



# TOWN OF JEROME

POST OFFICE BOX 335, JEROME, ARIZONA 86331

## ZONING ADMINISTRATOR ANALYSIS PLANNING & ZONING COMMISSION JULY 11, 2018

### ITEM 4: CONDITIONAL USE PERMIT – APPROVAL OF CONDITIONAL USE AS PRINCIPAL/PERMITTED USE

APPLICANT: RICHARD MARTIN  
APN 401-07-063

ZONE: R1-5

The applicant seeks a **Conditional Use Permit** to use a vacant lot for a non-commercial radio antenna site. The lot is zoned R1-5 and abuts vacant properties on to the North and South with a Town of Jerome Right of Way parcel on both the East and West boundaries of the property, and vacant lots abutting these easements.

Richard Martin is the applicant and director of Gulch Radio. A letter regarding the station's public service activities is provided in the packet.

The lot poses challenges to fulfil any Principal/Permitted Use as described in Jerome's Zoning Ordinance Section 505. "R1-5" Single Family Residential, because it is surrounded by private property and not serviced by a road.

The rationale for using the lot with a permitted Conditional Use that is accepted as if it were a principal use, is allowed by Jerome's Zoning Ordinance and highlighted in the reference below.

#### Reference:

#### SECTION 502. GENERAL PROVISIONS

#### B. USE RESTRICTIONS

1. **PRINCIPAL USES:** Only those uses and groups of uses specifically designated as "Permitted Principal Uses" in zoning district regulations shall be permitted as principal uses; all other uses shall be prohibited as principal uses, except as otherwise provided herein.
2. **CONDITIONAL USES:** Certain specified uses designated as "Conditional Uses" **may be permitted as principal uses** subject to special conditions of location, design construction, operation and maintenance hereinafter specified in this Ordinance or imposed by the Planning and Zoning Commission.

ZA Analysis - Continued: The radio station provides a public service to a broad area with its public service announcements, regular broadcast of events, and required emergency broadcast services to the community. Jerome's Zoning Ordinance includes communication as a public utility. The public service aspect of this station qualifies the use to be allowed under the conditional use as described in the R 1-5 Zoning Ordinance, highlighted in the reference below. This use is further confirmed by the definition of 'public utility' that includes communication as an example of a public utility.

Reference:

**SECTION 505. "R1-5" ZONE, SINGLE FAMILY RESIDENTIAL**

## **C. CONDITIONAL USES**

### **6. Public utility buildings, structures, or appurtenances thereto for public service use.**

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## **ARTICLE II**

## **DEFINITIONS**

### **SECTION 201. GENERAL**

For the purpose of this ordinance, certain words and terms used herein are defined as follows: all words used in the present tense include the future tense; all words in the plural number include the singular number, all words in the singular number include the plural number, unless the natural construction of the wording indicates otherwise. The word "lot" includes the word "plot"; the word "building" includes the word "structure"; and the word "shall" is mandatory and not discretionary. Other words and phrases used in this ordinance shall have the following meaning:

**Public Utility - private or public facilities for distribution of various services, such as water, power, gas, communication, etc., to the public**

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ZA Analysis - Continued: Regarding the installation of the antenna on this lot and considering the height of the structure, this is specifically addressed in the Zoning Ordinance.

Reference:

## **I. BUILDING HEIGHT REQUIREMENTS**

1. No building shall be erected, reconstructed, or structurally altered to exceed in height the limit hereinafter designated for the zone in which such building is located, except as otherwise specifically provided.

**2. Height regulations established elsewhere in this Ordinance shall not apply:**

a. **In any district, to church spires, belfries, cupolas and domes not for human occupancy, monuments, water towers, flagpoles, non-commercial radio or television antennas, provided that such structures and antennas shall be so located and constructed that if it should collapse, its reclining length would still be contained on the property on which it was constructed.**

### ZA Analysis - Additional Considerations:

There is prior history for this proposal, the antenna has been located at the 867 Hampshire Ave at the old high school for approximately four years. There is no report of safety concerns of the structure in the current location.

