

1 CITY OF PRAIRIE CITY

2
3 PUBLIC HEARING

4
5 PURPOSE: An appeal made by Edward S. Clark of Prairie City,
6 Oregon to the decision of the Prairie City Planning Commission made on
7 February 19, 2002 to deny a request to build a 20'x42' shop.

8
9 February 19, 2003

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11
12 Attended: Lance Delgado, Mayor
13 Karen Jacobs, Councilor
14 Marvin Casebeer, Councilor
15 Roger McKinley, Councilor
16 Anna Bass, Councilor
17 Jim Hamsher, Councilor
18 Diane Clingman, City Recorder
19 Nancy Wood, Planning
20 Lyn McDonald, Planning Secretary
21 Mike Ribeiro (former Planning member)
22 Ron Kell, Planning
23 Derral Dew, Planning
24 Ed Clark
25

26 **6:00 p.m.** Mayor Delgado opened the hearing, announced the purpose of the hearing and
27 outlined the format. He stated that the Planning Commission would first be allowed a 5
28 minute period to present findings and information followed by a 10 minute question and
29 answer period. Mr. Clark would then be allowed a 5-minute period to present his
30 testimony followed by a 10 minute question and answer period. Additionally he noted
31 that after the testimonies and question and answer periods, the hearing would be closed to
32 public comment so the Council could deliberate to discuss the issue. All parties were
33 welcomed to stay during that time.

34
35 The roll was called, all members being present. The pledge of allegiance was recited.

36
37 **6:05 p.m.** Mayor Delgado recognized the Planning Commission members. Derral Dew
38 referred to an excerpt from Planning Commission minutes of February 1, 2000 in which
39 Mr. Clark went before the commission asking for a placement permit to replace his single
40 wide residence with a double wide. The commission granted the placement and a
41 partition to divide the lot. He explained that the current use was "grand-fathered in" but
42 that by changing (replacing the residence) it would have to conform to the rules in the
43 planning document, thus the reasoning for a partition. In February 2002 Mr. Clark asked
44 for a conditional use permit to build a 20'x42'x18' shed. The request was denied based

1 on the fact that he had never partitioned, which was one of the requirements of the
2 placement permit. It was no longer under the code and he was turned down because he
3 had never done the original part. If that had been done, he would be building the shed on
4 two lots if there was room in that area.

5
6 **6:10 p.m.** The question and answer period was opened. Jim Hamsher asked if the shop
7 would have been allowed if Mr. Clark had not replaced his residence. The commission
8 members said it would have had to have been reviewed. Mayor Delgado asked if by
9 removing the original residence was the non-conforming use that had been grandfathered
10 in was replaced by another use? The commission said anytime you make a permanent
11 change it does away with the grandfather clause because it (the property) is no longer the
12 way it was before. It was noted that the document does not allow two dwellings on one
13 tax lot and that there has always been two residences on the property. Mayor Delgado
14 pointed out that when one of the residences was removed it then became a lot with one
15 residence. He asked the commission if (under the law) another residence could be
16 brought in without partitioning. The commission said no. He asked if it changes the use
17 and the commission said yes. Nancy Wood noted that a multi-family dwelling (i.e.,
18 duplex) is allowed on a single lot, but not two single-family dwellings. Mayor Delgado
19 asked about the granting of a partition and asked if anyone can just partition their land at
20 anytime or is it a requirement that the commission has to grant the partition? The
21 commission referred to the minutes and noted a motion was made to give the placement
22 permit but that during the discussion someone brought up that two houses are not allowed
23 on one lot under the code. Then he (Clark) was told that if he partitioned the lot the
24 commission would grant both the partitioning and the placement permit. Jim Hamsher
25 asked if partitioning would have been required if Clark had put another single wide in.
26 The Council again said that by removing the residence and replacing it with another one
27 he would have to have conformed to the rules. Hamsher asked about variances or special
28 use permits but the commission said there is nothing allowing two residences on one lot.
29 Anna Bass referred to the 15-day period (after decision) for appeal and asked why the
30 appeal was being made a year later. The commission said that Clark told them he had to
31 go to work out of town. She asked if the commission had granted him an extension and
32 what type of time frame they had given him. They said no specific time period was
33 given, just that “when he returned from his work away from home.” The subject of
34 variances was again brought up and the Council referred to page 102 section 9.020 of the
35 document. Mayor Delgado read #1 “That the literal application of specific provisions of
36 the document would create practical difficulties, however variance is not to be granted
37 simply because it would afford the owner a higher profit or prevent a mere
38 inconvenience.” It was noted that when Clark changed the non-conforming use requiring
39 partitioning, and not placing the double wide farther to the west giving him additional
40 room (for a shop), he created the condition himself (#3). The beginning on the section
41 states that a variance can be granted only if all four findings are evident.

