PLANNING & ZONING COMMISSION
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO

Wednesday, January 18, 2006

Special Meeting

TIME & PLACE: The Planning & Zoning Commission of the City of Truth or Consequences, New Mexico, met in Special Session in full conformity with the law and ordinances of said Commission, at the Commission Chambers 405 W. Third, of said City on Wednesday, the 18th day of January, A.D., 2006, at 5:30 P.M. to receive input regarding the following:

1. Discussion/Approval – Sub-Division Master Plan – 35.8 Acres – 2250 N. Date Street – Ashbaugh Construction, Inc.

PRESIDING OFFICER: Kerry Kent, Chairman, called the meeting to order.

ATTENDANCE: Upon calling the roll the following members were reported present:

Kerry Kent, Chairman
Viola Bonner, Member
Yolanda Sepulveda, Member
Bill Howell, Member

Also Present:

Chris Nobes, Building Inspector
Hazel F. Peterson, Deputy City Clerk

Absent Were:

Roger Smith, Vice Chairman

QUORUM: There being a quorum present the Commission proceeded with the business at hand.

APPROVAL OF AGENDA: Kerry Kent, Chairman called for approval of the Agenda.

"Viola Bonner made a motion to approve the Agenda as submitted."

Seconded by Yolanda Sepulveda
Motion carried unanimously.

COMMENTS FROM THE PUBLIC: Mr. Kent stated there is a three-minute limit and he wants everyone to know that the end use of this meeting has no matter, no meaning at all in this discussion tonight. He stated it’s only about what’s on the plans. He stated it doesn’t matter if it’s a superstore or a hotdog stand, it does not matter. He stated the comments need to be kept to the plans themselves.

No one from the audience approached the podium.

SUB-DIVISION MASTER PLAN – ASHBAUGH CONSTRUCTION: Mr. Kent asked Mr. Nobes if on September 9, 2005, the Planning & Zoning Commission had a Special Meeting to discuss or take action on sub-division within the City, and that there were two issues; Ashbaugh Construction was one of the issues, and that he informed the Commission at that time that there was a Stop Work Order placed on this.

Mr. Nobes stated that was correct.
Mr. Kent asked in what capacity was that stop order placed there.

Mr. Nobes stated that if he had been prepared he could have brought the order himself, but basically, he was exceeding the scope of his grading permit. He stated he had a grading permit so he order work to be stopped until he brought him the full engineering.

Mr. Kent stated, pertaining to the grading permit, whenever Mr. Ashbaugh picked up his grading permit, did you explain the permit to him or give him a copy of the grading permit?

Mr. Nobes stated yes he got a copy of the permit application and the permit, yes.

Mr. Kent asked if all the requirements in this grading permit were met during the grading of this land?

Mr. Nobes stated certainly the one's he abided by and then when he saw that he was exceeding the scope of his permit then he stopped the work.

Mr. Kent asked if he had a file of the proctor test, the soil reports that were submitted with the grading?

Mr. Nobes stated yes he does.

Mr. Kent asked Mr. Nobes if in his view Mr. Ashbaugh met all of the requirements of the grading permit.

Mr. Nobes stated that up until the time when he stopped him, the work did exceed the scope as he applied; yes, he did previous to that.

Further discussion ensued.

Mr. Ashbaugh stated there were one hundred and ninety-eight tests and Mr. Kingsley insisted that it not be ninety percent but ninety-five percent and they were packed 95 to 100 percent compaction. He stated there was another company that came in, and boring tested and everything tested more than satisfactory. He stated he has a book of the tests with him.

Ms. Bonner asked Chris Nobes if he has the backup for exactly what Mr. Ashbaugh was stating right now.

Mr. Nobes stated yes there are records of all that testing.

Mr. Dave Blanchard who is the Engineer on this project approached the podium and stated they believe that as far as presenting the Master Plan, which is conceptual in nature that they are in compliance with all of the requirements of the City of Truth or Consequences, and reviewed the Sub-Division Master Plan and each of the four phases.

Mr. Kent stated he has a few concerns. He stated the main entrance by Teston’s gas station it shows having a second entrance in another phase after the property is acquired. He stated he has a concern with a traffic light there, and cars coming off of the freeway into a stoplight.

Mr. Blanchard stated Date Street and the interchange he believes are controlled by the New Mexico Road Department. He stated that Wal-Mart is dealing with that issue, they are talking to Santa Fe about anything they have to do to make it work. He stated they have a traffic impact analysis that he has a copy of that will address that issue. He stated just like he has to have construction plans to satisfy the City, they...
will have to have something that satisfies the road department that it’s safe at that intersection.

Discussion ensued.

Ms. Bonner asked Mr. Nobes exactly what was needed for the sub-division.