Building inspector comment: The installation of the antenna will require a building permit to inspect the installation of the concrete base, and that the antenna is installed in three ten foot sections that if damaged would fall onto the owner's property. The shed will require permit and inspection if used to house utilities on the site.

### Description of neighboring properties.

- Subject Parcel 401-07-063 is zoned R1-5 and vacant
- North Lot – R1-5 – vacant, no road access
- South Lot – R1-5 – vacant, no road access
- East Lot – AR – vacant, no road access, existing easement between the lots
- West Lot – R1-5, - vacant with shed, no road access, owner Richard Martin, existing easement between the lots

As demonstrated by the photos the proposed installation is surrounded by vacant property. The elevation of this parcel is significantly lower than Verde Avenue above the proposed site.

The installation meets set back requirements for any building purpose at the proposed lot. Applicant reports this structure is installed in three 10' tall sections, weighing around 40 lbs. each. In the event of a failure at any junction of the structure, falling sections of the structure would land upon the owner's property. Zoning Administration and applicant agree that the structure could be further attached to the proposed shed above the first 10' junction securing the first 20' to the building.

The base is constructed per the manufacturer's engineering specifications with a mass of concrete that is the anchor. These design details for the concrete base are provided in the packet, and construction will require a permit and inspections.

Regarding the requested location, the site may result in a favorable change and cause the antenna to be less of a visual component for Town than its current location.

**Zoning Administration recommends approval of this project with a Conditional Use Permit reviewed by the P&Z Commission and Jerome's Town Council.**

**Conditional Use Permit is subject to conditions imposed by Planning & Zoning or Jerome's Town Council at final approval.**

**ITEM 5: REVIEW/APPROVAL OF EXTERIOR LIFT FOR HANDICAP ACCESSIBILITY**

**APPLICANT: JOE WIDMAN FOR NANCY PROCHASKA**

**APN: 401-06-133C**

**ZONE: C-1/AR**

The applicant is seeking approval to add an exterior lift appropriate for safe handicap access to the home.

The device is recommended for this purpose and will be installed to manufacturers specification. It requires a permit for the ramp installation and any addition of electric power. These specifics will be inspected by Jerome's Building Inspector. It will be external to the home with access at the side of the existing deck facing Juarez Street. The property is at the end of the street and current neighbors in the sight line are in support of the modification.

The home sits uniquely divided in the C-1 and AR Zones. The property is a legal and non-conforming for side yard requirements for the AR zone, while conforming to side yard requirements of C-1 zone.

Verbal report of Design Review Board input will be available at the meeting.

**Zoning Administration recommends approval for handicap access to 146 Juarez St with any conditions Planning & Zoning Commission may recommend.**

**ITEM 6: CELLAR 433 SERVICE OUTSIDE ON REAR PATIO CONDITIONAL USE PERMIT**

**APPLICANT: BRIGHID MCLOUGHLIN**

**APN: 401-06-054**

**ZONE: C-1**

Applicant seeks permission to use outdoor space at the lower rear of the establishment. Parking for the building is seven (7) spaces and usable space for the current business is 1548.2. The patio space will add 378.2 square ft. In total the useable space measures 1926.4 square ft, with a maximum allowed by parking restriction of 2,100. Usable space for the entire building is within the square footage to allow use of the outdoor space.

The space under review for service of food and beverage is an outdoor patio built with pavers, lit with porch fixtures and strings of lights. A bar exists that is constructed of barrels with a top. There are no barriers at the property boundaries. This area serves as a secondary exit for emergency and this is clearly marked from upper stories.

The patio currently opens to an alley access and is also used for emergency exit. Further definition of the space may be recommended for this permit. Exit from the patio should remain available for emergency. Permanent signage is recommended for 'no alcohol' past this point at the exit. Definition of the business purpose is recommended; is this space is for everyday use or special events etc. Conditional Use should be well defined and reviewed periodically.