42
43 **6:20 p.m.** Ed Clark was recognized. He started by saying that he didn’t think the
44 February 2001 minutes are complete, particularly with reference to Stan Horrell. He said
45 that when he came in with the original application to place a new double wide on his
46 property and the motion was getting ready to be passed but was backed off of because of

1 two houses on one lot there was a lot of discussion about what to do. A motion was
2 passed to go ahead and grant him partitioning. He said he stepped up and said, "Wait a
3 minute, I don't want to partition my land. I don't want to do that, I don't want to deal
4 with two tax lots and all that stuff." He said that "specifically" Stan Horrell said, "You
5 don't understand, we're granting you partitioning. It'll be up to you to go to the court
6 house and get it done." He said they went ahead and signed his building permit (that
7 night or the next day) and that they didn't asked whether or not he had done the
8 partitioning, that it wasn't a concern so he didn't partition. He said he thought they knew
9 what was going on and understood that he didn't want two tax lots, but they granted it to
10 him allowing him to go ahead and put his new home on the lot. He said the
11 manufactured home he put on the property is actually 1 ½' shorter on the east side of the
12 property than the original house. The west side sits right where old trailer was. He stated
13 the following: "They say I changed the condition of the property, I say I replaced the
14 home, the condition of the property remained the same. They say my home is a non-
15 conforming use, I say the trailer that was put on there next to my house is the non-
16 conforming use, they want to look at the whole lot as a non-conforming use. So, I didn't
17 partition the land." A year later he said he asked for the placement of a shop and was told
18 he was supposed to have partitioned the land. He said no, that wasn't was discussed and
19 has been in several meetings with them since then going over the document, going over
20 terminology, going over what is granted, what is required. He said that he was never
21 required to partition, he was granted a partition and that there are two different meanings.
22 He said that if their intention was for him to partition the land, then it should have been a
23 requirement before he got the building permit. Now if he partitions the land where they
24 want it, it goes right through the middle of the shop and he's got no other place to put it.
25 He said he's gone around and around on definitions and terminology in the planning
26 document without getting any headway as to any understanding of non-conforming uses,
27 setbacks, all that stuff. He referred to the document and the manufactured home as a
28 single family dwelling; when permitted as a single family dwelling unit as a conditional
29 use a manufactured home shall be in compliance with the following standards and
30 conditions: No more than one dwelling shall be erected or placed on any single lot or
31 parcel except as permitted otherwise in this document. He said he understands that he
32 has a non-conforming use. He said understands that the commission wanted to rectify
33 that by granting him the partitioning. "It's non-conforming, I admit to that. Because my
34 understanding with Stan Horrell was, was him and I, I thought were on the same
35 wavelength. Apparently we were at odds with each other and I walked out thinking one
36 thing and the planning commission thought another. I admit to that." He went on to say
37 that the document allows for the placement of the shop and allows for the two homes to
38 exist as it sits right now, regardless if partitioned or not. He referred to page 20, section
39 3.020 R2 residential; conditional use permit shall be granted..."goes down through a
40 whole list of things, mobile homes or manufactured homes is one of them, then it gives a
41 square lot minimum." He said this is where he told the commission there are exceptions
42 in the document. He said he is required to have 6,250 square feet for a house with 4,000
43 square feet for each additional dwelling unit. He said it doesn't say trailer park, multi-
44 family, duplex or triplex, it says dwelling unit. He said if you look at the definition of a
45 dwelling unit, it's a manufactured home. He said if he has the square footage based on
46 the document, it says he can do it. He said he has 14,000 square feet, more than it takes

