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

Tuesday, February 6, 2007

TIME & PLACE: The Planning & Zoning Commission of the City of Truth or Consequences, New Mexico, met in Regular Session in full conformity with the law and ordinances of said Commission, at the Commission Chambers of said City on Tuesday, the 6th day of February, A.D., 2007 at 5:30 P.M.

PRESIDING OFFICER: The meeting was called to order by Adam Polley, Chairman and Hazel F. Peterson as secretary of the meeting.

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

Adam Polley, Chairman
Roger Smith, Vice Chairman
Bill Howell, Member

Also Present:

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

Absent:

Viola Bonner, Member
Yolanda Sepulveda, Member

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

APPROVAL OF AGENDA: Adam Polley, Chairman called for approval of the Agenda.

Roger Smith moved to approve the Agenda as submitted.”

Seconded by Bill Howell
Motion carried unanimously.

APPROVAL OF MINUTES: Adam Polley, Chairman called for review and approval of minutes of the Regular meeting held Tuesday, December 5, 2006.

“Bill Howell moved to approve the minutes of the Regular meeting held Tuesday, December 5, 2006 as submitted.”

Seconded by Roger Smith
Motion carried unanimously.

“Roger Smith moved to approve the minutes of the Special meeting held Thursday, January 18, 2007 as submitted.”

Seconded by Bill Howell
Motion carried unanimously.

COMMENTS FROM THE PUBLIC: None.

PUBLIC:
Chris Nobes stated that this issue is about holding a construction yard for a construction company. He stated they have submitted an application, which has the required approval letters, and they have fulfilled the requirements as an applicant.

Steve Faykus approached the podium and stated that all they are doing now, because of the conflicts they have had with the neighbors, is basically storing tools in a garage. He stated there is no heavy equipment, there’s basically nothing there anymore. Once in a while a trailer or two, a tool trailer that hold their tools, but basically that’s it.

Pat Faykus stated that they also have in the very back of the lot some metal sheets, that type of thing. She stated they built the metal building so they could lock up their expensive tools and it’s been over there at least four or five years.

Mr. Faykus stated that all they are asking for is a place for their tools.

Ms. Faykus stated they do not operate daily out of there, they do not have an office in the home, and there is no phone there.

Mr. Faykus stated that basically that is just a yard for their tools. He stated they have tried to comply with everything that Chris has ask, they’ve sold the semi’s, they’ve sold the trailers, they’ve sold everything that’s big, commercial. He stated they are down to hand tools that are kept in the garages.

Discussion ensued.

Robert Moreau approached the podium and stated he lives at 211 Arrowhead and I’m the neighbor that he put the fence up for. He stated it was about two years ago that they moved in and it was his understanding that it was only supposed to be a meeting place for his employees, that they just came there and met. He stated that slowly and progressively, he started bringing in dozers, dump trucks and that’s when he started having a problem. He stated it constantly kept growing and growing and he wasn’t supposed to be doing this and it got worse and worse, then septic tank trucks came in and how is the city going to monitor this, every day?

He stated that there is another neighbor that moved in down the street from them that is also out of town and he believes he is in construction and he mentioned he would also like to have his construction stuff. If we open the door here, we’re going to have a whole neighborhood of construction. He asked if this wasn’t zoned in another part of town.

Bill Buhler approached the podium and stated he would like to see this area stay as a residential. He stated he thinks that’s what it’s been, residential. He stated there has been a horse or two in the area for many years, but it’s been primarily rural residential. He stated he thinks that if they bring in any kind of construction activities he thinks it will change the complexion of the area.

Mr. Buhler stated he heard his neighbor who just spoke complain about port a potties that were stored in there, a number of them. He stated he thinks he has had a problem with the use of the property other than residential. And if it’s just some storage of some items inside of a building, that’s one thing, but if it’s setting up for a construction area, a sight for trucks coming in and out, and he has seen trucks coming in and out of there, commercial trucks with Kick-Ass-Mules.
Mr. Fred Wortman approached the podium and stated he lives right across the street from 1440 E. Riverside where Kick-Ass-Mules is operating illegally he might say. He stated that this is a residential area, and if he’s been operating a commercial business from there he thinks they should be fined.

He stated he saw a letter that he had written to one of their neighbors that said they had operated for ten years. He stated he doesn’t think that is true, because they have been there since 1984. In fact nobody was there when they were there.

Mr. Wortman stated that he also belongs to the East Riverside Neighborhood Watch and they are responsible for paving Riverside Drive and he personally has seen two of the semi’s stop in front blocking traffic unloading the equipment for Kick-Ass-Mules operation in the back. He stated they block the street, at least two driveways where they guy gets out with his little tractor and takes stuff back into the back of the property and then comes back for another load, he’s blocking the whole street.

He stated he’s right at his kitchen window and he can see everything that happens, and he doesn’t think this should ever have been able to operate as it has been it’s in a residential area.

