



# TOWN OF JEROME

POST OFFICE BOX 335, JEROME, ARIZONA 86331

(928) 634-7943 FAX (928) 634-0715

## REGULAR MEETING OF THE TOWN OF JEROME PLANNING AND ZONING COMMISSION

DATE: WEDNESDAY April 1, 2015 TIME: 7:00 pm

PLACE: Jerome Town Hall

600 Clark St., JEROME ARIZONA, 86331

## MINUTES

Pursuant to A.R.S. 38-431.02, notice is hereby given to the members of the Planning and Zoning Commission and to the general public that the Planning and Zoning Commission will hold the above meeting in Council Chambers at Jerome Town Hall. Members of the Planning and Zoning Commission will attend either in person or by telephone, video or internet conferencing. The Planning and Zoning Commission may recess the public meeting and convene in Executive Session for the purpose of discussion or consultation for legal advice with the Town Attorney, who may participate telephonically, regarding any item listed on this agenda pursuant to A.R.S. § 38-431.03 (A)(3).

### ITEM 1: CALL TO ORDER/ROLL CALL

Vice Chair Leo Shakespeare called the meeting to order at 7:01 p.m.

Roll call was taken by Albert Sengstock, Zoning Administrator.

Commission Members present were Vice Chair Leo Shakespeare, Mike Parry and Lance Schall, Margie Hardie arrived at 7:03 p.m.

Staff present: Albert Sengstock, Zoning Administrator and Joni Savage, Deputy Clerk

### ITEM 2: APPROVAL OF MINUTES FROM: November 5, 2014

Lance Schall moved to approve the minutes, Mike Parry seconded. Motion carried unanimously.

### ITEM 3: PETITIONS FROM THE PUBLIC – No petitions from the public.

### ITEM 4: ELECT A NEW CHAIRPERSON AND VICE CHAIR

Margie Hardie made a motion to elect Leo Shakespeare as Chair, seconded by Mike Parry. Motion passed unanimously.

Mike Parry moved to elect Lance Schall as Vice Chair. Margie Hardie seconded it. Motion carried unanimously.

### ITEM 5: APPLICATION FOR A USE PERMIT FOR A WALK-UP BAKERY SHOP

APPLICANTS: LISA AND DAVE BILLINGSLEY

ZONE: C-1

ADDRESS: 400 MAIN STREET

APN: 401-06-016

OWNER OF RECORD: P.E.T. III LIVING TRUST

The applicants request a Use Permit to operate a walk-up retail bakery shop.

Albert Sengstock gave historical background on the building. The building that is there was originally put there without a permit. There have been attempts to normalize it but there was confusion about parking. Mr. Sengstock said that he worked with the town attorney and determined that the owner paid \$4000.00 for four parking spaces in 1993. He has also found a document (shown to Commission members) describing the discussion of the variance granting the parking spaces. He has also found a record of the creation of the ordinance of the variance; he does not have his hands on it today. He will add it to the Notice of Decision.

Mr. Schall asked if the variance allowed purchasing a virtual parking spot.

Mr. Sengstock continued by saying that the Zoning Administrator at the time was confused that he could not bequeath a parking space. In speaking with the Town attorney he said, "Unless he (the owner of record) were to develop the

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property that it was originally intended for, that he can bequeath one of the parking spaces to this "use permit" and if he should ever decide to develop that property and use those parking spaces allotted to him then the "use permit" would have to go away." Basically, he was granted four parking spaces. The Town attorney says He (the owner of record) has the right to receive value for his property unless he plans to use the building next door. Additionally, because this building has been there so long we have lost any legal right to remove the building. What this does is restart the clock. If this were to be approved it now puts the building back under the authority of the town. And as you'll see in the recommended approval a condition to be considered is should this use, or any subsequent permitted use, be suspended for more than 90 days or permanently then one of the conditions will be that the building will need to be moved to a legal location following all codes and ordinances. This does two things, it allows for a nice business opportunity and also it puts the property back under the legal authority of the Town with expiration dates and specific legal direction that we can now enforce. This thing is sitting there completely out of code, but again it never needed building permits, (it is under 144 square feet); basically all it needed was zoning permission and parking. We have accommodated all of that with the "use permit". If the "use permit" should end this or any future use then basically the building would have to be removed. I think we have covered a lot of things here plus we get to provide an opportunity for what I believe to be a good business.