1 and that was just one of the points he said he brought out. Since he had gone over the
2 time limit, Mayor Delgado asked if he had any final points. Clark said he could go over
3 everything he went through, but he said he went over the most pertinent parts.
4

5 **6:27 p.m.** The question and answer period began. There was a question and it was
6 confirmed that the property is in fact an R2 zone. Various sections of the document were
7 referred to and portions were read. Clark said the document allows itself to be interpreted
8 in a lot of different ways. He went back to square footage and the definition of a
9 dwelling unit being a manufactured home. He said there were other statements allowing
10 things to exist because they've been existing – it's been that way for 20 years according
11 to the guy that's living in the trailer next to him. Anna Bass pointed out that Clark
12 changed it by taking out the existing home and put in a new one. She said it may take up
13 the same space, but he changed it so therefore it's no longer grandfathered. Clark began
14 to say he understood. Mayor Delgado asked to have the discussion limited to questions
15 and answers to allow Clark an opportunity to answer. Anna said that's the way she
16 understood the grandfather clause, correct? Clark said that's the way it's been read to
17 him. Hamsher asked if there is a section in the document on the grandfather clause.
18 Mayor Delgado again asked the Council to make sure they spend the 10 minutes talking
19 with Clark to make sure he gets a fair chance to hear questions they may have. He said
20 that after the Q & A period the Council would have an opportunity for discussion.
21

22 Hamsher referred to something Clark had written regarding Dotson's trailer to do with if
23 it was ever destroyed by fire and asked Clark to tell the Council what he was proposing.
24 Clark said he came to a meeting and said he understood that his property never got
25 partitioned, he replaced the house and understood that, but there was a huge gap
26 understanding what "granted" means or required – a huge gap of misinterpretation. He
27 then said, "I came to the Council and said, look, OK, exceptions of non-conforming uses,
28 the right to continue should be protected when the City from time to time amends its land
29 use ordinances. Basically the use is there, the house is there. It has a useful life. And the
30 document says it should be allowed to have a useful life. So I came to them and said,
31 look, how about we do a conditional use permit and put conditions on it that if Royce
32 moves the trailer, or it burns down or falls over, then that can never be replaced?" He
33 said he could agree to that but as it sits right now and someone is living in it and it's still
34 standing and it's still a useful home to somebody, let's let it stand there. He said it may
35 stand there for 20 years, he can't move it anywhere because it's too old. He said the only
36 thing they (planning) could refer back to was the section that says no more than one home
37 on a tax lot and that he was supposed to have partitioned. He said he went around and
38 around again and told them he understood where they were coming, but that's not what
39 he heard when he talked to Stan. He said he admitted to a lack of communication. He
40 said he is an isolated case (in this town) and could almost guarantee it. He only knows of
41 one other tax lot that has two houses on it.
42

43 Mayor Delgado referred to an earlier question regarding the 15-day appeal period and
44 that Clark was off on assignment for a period of time. Delgado asked Clark if he was
45 under any understanding that he needed to come back in and submit an appeal upon his
46 return. Clark said "When I first went after it and said I'm going away and I have my job

1 to do, it was never said I had X number of days when you get back to get this thing
2 done.” Delgado began to ask if he was aware of a time constraint. Clark interrupted and
3 said, “I had read in here that there was periods for appeal, there was a time constraint on
4 appeals. But no where did I feel, talking to Lyn or anybody, that there was pressure
5 because I was working.” Delgado asked when he got back. Clark said last year, the first
6 of April (2002). Delgado asked when he submitted the appeal. Clark didn’t answer but it
7 was determined that the appeal was submitted January 10, 2003.