**Zoning Administration recommends approval based on allowable square footage and parking requirement, with any conditions recommended by P&Z or Council.**

**Conditional Use Permit is subject to conditions imposed by Planning & Zoning or Jerome's Town Council at final approval.**

**ITEM 7: CONDITIONAL USE PERMIT - CELLAR 433, SPIRITOUS LIQUOR FACILITY STATUS UPDATE FOR COMPLIANCE WITH ZONING ORDINANCE**

**APPLICANT: BRIGHID MCLOUGHLIN**

**APN: 401-06-054**

**ZONE: C-1**

Approval of ITEM 6, will necessitate Application for C-1 Conditional Use Permit #15 – Spiritous Liquor Tasting for compliance with the Zoning Ordinance, due to expansion of this business to the outdoor patio.

**Zoning Administration recommends approval based on longevity of the business as a wine tasting facility.**

**Conditional Use Permit is subject to conditions imposed by Planning & Zoning or Jerome's Town Council at final approval.**

**ITEM 8: CONDITIONAL USE PERMIT FOR FOUR-EIGHT WINEWORKS, AS SPIRITOUS LIQUOR TASTING/RETAIL**

**APPLICANT: MATT LAVOIRE**

**APN: 401-06-006**

**ZONE: C-1**

The applicant is seeking approval to add a Spiritous Liquor Tasting as a new business in addition to the current occupation. Applications for business license and liquor license, are pending Council approval. Current space is Puscifer Retail space on the street level floor of 140 Main St.

This applicant will share this space devoting the front half of the street level to Puscifer Retail and as a second business, adding a wine tasting bar with plans to serve hors d'oeuvres and other snacks for the purposes of food paring with wine. Italian ice cream is also offered. Seating for approximately sixteen patrons is represented. Applicant represents signage and employees will confine wine tasting to the back area of this floor. The plans submitted show no expansion in the usable square footage. It is recommended that Conditional Use should be well defined and reviewed periodically.

**Zoning Administration recommends approval for Spiritous Liquor Tasting based on the defined retail use in current Zoning Ordinance.**

**Conditional Use Permit is subject to conditions imposed by Planning & Zoning or Jerome's Town Council at final approval.**

**ITEM 9: 140 MAIN ST., INTERIOR REMODEL - ADDITION OF SERVICE COUNTERS AND PATRON BATHROOMS.**

**APPLICANT: MATT LAVOIRE**

**APN: 401-06-006**

**ZONE: C-1**

The applicant seeks approval for addition of bathroom space on the mid-level floor of this building for patron use. One will be developed as ADA.

The construction will require permit and inspection by Jerome's Building Inspector.

**Zoning Administration recommends approval to build restrooms for patron use.**



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

DATE: Wednesday, May 2, 2018 TIME: 7:00 pm

PLACE: JEROME CIVIC CENTER

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 & Zoning Commission and to the general public that the Planning & Zoning Commission will hold the above meeting in Council Chambers at Jerome Town Hall. Members of the Planning & Zoning Commission will attend either in person or by telephone, video or Internet conferencing. The Planning & 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

Chair Mike Parry called the meeting to order at 7:06 p.m.

Roll call was taken by Kyle Dabney. Commission members present were Chair Mike Parry, Vice Chair Lance Schall and Margie Hardie.

Staff present were Kyle Dabney, Zoning Administrator, and Joni Savage, Deputy Clerk/Minute Taker.

### ITEM 2: APPROVAL OF MINUTES: Minutes of April 4, 2018

Ms. Hardie asked about page 1 at the bottom, under Item #4, she doesn't understand what is being said. Chair Schall noted that it was this Commission and he could no longer be the Chair. Chair Schall explained that he couldn't be the Chair twice in a row.

Ms. Hardie referred to page 7, Item #7, where it starts with "Mr. Westcott explained." In reference to the CUP, Ms. Hardie wanted to comment, "On this particular CUP, that in the future Mr. Westcott would be forthcoming, now that you know the routine, as you develop, part of the CUP is a requirement that it gets checked on. I would like to see the Town involved and to make sure that in a year things are continuing in good order. Mr. Dabney said they do that with the business licenses." Ms. Hardie explained, "So that, usually when you do a CUP, referring to this a lot, you may refer to this, just to make it clear we agreed that you would see that in a year, you'd go back there before, that's what I was trying to say, since it's a CUP."