Mr. Nobes stated the purpose of the meeting tonight is to review these Master Plan, plat and report. He stated a sub-division master plan is required when a developer is proposing to develop a parcel of land in phases, which is the case here. He stated that the duty of the Board this evening is to either approve, deny or recommend postponement of approval of this plan. He stated that if this Board finds that the plan complies with all of the requirements, which are outlined in the Sub-Division Code, pages 8 & 9, if they find that the plan does comply with those requirements then they would find that they would recommend approval. 

Further discussion ensued.

Mr. Aguilera, City Manager approached the podium and stated he met with the Utility Board and they went through this process and they didn’t have any concerns. He stated he has had several meetings with Mr. Ashbaugh one of them having to do with water rights as his engineer indicated. He stated the City Ordinance requires that they transfer water rights to the City or if they don’t have the water rights that they pay for the water rights. He stated that unfortunately, our ordinance reads in terms of dwelling units and he talked to Mr. Ashbaugh about the City having to do a conversion from what dwellings would be to what a commercial development would be. He stated those discussions are still underway.

Mr. Aguilera stated that in terms of the other utilities, there are again no concerns. He stated the one major outstanding issue is the access at the intersection with Date and that’s a Department of Transportation issue so we’re leaving that up to them to settle that with Mr. Ashbaugh.

He stated that in terms of the phasing, we’ve adjusted his phasing from what he was showing initially because it wasn’t working right. He stated also the fact that he’s not able to complete the second access road, which is something he requires of him, he’s not able to complete the second access road because he doesn’t own the property. He stated he told him what the City would do is hold him back on future phases. He stated they would allow Phase I and Phase II to go on initially and then the other phases would be held and he would not be allowed to develop those until the secondary access was installed.

Mr. Aguilera stated Mr. Nobes did a good job of explaining the process in the Memo that he wrote to the Commission and this is a preliminary plan, it’s a master plan. It’s something that happens before an actual sub-division is filed, but it does require the type of scrutiny that it is getting tonight, which is to make sure that all of these issues are flushed out. He stated the second step is at the time Mr. Ashbaugh files for a preliminary sub-division plat he will then have the confidence that as long as he follows what is being approved tonight if it is approved tonight, as long as he follows that master plan then he can be assured that he is going to be able to get approvals on his preliminary plat.

He stated however there is, because it is a master plan, it does allow for
variances to that, when he comes in with his preliminary plat. He stated a line might change, or a street might change location a few feet one way or a few feet another way depending on once the engineering gets more exact, and that’s allowable.

Mr. Howell asked if Mr. Ashbaugh owned the water rights for Phase I and Phase II portions.

Mr. Aguilera stated no, at the present time he does not own the water rights on the property so he is going to have to pay the equivalent of those water rights to the City.

Ms. Sepulveda stated she keeps hearing about the master plan, and the utility phases and all of this stuff. She stated she is wondering if Wal-Mart is supposed to pay for all of this. She asked if the City of T or C is going to be paying to put in utilities, to put in anything as far as the phasing in of all of these.

Mr. Aguilera stated no absolutely not, the City of Truth or Consequences is not putting any money into this project, and this is a private project. He stated that Wal-Mart is not even on the radar screen at this point when we’re talking about sub-division. He stated the entire responsibility rests on the owner of the property, which is Mr. Ashbaugh. He stated that once he sub-divides the property, which is not this process, it’s another process, once he sub-divides the property and somebody else owns a piece of it then they become responsible for the construction of whatever takes place on there. He stated that by that time the roads and the infrastructure and the sewer and the water all have to be in place or he has to bond for those to be in place.

Further discussion ensued.

Mr. Sandy Jones approached the podium and stated his concerns are on drainage issues. He started there really is a situation here in this area which is a great, great area for commercial growth and he hopes everybody understands they support the commercial growth in the County. He stated we all know the realizations of taxes and need for that within the County and City for that.

Mr. Jones stated they do have a situation in this particular area where there has been some commercial building done in the past and approved by the City that has created some flooding issues below in areas not incorporated by the city but rather in the County. He stated that when his sub-division started they were very worried about adding to those flooding issues. He stated he and Chris have looked at them, he and Mr. Aguilera have looked at them, the County Flood Plain Manager has looked at them, and so they are very sensitive with this particular subdivision that all of the drainage issues are addressed.

Mr. Jones stated their current concern is that earthwork has been done and they know that there is not a set of drainage documents in place, which is of concern to them. He stated they would like to know what these developments are going to do, where the waters going to go, how it’s going to be retained prior to doing the work. He stated it certainly lets all of us catch any little problems that may arise prior to the work beginning.