8
9 Mayor Delgado asked for any other questions. Karen Jacobs brought up a statement
10 Clark made where he said that somewhere in the document there is a provision for
11 allowing two single-family dwellings. She said she was still unclear on where it’s at.
12 Clark said it is not specifically stated that two dwellings can remain on a tax lot. He said
13 there are exceptions – the biggest one to him being section 6.090 (8) where no more than
14 one dwelling on a tax lot except where otherwise permitted in this document. He said
15 that’s when he started referring to square footages and that non-conforming uses still
16 being allowed to exist. He again admitted that he has a non-conforming use but said it’s
17 allowed to stay for its useful life. “They say I don’t meet all the variance clauses in here,
18 I think I do.” It isn’t a hardship that I created myself. If I’m doing that, I’m doing it out
19 of ignorance because I don’t understand their document or they’re interpreting it and I’m
20 interpreting it differently.” He referred to (section 9.020 (1) that the literal application of
21 specific provisions of the document would create practical difficulties and said the literal
22 interpretation they’re trying to go by is creating a practical difficulty for him. He referred
23 to the condition creating the difficulty is not general throughout the surrounding area and
24 said he only knows of one other tax lot where this would come into play. He referred to
25 the condition not being created by the applicant and said he doesn’t feel he created it
26 because it’s been an ongoing process since Royce Dotson moved onto the property. He
27 said two homes were allowed on the one tax lot for years and then when he replaces a
28 house the door slams shut. He said he thought there should be some middle ground.
29 Mayor Delgado said he would like to stick to the facts. He noted that they were over the
30 time limit, but asked if there were other questions. There was some discussion of when
31 the homes were placed on the property.

32
33 **6:40 p.m.** There being no other questions, Mayor Delgado closed the hearing to public
34 comment so the Council could discuss and deliberate. He said he wanted to take a
35 minute and point out parts of the City code with regard to exceptions and non-conforming
36 uses. He read the following with regard to grandfathering: A lawful existing use or
37 structure at the time of this title or any amendments to this title that do not conform to the
38 zone in which it is located, or to any other applicable specific requirements of this title.
39 He said that basically when this was enacted, anything that didn’t conform was
40 grandfathered in. He referred to Clark’s proposal to leave the trailer for its useful life or
41 until it meets with catastrophe and then wouldn’t be replaced. He pointed out that under
42 the law, it could be replaced if a non-conforming use were to exist and be grandfathered
43 in, so to go outside the law and strike an agreement is a little bit iffy. He said the Council
44 should be careful about cutting informal agreements and then when it actually occurs,
45 under the law they would be allowed to rebuild. He said that it would be like saying on
46 one hand we’re going to work outside the law, and then on the other hand we won’t have

1 any control over the situation when it actually occurs. Another point he noted was “if a
2 non-conforming use is replaced by another use, the new use shall conform to the
3 applicable provisions of the title” and said that means that if the house isn’t burned down
4 or lost to some natural disaster, it’s not to be replaced. He said he thought those were
5 important points for the Council to understand.

6
7 Hamsher said he thought it is a unique deal didn’t see how the City would be hurt by
8 granting him a variance. He felt Clark is being penalized for improving his property.

9
10 McKinley said if someone else buys the property, decides to divide it and the shop is
11 there, then another variance would have to be granted.

12
13 Jacobs brought up the intent of a planning commission within a city and said that it is to
14 try and create a plan for development. She recognized the need for the (planning)
15 document to recognize circumstances already in place, but the intent is to progress
16 forward as the instances change, that dwellings will eventually conform to the overall
17 plan. She said that when instances where it comes outside the grandfather situation, then
18 that’s the time to scrutinize and ask where we’re going with the planning situation. She
19 said that is why the rules or specifications are in place. She said she understood that there
20 may have been some misunderstandings on “granting” but she said that what occurred
21 was a change and the grandfather clause is out.

