Saturdays out of the month. There was not a neighbor that didn't support me.

Today I was contacted by Vicki Lucero who explained to me that Mr. Klinksiek did not follow through on all the steps required by the County with his appeal. He chose not to place an ad or inform our neighbors on the hearing. In fact, it was a county official who posted the public notice about the hearing in our neighborhood, not Mr. K. To my understanding the Commission is looking at tabling the matter for another month. This simply cannot happen. This has been in process since Oct 2018 and I have complied with everything the county has requested of me. Why should I be denied what the county has already granted me because Mr. K hasn't done his part? In addition, this has created a hardship for us, as this business helps to supplement our income. I was laid off last year from a full time job which prompted me to get my license to properly conduct business in New Mexico as I did for 17 years in California. Mr. K had plenty of time to accomplish what was asked of him by the county before this hearing, and he simply didn't do it as a ploy to delay the process. If Mr. K couldn't take the time to support his own appeal, then it should be dropped.

I urge you to stand by the county's decision and grant me my license. I'm a disabled combat veteran just trying to make a living and serve my community.

Thank you all for your time and consideration.

Very Respectfully,

Anthony Riojas

SFC CLERK RECORDED 08/19/2019



* 4.5.2. **Appeals of an Administrative Decision of the Administrator.** An aggrieved person with standing may appeal the decision of the Administrator to approve, deny or approve with conditions an application to the Planning Commission. An appeal from a decision of the Administrator shall be filed in writing with the Administrator within five (5) working days of the date of the decision. If no appeal is filed within five (5) days, the decision of the Administrator shall be final and not subject to further appeal, review or reconsideration. The timely filing of an appeal shall stay further processing of the application unless the Administrator certifies to the Planning Commission that special circumstances exist.

4.5.3. **Appeals of Subdivision Decisions Under Summary Review.** Any person with standing who is or may be adversely affected by a decision approving or disapproving a final plat under summary review must appeal the decision to the Board within five (5) working days of the decision. The Board shall hear the appeal and shall render a final decision.

4.5.4. **Appeal of a Final Decision of the Planning Commission.** Any party with standing may appeal a final decision of the Planning Commission to the Board. The application seeking an appeal of a decision of the Planning Commission must be filed with the Administrator. An appeal from a decision of the Planning Commission must be filed within thirty (30) working days of the date of the decision and recordation of the final development order by the Planning Commission. The application shall be forwarded by the Administrator to the Board. The Administrator shall provide to the Board a copy of the record of the proceedings below of the decision appealed. The appeal shall be placed on the docket of the Board for consideration on the next available agenda. An appeal of the decision of the Planning Commission shall be reviewed *de novo* by the Board. The timely filing of an appeal shall stay further processing of the application unless the Board determines that special circumstances exist.

4.5.5. **Appeals of Board Decisions.** Any person aggrieved by a final decision of the Board pursuant to this section may appeal to District Court in accordance with NMSA 1978, § 39-3-1.1 (as amended) and Rule 1-074 NMRA.

4.6. NOTICE.

4.6.1. **Generally.** The notice requirements for each application are prescribed in the Subsections of this chapter and by state law.

4.6.2. **Notice of Hearing.** Notice of a public hearing to be conducted by the Hearing Officer, Planning Commission, or the Board, shall be provided as described in the resolution adopted by the Board pursuant to the Open Meetings Act. Public hearings shall be conducted according to the Board's rules of order. The name of the applicant and agent if any shall be stated in the notice.

4.6.3. **General Notice of Applications Requiring a Public Hearing.** All applications not requiring specific notice under subsequent sections shall provide the following notice:

4.6.3.1. **Newspaper.** Notice of hearing shall be published by the applicant in a newspaper of general circulation at least fifteen days (15) prior to the date of the hearing. The Administrator shall provide the form of the notice to the applicant.

4.6.3.2. **First Class Mail.** Notice of the public hearing shall be mailed by the applicant by first class mail at least fifteen days (15) prior to the date of the hearing to the owners, as shown by the records of the County Assessor, of lots or of land within 500 feet of the subject property, excluding public right-of-ways. The Administrator shall provide the form of the notice to the applicant.