Vice Chair Schall moved to approve the minutes of April 4, 2018, Margie Hardie seconded with no amendments. The motion passed with three votes in favor of approval.

### ITEM 3: PETITIONS FROM THE PUBLIC - There were no petitions from the public.

### ITEM 4: ELECTION TO APPOINT LIASON TO DESIGN REVIEW BOARD

The member of the Planning and Zoning Commission shall be designated annually by the Commission and may not serve as Chair of the Design Review Board concurrently with serving as Chair of the Planning and Zoning Commission.

Ms. Hardie made a motion to appoint Mike Parry as liaison to the Design Review Board from Planning and Zoning.

Vice Chair Schall asked if the commission had ever had a discussion about the Chair not doing that anymore. Chair Parry responded there had been a discussion.

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Mr. Dabney made a reference to an original discussion that had been incorrect, he can be the liaison.

Ms. Hardie interjected that the only thing in the ordinance says he can't be the Chair of both P & Z and DRB.

**Vice Chair Schall seconded the motion and it passed with three votes.**

## ITEM 5: EXISTING GARAGE TO BE REMODELED WITH AN ADDITION ON TOP

APPLICANT: KELLEY FOY

CONSTRUCTED: EST.1980

ADDRESS: 121 THIRD ST.

ZONE: R1-5

OWNER OF RECORD: ABOVE

APN: 401-08-040

Applicant is requesting to remodel the garage on her property with an addition to the top of the structure.

Chair Parry said we had discussed this at the last meeting and the crux of the whole thing was that enclosure had been interpreted incorrectly.

Mr. Dabney responded, "There was a discrepancy in interpretation."

Chair Parry asked if he had that interpretation with him (Mr. Dabney). "Or do we have to clarify what a porch is?"

Mr. Dabney responded, "It is still my interpretation and if anyone wants to argue that you may. My interpretation is that if you sat out on a porch on a rain storm, you're going to get wet. And as the Zoning Ordinance reads, it states that it must keep out the elements."

Ms. Hardie said, "Can I make a point of order. That issue had been brought up at the last meeting and that application that we discussed has been denied so I'm assuming we're talking new stuff now. Not anything to do with the previous plan, because that was denied."

Chair Parry said, "I believe we're talking about the word enclosure, that's why it was denied."

Mr. Dabney said, "This relates to where the garage sits. The original plan was to have the setbacks required; that was denied because of the discrepancy in the interpretation. Now, the plans brought forward are, it will remain where it sits currently with the addition on top."

Vice Chair Schall asked if it was different from the last one.

Mr. Dabney responded it is, the last one had setback requirements, this one does not.

Vice Chair Schall asked if they were waived or grandfathered.

Mr. Dabney responded that the setback requirements are grandfathered in. He has a letter from the attorney, which he read: "Given that the proposed modifications to the garage will not increase the discrepancy between the conditions as at the time of this ordinance and the standards described in this ordinance; neither Section 501.B nor Section 501.C.6 would prohibit the proposed alteration."

Ms. Hardie asked if it were the same document referencing an attached building.

Mr. Dabney responded it is and it doesn't matter as long as the structure is a legal non-conforming use. That was the issue, had it been attached it would have been different. However, the attorney has said to me that as long as this is legal-nonconforming, then it doesn't matter.

Vice Chair Schall made note that the attorney has interpreted and now the whole porch thing is mute.

Ms. Hardie agreed with him and said they don't exist anymore.