22
23 Hamsher said he understood, but said there was no change of use (of the property) just a
24 little wider unit. Jacobs disagreed and said there had been a change. Hamsher then said
25 “Isn’t there also a grandfather clause for livestock in the City - if people have had
26 livestock for such a period of time? Well, there is. There’s a grandfather clause, so what
27 I’m saying is, if your horse dies and you put another horse in there, then it’s no longer
28 grandfathered in? You’re still using it for the same use, the same way you’re still using
29 this trailer whether it was a single wide or a double wide. I really don’t see how the use
30 of the piece of property has changed whatsoever. Mayor Delgado said he brought up a
31 good point and that it’s an enforcement issue and the issue of livestock is an issue the
32 City should probably address.

33
34 Delgado said the question here is whether or not the Council is going to follow the
35 adopted code/the planning rules that have been adopted by the City. He said it may be an
36 isolated incident now, but what will prevent others from coming to the planning
37 commission or council claiming not to understand the rules as explained or read and
38 therefore ask that the rules not apply to them. He said it should be a concern.

39
40 Hamsher said he thinks there circumstances for a variance and that all four “of those”
41 apply (referred to section 9.020 page 103.) Referring to #1, he said it creates a practical
42 difficulty because he can’t put a shop anywhere on the property if he isn’t granted a
43 variance. Referring to #2, he said the uniqueness applies, #3 that the condition was not
44 created by the applicant – Hamsher said he didn’t think he meant to create this and it
45 wouldn’t have been an issue if he would have put a single wide on there. Discussion

1 again went back to what would have happened if he would have put up the shop before
2 replacing the dwelling, but it was noted that they could only speculate about the outcome.

3
4 Anna Bass brought up that the appeals process states that it has to be done within 15 days
5 and that it's now a year (or more) past the time. She said she understands he was out of
6 town and that there were fires, but she warned that the Council should be careful granting
7 variances because it's one of the regulations. She asked what if everyone else that comes
8 in that wants to go beyond the 15 days? Hamsher said, "All he would have had to done if
9 you were worried about the 15 days, is re-submit the same thing and ask for another
10 permit and have them deny it?" Discussion followed about doing special favors versus
11 variances and setting precedences. Bass said anything the Council does sets a precedence
12 and they should be careful.

13
14 Mayor Delgado said Hamsher's issue of variance should be looked at. He said #1 is
15 subject to interpretation. He reiterated that **all** the findings must be evident. Referring to
16 #3, he said that whether or not they agree with the planning document about the change
17 in use, the fact is, that when the original trailer was removed, according to the rules it
18 changes the use. The minute it came off (the property) the use was changed. It cannot go
19 back to a non-conforming use which is what happened when the trailer was put in. The
20 City didn't do that. Marvin Casebeer said he (Clark) broke the grandfather rights right
21 there. Delgado said the City didn't do it, the landowner did it. It (#3) says that the
22 condition was not created by the applicant, but in fact, under the law it was. He said they
23 may not agree with the definition of use, certainly the fact that there were two houses
24 there before and two houses there after and they're being used the same way, the fact is
25 that when the house came off, the non-conforming use no longer existed. When you put
26 one back on, you're in a non-conforming use again. He said Clark created it and he
27 didn't see how #3 could apply. Hamsher said he didn't think Clark knew (that) and that
28 he didn't know he had to partition. Mayor Delgado referred to the planning
29 commission's report that shows he should have known he had to partition the land.
30 Casebeer referred to 5.202 (?) an article from 020100 and said "he broke his grandfather
31 rights right there." The council was directed to the February 5, 2002 planning minutes
32 and took a few minutes to review them. Hamsher noted that the minutes reflected that it
33 was never Clark's understanding that he had to partition, only that it was being granted if
34 he desired. Mayor Delgado said he could see that, but no one can just go partition their
35 land unless the planning commission grants it. Hamsher asked why the commission
36 didn't require Clark to partition before obtaining the permit? If it was required, he should
37 have had to bring in proof. Mayor Delgado said he didn't know why or what the
38 procedure is. The City Recorder said they (the commission) just trusted that he would do
39 it.