Grace Agan approached the podium and stated she lives on north Riverside so she’s not close to the area they are talking about, but in the past she has seen the large trucks going up and down the newly paved road. She stated she isn’t sure whether they are water trucks, technically, or septic tank trucks but when they are fully loaded and the water is coming out the back, you know they have to be over weight. She stated she has driven by and seen all the port a potties stacked there. She stated she wouldn’t want to live there with a dozen or so port a potties next to her house, empty or full or smelly or whatever and she’s sure the residents that live that close don’t want it either.

Steve Faykus stated that the only thing he would like to add to the whole deal is Kick-Ass-Mules and KAM Construction are two separate entities. He stated that anything unloaded for Kick-Ass-Mules like Mr. Wortman was saying was to go across the river, which the trucks could not go across the bridge. He stated that it was unloaded at 1440 E. Riverside and hauled across on little trailers.

He stated that as far as septic trucks, they are all gone, there’s a lease lot at the lake, they’re all sitting there. He stated that all the port a potties are lined up in a row, and they don’t have that problem anymore. He stated that if their trucks are ever on Riverside, they are doing a job, he can guarantee them that. He stated their trucks never hit Riverside Drive unless they have a job going.

Adam Polley asked Chris Nobes what the limitations were for a Type III.

Chris Nobes asked if he meant in terms of usage or what. He stated that in their packet on pages 12, 14 and 16, which defines the standards for Home Occupations, and somehow page 15 was omitted.

Bill Howell asked Chris Nobes what his position was on this issue.

Chris Nobes stated that they have heard both sides of the issue and most of what was stated was factual. He stated there have been episodes in the past where there were port a potties on the premises. He stated the Faykus’ explained to him that one was delivered to the wrong address and they were removed.
He stated that the Commission needs to differentiate between personal use for the senior Faykus', their farm equipment and such, which would be a permitted use. He stated that activity pertaining to KAM Construction is really what they are looking at. He stated they have had instances of deliveries to the premises, semi's stopping out on Riverside and unloading as was stated, this is factual.

He stated that really it is up to the Commission to decide whether to allow this activity to continue, whether it's a series of reprimands or cautions.

Mr. Nobes stated that basically it's the opinion of the staff that they would recommend denial of the application.

Further discussion ensued...

"Bill Howell moved to approve the request with the condition that it end thirty days after the completion of the bridge across the river to where the public can pass to move their stuff off of the property at 1440 Riverside."

Seconded by Roger Smith
Motion carried unanimously.

PROPOSED CHANGES TO THE ZONING CODE:

Chris Nobes stated that in reviewing the cities existing Planning & Zoning Code it was discovered that this requirement as we just saw just now for the Level III Home Occupation to require a 51% approval by adjacent property owners confers that power to the citizens rather than to the city to administer this code. He stated that the recommendation is that these requirements be reworded whereby each of these uses such as Conditional Use or Home Occupation Level III, Special Use or Variance be advertised for a Public Hearing under the procedures already in place for a Public Hearing, which give adjacent property owners notice to voice their opinions and such.

He stated that the whole issue is that something not take place or be approved by one of these boards without neighbors being aware of it and being able to comment and that would be taken care of by addressing each of these in a public hearing before this Commission.

Mr. Nobes stated that basically that is what the change is, is to rather than requiring them to bring in approval signatures from neighbors to simply apply and follow the procedures, but notification would be made and then a public hearing would be held and then the matter would be decided either here for a Home Occupancy Level III or a Conditional Use or a recommendation made here to the City Commission for a Special Use, Variance or Subdivision issues.

Mr. Nobes stated that one of the other changes is in fees. He stated the existing code has a schedule of fees and part of this change entails changing all fees to reference by resolution to be adopted by City Commission so that each time over a period of time or if there is a need to change a fee you don’t have to change the entire code, just by resolution.

He stated that one of the other changes is that the applicant will be responsible for the cost of notification, mailing by certified mail and such as that. He stated that right now our fee schedule is supposed to cover that, but it doesn’t obviously with rising costs. He stated that it is $4.00 per certified letter right now and if you have to send out twenty of them and if we charge $50.00 for a variance or a special use application it cost the city money plus staff time.
Discussion ensued.

"Bill Howell moved approval of the proposed changes in the Zoning Code and submit it to the City Commission for their consideration."

Seconded by Roger Smith
Motion carried unanimously.

SETBACK CHANGES FOR ACCESSORY BUILDINGS:

"Bill Howell moved approval of the proposed setback changes for Accessory Buildings and submit it to the City Commission for their consideration."

Discussion ensued.

Chris Nobes stated that at the request of this Commission this went to the Public Utility Advisory Board for their approval and they had no problems with the proposed changes.

Seconded by Roger Smith
Motion carried unanimously.

ADJOURNMENT:

There being no further business to come before the Commission, Adam Polley, Chairman called the meeting adjourned.

PASSED AND APPROVED this 16 day of March, 2007, on motion duly made by Roger Smith, and seconded by Bill Howell and carried.

APPROVAL:

Adam Polley, Chairman