Mr. Sengstock read from Section 507, C1 Zoning Commercial conditional uses, establishments serving food or beverages for consumption on the premises, but outside of an enclosed building. You will see in the plot plan there is a table and some chairs on site. It shows the basic location of the building. There is 4 feet in front of the building and plenty of room to accommodate the use. Again, we are dealing with parking by bequeathing. You will see there is a lease agreement in your packet that dedicates one parking space to the Billingsley's. It cannot administratively transfer to some other user. Any subsequent user must get a "use permit."

Ms. Hardie said after reviewing the lease she could not see anywhere what the length of the lease was.

Mr. Billingsley believed it to be an annual lease.

Mr. Sengstock stated we would get a copy of the lease to show the length of the lease.

Ms. Hardie said at one point she thought they had to have a permanent lease.

Mr. Sengstock talked about a property that someone owned and they had parking offsite but in the same zoning district then that has to be deed restricted on the title and that is permanent. A "use permit" is temporary.

Ms. Hardie asked if the building is leased to someone else, whether they would have a new lease.

Mr. Sengstock assured her we would have this same meeting again.

Ms. Hardie was looking at the document, but she wants to find out who the Zoning Administrator was at that time.

Mr. Sengstock informed Ms. Hardie that he had read the document, but at this time he could not put his fingers on it. He assured her that it would be included in his Notice of Decision.

Mr. Schall questioned why Mr. Sengstock recommended that the building be removed. Is there was any historical value to the building, and why the building would be removed and not demolished.

Mr. Sengstock said it was placed without a permit and it has no right to be there without the "use permit." He went on to say that it is not a historical building and it would be the owner's responsibility to remove it.

Ms. Hardie would like to change the motion where it says this use be suspended for more than ninety days, she would like to change it from ninety to thirty days. She believes ninety days is a long time.

Mr. Sengstock disagreed and said the owner should be allowed ninety days. Thirty days is not fair to the owner.

Mr. Schall said, "What's wrong with ninety days."

Mr. Parry commented that ninety days passes by quickly.

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There was a lot of discussion about ninety days, in summation it was agreed to leave the ninety days alone.

Mr. Sengstock spoke about Health and Safety. The County Health Department has authorized the Billingsley's to have this business. They are not handling unwrapped food. Her home occupancy business, she operates from home meets all conditions and County Health Department requirements. He continued with, the building does not need to have utilities; however there must be and are restroom facilities within 500 feet of the building. Design and Review will be involved; it is not within your realm, however, Mr. Sengstock went on to explain the plaque to be placed on the building stating that although this is an old building from the mine it is not from the historical part of the Town, and it will be painted. SHPO does not want people to think that it is a part of the historical downtown. He will take care of the historical issue that way. Other than that DRB will review it if you approve it. If that goes through they (the Billingsley's) will be scheduled for the Town Council for the second Tuesday in May.

Mr. Perry wanted to make a motion to use the recommended motion.

Ms. Hardie had some questions, she asked the Billingsley's to explain the business.

Ms. Billingsley said she was baking from her home and selling packaged goods from the building. It would be small items like cookies, things the public could walk around and enjoy. Ideally when she is out of product and daylight she is done.

Mr. Sengstock mentioned there would be no coffee served from the building.

Ms. Hardie asked if there was a name for the business.

Ms. Billingsley said it is "Bordello Sweets."

Chair Shakespeare asked about adding power to the building later on.

Ms. Billingsley said maybe down the road.

Mr. Sengstock interjected that there is nothing prohibiting them from adding power.

Mike Parry would like to make the recommended motion he read from the motion on the ZA review. #1 The business owner is responsible to assure that there is no pedestrian congestion resulting from this use. #2 The documents giving the property owner the right to four parking spaces for a fee of \$4000.00 and a copy of the lease giving one of those four parking spaces to this use is included in the file prior to issuing the Notice of Decision. #3 Should this use or any subsequent approved use be suspended for more than ninety days then the building must be re-located to an authorized location.

Mr. Sengstock interjected, and add "or demolished."