40
41 Mayor Delgado asked for any other thoughts or comments. Bass asked for clarification
42 on being granted a partition, for instance, can an individual with a large tax lot not go to
43 the (county) assessor and ask to have it partitioned unless they have permission by the
44 local planning commission? Mayor Delgado said that was his understanding. The
45 question was put to the planning members and they confirmed that the commission must
46 grant the partition before it can be completed.

1
2 Hamsher went back to the issue of the setting of a precedent and said “the only precedent
3 that would show is if there were someone else in town that had two trailer houses on a
4 14,000 square foot lot that wanted to build a shop there. I think that would be the only
5 one where you could actually set precedent because any other situation would be a
6 different situation and not relevant to this one.” Mayor Delgado said he didn’t follow
7 what he (Hamsher) was saying. Hamsher said “She was talking about precedent by
8 granting a variance and someone else coming in and saying, well, you granted them a
9 variance. I think that would only come into effect if someone come in with a similar
10 situation. Would they be able to say, well you granted them...I think every situation
11 would be on its own merit so I don’t think you’d be having any kind of precedent issues.”
12 Mayor Delgado said they need to decide whether or not there really is a condition here
13 that would allow for a variance. He personally didn’t see it because all four of the
14 conditions need to apply and #3 doesn’t because the landowner is basically (by his own
15 actions) took it out of a non-conforming use and tried to re-establish that non-conforming
16 use by not partitioning and that partition was granted by the planning commission.
17 Delgado said, “Now, there’s a question here. Did he understand it? Well, the
18 information is available. He has a fairly good understanding now of what the rules are so
19 I’d have to ask why not then?” Hamsher quoted “violations made in good faith or
20 circumstances arising from pre-existing conditions or circumstances are treated more
21 leniently.” “And I think he thought he had to partition it and I think granting and
22 requiring are two different words.” He said if it was a requirement then they should have
23 required him to partition it prior to giving him the building permit. He said it sounded
24 like a violation in good faith and he didn’t really see how he changed the use of the
25 ground by simply changing the trailer any more than he would say that if someone
26 changed animals that they had in on a livestock grandfather clause was changing the use
27 of the land from one horse to another. That was his point in trying to show a parody
28 between the two. “You’re still using the pasture for the same thing whether you put a
29 gray horse in there or a sorrel horse. You’re not changing the use of the land by merely
30 changing the animal the same way you’re not changing the use of the land by changing
31 the single wide to a double wide. And I don’t see how the City would be hurt any by
32 doing so.” Mayor Delgado said he wasn’t so sure and went back to the term
33 “precedence” and said “I think that if we make a decision here as a governing body, to
34 not follow our own rules, then we’re setting a precedence and opening a door that I don’t
35 think we want to open.”

36
37 Clark interrupted and asked if there was going to be moment for rebuttal. Mayor
38 Delgado said there hadn’t been one planned. Clark said there were a lot of issues being
39 brought up that there’s non-clarity on and that it is understandable because he had non-
40 clarity until he got a copy of the document and read through it. Delgado said that it is the
41 planning commission’s job to understand and interpret the planning rules. He said the
42 interpretation that they’ve given the council is that it changed from a non-conforming use
43 and then the landowner substituted that with a non-conforming use by putting the other
44 unit on. He referred to the code “if the non-conforming use is replaced by another use,
45 the new use shall conform to the applicable provisions of this title.” He said Clark’s use
46 was grand fathered in because that condition existed prior to the adoption of these rules

1 and laws. He said that once that changed, it is very clear that it has to conform to the
2 applicable provisions of the title which mean it has to be a conforming use. He said that
3 didn't occur and said they could try and interpret it, but it's the planning commission's
4 job.