**Vice Chair Schall moved to approve Chair Parry seconded. The motion failed with 2 ayes and 1 nay.**

Ms. Hardie explained and read from the zoning code. She said she had given this a lot of thought and research. She read from the Zoning Ordinance, "Number 177 approved in 1977 to impose regulations for promotion of health, safety, convenience and welfare and for the welfare of the Town." She continued by saying, "We also being a historic town, consider preservation of the historic character of the town. When considering all aspects of Ms. Foy's proposal, I find that in altering the current structure, her garage, from a 750 square foot, 11-foot-tall building to a 1500 square foot, 25' foot tall building is not relating to the 25' foot tall building and with regulations of setbacks in the R15 being completely disregarded; I feel that this constitutes an extreme exacerbation of the non-conforming status of the

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structure. In section 501.B of the zoning ordinance states; **"The purpose of these regulations is to limit, limit the extent of nonconforming structures by prohibiting them from being altered (and this is a quote) in a manner which would increase the discrepancy between the conditions and the standards adopted by the ordinance in 1977."** And also, in section 501.C.6 it states; **"A nonconforming building may not be reconstructed or structurally altered (which if you look in the dictionary remodel and altered are synonyms) during its life to an extent which would increase the discrepancy between conditions existing at the time of the adoption of this ordinance and the standards prescribed in this ordinance, as such I have to vote no on this proposal."**

Mr. Dabney asked, "Could you state what you think increasing the discrepancy is?"

Ms. Hardie responded, "I read you the discrepancy it is a 25' building and actually Mr. Dabney I don't have to go any further. I have voted no, and I believe Ms. Savage has it all down. Fifteen hundred square feet, 25' tall, no setbacks, that is pretty much the jest of it along with the justifications in the zoning ordinance."

Ms. Foy asked if she could speak.

Chair Parry said, "At this point we have made a decision and this commission cannot go further."

Ms. Foy said, "Despite what the lawyer says and that the footprint is not increasing."

Chair Parry said again, "We cannot go further at this point."

## ITEM 6: REQUEST FOR A CONDITIONAL USE PERMIT FOR THE OPERATION OF A LIQUOR TASTING FACILITY

APPLICANT: GINGER MACKENZIE FLAHERTY

CONSTRUCTED: 1920

ADDRESS: 527 MAIN ST.

ZONE: C-1

OWNER OF RECORD: WILLIAM & FELICIA JACKSON

APN: 401-06-091

Applicant is requesting a conditional use permit to operate a liquor tasting facility as required by the zoning ordinance

Mr. Dabney stated it is not a change of use, it had been retail and now because it will be a liquor tasting facility we do need to have a Conditional Use Permit. A diagram is provided with tables and seating.

Ms. Hardie asked where the seats and tables were listed. She didn't know where the application went.

Mr. Dabney explained, "It is what I just gave you."

Ms. Hardie responded, "I know, but I can't find it." Mr. Dabney then pointed it out to her. She asked about the agenda, it says the owners are William and Felicia Jackson.

Ms. MacKenzie Flaherty explained that it was in the process of closing and in two days ownership would be the Pitcairn's.

Vice Chair Schall had no questions.

Ms. MacKenzie Flaherty said that it would include the art gallery.

**Vice Chair Schall moved to approve the package as submitted, and Ms. Hardie wanted to add that the Zoning Administrator check on it in six months, Vice Chair Schall amended his motion and Ms. Hardie seconded. The motion passed unanimously.**

## ITEM 7: REQUEST FOR A 6 MONTH EXTENSION ON A PREVIOUSLY APPROVED PRELIMINARY PLAN FOR A NEW HOME

APPLICANT: JERRY PATE

CONSTRUCTED: N/A

ADDRESS: 160 NORTH DR.

ZONE: R1-5

OWNER OF RECORD: JEROME HOLDINGS, LLC

APN: 401-11-012H

Applicant is requesting an extension for a previously approved preliminary plan for a new home.

Mr. Dabney explained that it was a preliminary plan and he mistakenly thought you had to extend it. This was not true, so this item can be skipped.



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Chair Parry stated he thought Mr. Pate probably had a lot more work to do.

## ITEM 8: REVIEW OF ZONING ORDINANCE §509.G.8 – REVIEW OF TEMPORARY SIGNS TO INCLUDE ADDITIONAL VERBIAGE AND AN APPLICATION OR PERMIT PROCESS.

APPLICANT: N/A

ADDRESS: N/A

ZONE: N/A

OWNER OF RECORD: N/A

APN: N/A

Staff is requesting review of sign ordinance §509.G.8 for a possible amendment to add a permit or application process for temporary signage as well as restrictions on time limit those would be allowed.