Mr. Parry continued, or demolished per all current codes and ordinances at the owner's expense. #4 Sign up for a trash account with the city. #5 Should the property owner decide to develop the neighboring property to the extent that the four purchased parking spaces are needed then the use permit is considered null and void. #6 The Zoning Administrator will review the "use permit" for compliance after ninety days and after one year. Lance Shall seconded the motion. Chair Shakespeare called the vote.

Ms. Hardie interjected another question to Mr. Sengstock, "Has Mr. Tovrea been notified of all of this that is going to what's going to happen. We are giving them a "use permit" to use that structure as a bakery or whatever, and at the same time you've got this over here where Mr. Tovrea will have his property demolished..."

Mr. Sengstock interjected that he would have to legitimize his property is what he has to do. I have already been in contact with Phil about the necessity to come into compliance or remove the building, there won't be any surprises.

Ms. Hardie added that this will bind him.

Mr. Sengstock said yes, and again we have lost control of the property, because it has been so long, this put's it back under our control and starts the enforcement clock ticking from tonight.

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Ms. Hardie added, I get it, but we're issuing the "use permit" to the Billingsley's and so but at the same time he is obligated.

Mr. Sengstock stated, right, that if the use stops then he has to come into compliance with the building, which he should have been in the first place.

Mr. Schall added, right or if he develops the property and uses all four spaces.

Mr. Sengstock interjected, "Right."

Ms. Hardie commented, "And he's agreed to this?"

Mr. Sengstock replied, "Right."

Ms. Hardie asked if it was in writing somewhere, or does it not need to be.

Mr. Sengstock replied it does not need to be. Very simply this is at the pleasure of the Planning and Zoning Commission and the Town Council. It is not up to him.

Ms. Hardie continued, right, and so a condition of him renting to them, is this. Alright, I got it. Okay.

Mr. Schall interjected if he didn't do that Al could demand that he remove the building.

Mr. Sengstock reiterated that he had already sent him notice before this began and we were able to figure this out and he had to remove the building or bring the property into compliance. He has chosen to do the legitimate and legal thing. The fact that he needs to remove the building, if it's not, is still out there.

Ms. Hardie said, okay I was beginning to think apples and oranges, but now that...(Inaudible)

Mr. Sengstock noted that although I have had that conversation with him, I fully expect to have him in my office within forty-eight hours.

Chair Shakespeare said that if there is no further discussion we will vote on the motion read by Mr. Parry and amended with "Or Demolish" added to #3. The motion passed unanimously.

## ITEM 6: REVIEW SOLAR DESIGN GUIDELINES

Mr. Sengstock reminded the Committee that this guideline was almost completed when he came here, he made the language more instructive and direct. We are merely asking you to consider our requests. This is not an ordinance it is a policy, the right to have solar is automatic for environmental purposes. The only thing that they are truly subject to is building standards and anything the building inspector will require of them. Basically, this talks about impact on historical areas, impact on the views considering historical buildings. We ask them to look for the least visible placing of the panels, which will create the least visual impact upon the community. The next solar request that is coming up is not on a historical building, it is on a new home surrounded by historical buildings. They considered how they can place the panels so they are not as visible all around town. You will never satisfy everyone, especially in a place with this terrain. Ultimately, we cannot turn them down for solar, but the DRB will work with them to come up with the best possible placement of the panels in a way that is least obtrusive.

This is where the Solar Guideline is from, he actually went to two Mountain Historical towns and used some of their language and definitions. In regards to zoning you are rarely the first one to have to deal with something. This has gone through the Design and Review, they have approved it. This is their final version. If there are any comments, questions or recommendations.

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Mr. Parry asked about a possible typo. It is on page 3 Standard 2 and Standard 9, what happened to Standard 3 thru Standard 8. He went on to ask about mounting panels, you talk about voltaic panels are generally less visible, I think we have a condition here where we have parapet roofs here, they cannot be mounted flush to the roof. I think we should put some verbiage in saying no higher than parapet.

Mr. Sengstock said he understands Mr. Parry's recommendation and he can take it back to DRB. If they have to have it up above the parapet, we can't tell them they can't. Solar is a protected use, considered a utility and we can't turn them down. These are guidelines that we are recommending to them.