5
6 There was discussion about trailer parks but it was noted that Clark's property is not
7 considered a trailer park. Clark again interrupted saying "That's what I've tried to
8 explain to you, that their interpretation of this, was that that square footage and
9 everything, well that's regarding multi-family dwellings or trailer parks. It doesn't state
10 that in your R2 zone, it doesn't state that in square footage for R2 zones, it states
11 dwelling unit and then I refer to the definition of dwelling unit." Mayor Delgado thanked
12 him. Clark interrupted again and said, "This document goes around and around itself and
13 that's what I kept finding. It would say this over here and then it would say this over here
14 – no clear understanding of it." Delgado said the minimum lot size for a single-family
15 dwelling is 6,250 sq ft. He said in order for a landowner to conform or have a minimum
16 size lot, and in order for this property to conform with the applicable provisions of the
17 title, a line would have to be drawn once it went out of conforming use and the
18 grandfather clause was no longer applicable. He asked where the line is to be drawn.
19 Clark again started to speak and Mayor Delgado said he'd been allowed to comment a
20 couple of times already (during the closed portion of the session.)

21
22 The council studied the drawing of the property and discussion followed regarding
23 minimum average lot size and dimensions. It was noted that the entire lot is 14,000
24 square feet and could be divided into two lots of at least 6,250.

25
26 Nancy Wood said in referring to giving Clark a variance, that variances don't deal with
27 non-conforming use – they deal with area and dimension. It was noted that a variance
28 wouldn't permit construction of the shop, it would only allow for smaller dimension lot
29 size, larger building or different setbacks. Hamsher asked if it doesn't also say that
30 variances also provide a means for modifying? Hamsher then asked if it could be a
31 conditional use and the planning commission said that's what he was applying for.
32 Discussion then went to why they were talking about variances instead of conditional use.
33 It was noted that Clark mentioned a variance in his appeal so the planning commission
34 addressed it in their documents. Hamsher then asked what it says in the planning
35 document about special use. Lyn McDonald read, "For the purpose of this document a
36 variance is an area or dimensional variance that meets one of the following conditions
37 and they all refer to lot size. A variance does not refer to a non-conforming use."
38 Hamsher asked if there is a part about granting a special use. There was reference again
39 to conditional use and it was explained that Clark's conditional use was because he wants
40 a bigger shop than what falls into what's permitted. It was noted that the conditional use
41 is a different subject all together. Hamsher then wanted to know what the minimum
42 setbacks are. McDonald was uncomfortable participating during the closed portion of the
43 hearing and asked the Mayor for permission to speak and he allowed for the answer.
44 Wood and McDonald explained the setback requirements. Mayor Delgado said setbacks
45 weren't the question. Hamsher said he was trying to see if Clark could build a shop else

1 where on the property. Delgado said that would be an issue to be addressed at a later
2 time.

3

4 **7:20 p.m.** Mayor Delgado asked if there was any further discussion. Being none, he said
5 that as part of the procedure a decision needed to be made requiring a vote. He said that
6 following the decision a written decision would be prepared including the evidence used,
7 specific written findings, criteria for the decision, the facts that were relied upon and the
8 rationale for the decision. It will be provided to the landowner within 10 days as
9 required. Mayor Delgado asked for a vote from those in favor of upholding the decision
10 of the planning commission. Voting in favor were Karen Jacobs, Marvin Casebeer,
11 Lance Delgado and Anna Bass. Opposed was Jim Hamsher. Roger McKinley abstained
12 saying he was very confused because of “issues that hadn’t been addressed or didn’t
13 know what he wanted to address.”

14

15 **7:30 p.m.** Mayor Delgado said to let the record show that the planning commission’s
16 decision was upheld and then closed the hearing.

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19 Respectfully submitted:

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22 _____
Diane Clingman, City Recorder

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Approved this Date: _____

Lance Delgado, Mayor