Mr. Dabney explained what his changes were, he revamped what he had previously. Under a definition of a temporary sign is a sign displayed for not more than 45 consecutive days. He added "temporary signs shall require an application to be filed with the zoning administrator, one temporary sign is allowed for a 45-day period and the maximum number of occurrences shall not exceed five times per calendar year and each occurrence shall require an application to be filed. He thought of changing it from 45 days to 30 days and instead of 5 times per year, make it three. He asked what the Commission thought.

Ms. Hardie thinks that sounds reasonable, that's 300 potential signs a year for you to track.

Mr. Dabney explained again my goal is just to track temporary signs.

Chair Parry suggested maybe leaving it at 45 days. He thought that would be more signs to keep track of.

Mr. Dabney explained right now it is 45 days.

The commission discussed it amongst themselves.

Mr. Dabney explained there have been temporary signs up for as long as he has been here. He gave the commission the specifics of a temporary sign.

Ms. Hardie stated that A-frame signs are intrusive.

Mr. Dabney said they're not allowed on the sidewalk.

**Ms. Hardie moved to approve the temporary sign applications and permit process and that each individual business is allowed three (3) temporary signs per year and each sign can be up for 45 consecutive days and Vice Chair Schall seconded. The motion passed unanimously.**

Mr. Dabney added that a public hearing is required in order to change the ordinance and that will be at the next meeting.

## ITEM 9: REVIEW OF ZONING ORDINANCE §502.M – REVIEW OF HOME OCCUPATIONS TO INCLUDE ADDITIONAL VERBIAGE.

APPLICANT: N/A

ADDRESS: N/A

ZONE: N/A

OWNER OF RECORD: N/A

APN: N/A

The Planning & Zoning Commission has requested review of ordinance §502.M for possible amendment to include additional verbiage on Home Occupations.

Mr. Dabney explained that the only thing he had changed was the definition per Ms. Hardies request as follows:

"A home occupation is an occupation, profession, activity or use that is clearly a customary incidental and secondary use of a residential unit which does not alter the exterior of the property or affect the residential character of the neighborhood."

Ms. Hardie stated, "Everything you have put in here, I'm all for it. What is the process for home occupation, do you

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give out a license or permit?"

Mr. Dabney said there is nothing.

Ms. Hardie said wouldn't it be good to have a business license.

It was explained that if the business in the home did not sell anything in the Town of Jerome then a business license is not required.

Ms. Hardie thinks there should be some kind of a paper trail for people who come before them.

The commission discussed how people had come before them with home occupations. It was determined that a violation would cause a home-based business to come before the commission. Ms. Hardie stated that she was fine with that.

**Ms. Hardie moved to approve the new verbiage defining and the rules defining home occupation and no application for home occupations and Vice Chair Schall seconded. The motion passed unanimously.**

Mr. Dabney added that a public hearing is required in order to change the ordinance and that will be at the next meeting.

## ITEM 10: FUTURE AGENDA ITEMS

Ms. Hardie said repeatedly we come up with dining room seating and she would like to have a discussion on the definition on dining room seating.

Vice Chair Schall asked is there some confusion in regard to restaurants.

Ms. Hardie said no, in regard to wine tasting. It is in the parking ordinance, but this is more to do with the use based on different.

Mr. Dabney said the Zoning Ordinance reads that "liquor tasting facilities shall not have dining room seating." But there is no definition for dining room seating.

## ITEM 11: ADJOURN

**Vice Chair Schall moved to adjourn. Ms. Hardie seconded. The motion carried unanimously and the meeting adjourned at 7:38 p.m.**

Approval on next page.

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

DATE: Wednesday, May 2, 2018 TIME: 7:00 pm

PLACE: JEROME CIVIC CENTER  
600 Clark St., JEROME, ARIZONA 86331

*Respectfully submitted by Joni Savage on June 6, 2018*

Approved: \_\_\_\_\_ Date: \_\_\_\_\_  
Planning & Zoning Commission Chair

Attest: \_\_\_\_\_ Date: \_\_\_\_\_  
Planning & Zoning Commission Vice Chair