Ms. Hardie asked if a consideration comes in with the height of the buildings.

Mr. Schall stated, "If I have a 35' building I can't put 10' panels on top of it."

Mr. Sengstock said he is still learning the code to some degree and most codes, cupolas, extensions, bell towers, anything less than 25% of the roof area normally can extend above the height of the building. He couldn't answer specifically but he believes there is an alternative in the code for that if not the Board of Adjustments would be available. There are no view corridors in this Town there is the Design and Review Board.

Ms. Hardie mentioned, when you talked about the things you were saying, those things that come off the sides of the buildings those are the things that are allowed in the setback.

Mr. Sengstock said every other code I have ever read states that if a cupola or tower or some accessory item that is not more than 25% of the roof area, than that is exempt from the normal height requirements.

Mr. Schall stated Arizona ordinance says an antenna can be as tall as it wants to be as long as if it falls over it doesn't go outside of your property.

Mr. Sengstock stated antennas are also excluded by the FCC.

Chair Shakespeare asked, "If we approve these guidelines would the DRB be constrained by them or would they back up the DRB. Do they have any kind of a force?"

Mr. Sengstock reminded the committee these are guidelines not laws. No solar company coming into the town would want to develop a bad relationship. So far the one who has been here has bent over backwards. We may not get everything we ask for, if they say they can't relax it enough and still come up with what they need for the homeowner then we can't do anything about it. He added you can't prevent it from being visible from everyone, but you can do the best you can.

Ms. Hardie asked how many people had solar panels in town.

Mr. Sengstock said he is aware of five and one on the agenda for the next DRB meeting on the 13<sup>th</sup> of April.

Mr. Sengstock went on to say that once DRB approves this, he will make the changes and then it will go before the council and will be adopted as a policy, but it is not an ordinance. Policy means we really, really want you to do this.

Chair Shakespeare asked if we had an antagonistic builder who did not care about our opinion, could DRB stop them?

Mr. Sengstock reiterated that we really have no control over solar companies. If DRB took it upon themselves to turn it down the Solar company could appeal it and would likely get there way.

Mr. Sengstock said he would clean up that error mentioned because originally there were 9 principles. He removed a number of principles that weren't necessary.

Ms. Hardie made a motion that the guidelines, with changes, be forwarded to the Town Council for review. Seconded by Lance Schall. Motion passed unanimously.

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## ITEM 7: FUTURE AGENDA ITEMS

The Commission will direct staff to schedule future agenda items to be considered by the Commission, if desired. No specific properties, individuals, or situations may be discussed, only general topics may be suggested.

Ms. Hardie would like to see some work done on zoning ordinances. Last year quite a bit of work was attempted on various subjects for example, deck ordinances and Bed and Breakfasts. She feels if any recommendation or suggestion from council for something that they would support we could start looking into some things, and in particular I would like to look at the Zoning ordinance as far as Home Occupations goes.

Mr. Sengstock recommended there is value to get together regularly and consider looking at the code. He directed them to look at what they think might need to be reviewed. It will be put on a future agenda and he will bring in some examples of best practices from other communities and what they are doing.

Mr. Parry asked if we can ask the status about some of the buildings in town.

Mr. Sengstock said in general, zoning enforcement is now fully engaged in a gentle, yet consistent way. We have had some visible efforts in regard to fencing and cleaning up. If you want to put it on the agenda I can give you a specific report. Almost everyone except one is working with us to become compliant.

Ms. Hardie said you started to say you would gather a list and facilitate it with information. Do you think we should take the list and email you, but take it to the council and see if they want us to work on it? In the past, we thought we were working on something and then found out the Council wasn't interested in it.

Mr. Sengstock said meet and discuss the things you think are important and we could take those to the Town Council.

## ITEM 8: ADJOURNMENT

Lance Schall moved they adjourn, Mike Parry seconded. Motion carried unanimously.

The meeting adjourned at 7:44 p.m.

Respectfully submitted by Joni Savage on the May 6, 2015.

Approved: L. Shakespeare  
Leo Shakespeare, Planning and Zoning Chair

Date: May 6 2015

Attest: \_\_\_\_\_  
Lance Schall, Planning and Zoning Vice Chair

Date: \_\_\_\_\_