He stated that isn’t our case today, so we really need to pick up the pieces from this point forward. He stated there are some drainage issues there now. He stated that a substantial amount of the leveling has taken place and currently they don’t see where there’s any ponding of excess storm water runoff is being held. He stated they also know that there’s
been some diversion of the water. Historically it drained one direction now it’s draining another, that he did check on the new set of plans that he didn’t have a chance to review, but that is documented on those plans. He stated can we fix it, obviously, they can, their immediate concern is they would like to see the engineer who is quite capable to produce a set of drawings and tell them what we’re going to do in the temporary. He stated he would assume that their looking four, five or six months down the road at a minimum before we would see any construction up there, but there is and has been some historical flooding in that area and they would like to prevent that prior to July and this rainy season.

Discussion ensued.

Mr. Jones stated they certainly want to go forward in the spirit of cooperation. He stated that Mr. Banister was present this evening and has assured him that they will work closely with the City on requests, so if there is something they can do to assist they would. He stated they would like their letter of December 24th to be record of this Board and they would further submit that they are certainly not satisfied at this point of what they have seen and reviewed and they will reserve any further comment on this master plan until such time as the City Commission makes a decision, at which time they will re-access their position.

He state he would like to point out that this is a master plan and he thinks it’s incumbent on the Board to do one of three things at this juncture and that’s approve, deny or postpone. He stated they certainly haven’t seen anything that indicates that it’s ready for approval, importantly the drainage that he’s seen.

Mr. Blanchard stated all of this comes down to how much do they beat Randy up for what he did last year compared to how do you want to solve the problem going forward. He stated if they want to get them kicked loose to produce real construction plans they will have the answer to every drainage question. He stated that is what real construction plans do. He stated that as far as saying this isn’t adequate, that’s not adequate, that’s not what this plan is. This is a conceptual plan and they say pretty plainly as part of the main construction we’re going to have a storm sewer going to Date Street where it can convey historical flow, temporary ponds to pond access water that is generated by the grading he has done already. He stated that’s what construction plans do, they show you berm shapes and sizes, they show you pond shapes and sizes. He stated they show seven ponds on this sheet of plans they are looking at and it may be five or it may be eight. He stated that the master plan it shows conceptually what they are going to do, how their going to get him back to where it was when the greasewoods were out there, but they have to get into the position where they can do it.

Mr. Aguilera stated he again is referring to the Memo from Mr. Nobes, they took quite a long time, quite a lengthy meeting with the applicant and his engineer, and they went over the letter that was submitted by the county. He stated that in Chris’s report to the Board he asked him to outline item by item how they had dealt with the comments that came from the Flood Commission. He stated he is satisfied that they have dealt with them in a manner that address how the Code reads.

He stated that what Mr. Jones is referring to is what he perceives to be a problem with the existing grading that was done. He stated this is not the document that takes care of that problem. He stated this is a conceptual plan that eventually leads to a sub-division which eventually leads to construction drawings of the sub-division which contain, just as Mr. Blanchard mentioned, contain the documents, contain the drawings that show us where all the retaining ponds are going to go. He stated that at
this point it’s not the right time to address the issue of exactly where a ponding basin is going to go or how much water is being generated by one use or the different uses that are going to go there. He started those quantities of water flow and the size of the ponds will be known and will be made known to you when the applicant goes into their next step, which is the filing of a preliminary plat.

Mr. Jones stated that with all due respect, the master plan is the master plan and it clearly defines that the drainage issues are to be defined and a plan of how drainage will be handled in the project. He stated that is a very important point of this step.

He stated it is his understanding that there is a response to his letter but he is very disappointed that he hasn’t seen it; it puts him on a spot tonight to try to answer questions when he’s cold. He stated that frankly that is one of his frustrations here.

Mr. Jones stated we have a situation where there is a drainage problem created by the developer, approved by the City. It is imperative that that drainage be taken care of immediately and addressed immediately not when a parcel is sold down the road six months from now. He stated that we know for a fact there’s been damage, we know for a fact that the drainage issues have not been fixed so he thinks it’s important to, when this master plan is approved to have that drainage plan in place and it’s clear in the ordinance that it is to be.

Mr. Aguilera stated just for the record, Mr. Nobes did try to get a copy of the documents to Mr. Jones but he was in Santa Fe, he did contact him, but he was told, well I’m in Santa Fe and so that’s why we weren’t able to get him a preview of the documents.

“Bill Howell made a motion to approve the Sub-Division Master Plan submitted by Ashbaugh Construction, Inc, and submit it to the City Commission for their consideration.”

Seconded by Yolanda Sepulveda
Motion carried unanimously.

ADJOURNMENT:
There being no further business to come before the Commission, Kerry Kent, Chairman asked for a motion to adjourn the meeting.

“Yolanda Sepulveda made a motion to adjourn.”

Seconded by Viola Bonner.
Motion carried unanimously.

APPROVAL:
PASSED AND APPROVED this 7 day of February, 2006, on motion duly made by Yolanda Sepulveda and seconded by Viola Bonner and carried.

Kerry Kent, Chairman
Planning & Zoning Commission