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

Tuesday, March 3, 2009  

TIME & PLACE: Bill Howell, Chairman opened the Public Hearing with reading the Legal Notice as follows:  

NOTICE is hereby given that the Planning & Zoning Commission will hold a Public Hearing on Tuesday, March 3, 2009 at 5:30 P.M. in the Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico to receive input regarding the following:  


Roy Jones approached the podium and explained why he was requesting the Home Occupation Level III permit.  

Questions on the application ensued by the Commission.  

There were no opponents in attendance.  

Bill Howell, Chairman closed the Public Hearing.  

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

Tuesday, March 3, 2009  

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 3rd day of March, A.D., 2009 immediately following the Public Hearing.  

PRESIDING OFFICER: The meeting was called to order by Bill Howell, Chairman. Hazel F. Peterson acted as Secretary.  

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

Bill Howell, Chairman  
Lee Foerstner, Member  
Joey Perry, Member  
Raymond Ruffini, Member  

Absent:  

Viola Bonner, Vice Chairman  

Also Present:  

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

QUORUM: There being a quorum present the Commission proceeded with the business at hand.
Bill Howell, Chairman called for approval of the Agenda.

"Ray Ruffini moved approval of the Agenda."

Seconded by Lee Foerstner
Motion carried with Commissioners Howell, Foerstner, Perry & Ruffini voted aye.

Bill Howell, Chairman called for review and approval of minutes of the Regular meeting held Tuesday, February 3, 2009.

"Joey Perry moved to approve the minutes of the Regular meeting held Tuesday, February 3, 2009 as submitted."

Seconded by Lee Foerstner
Motion carried with Commissioners Howell, Foerstner, Perry & Ruffini voted aye.

None.

Chris Nobes approached the podium and stated he did want to update some information and then give a report on what was being done at the city. He stated last time he brought up a previous year as an example and the information was quite dated so as of February 13th the city had issued a total of 586 active business license and of those 156 were outside the commercial zone. He stated those numbers were slightly different from what this Commission heard at the previous months report.

Mr. Nobes stated the 156 that are outside the commercial zone represent all the three levels of home occupations. He stated there’s a number of them that are consultant type things, telephone, computer type work, on line publishing, people get an idea to make some money and the first thing they have to do is get a tax ID number and get a business license. He stated the number looks a little high in ratio percentage but in fact he thinks it reflects the local economy.

He stated there are in the order of about 20 home occupation level III’s scattered throughout the city. Childcare service with five or less clients is a home occupation, we have an upholstery shops, bookkeepers, a few auto mechanics, different types of business that are in fact home occupation level III.

He stated home occupation level II are generally construction contractors. He stated another category is consultants who are contractors who work for such as a medical facility, but are not an employee, they are in fact contracted, they are not a regular salaried employee.

Mr. Nobes stated the better news is we do have a data entry person who is going through all the Planning & Zoning Commission minutes back from the 70’s meeting and we are going to document all the conditional use, special use, variance and home occupation approval that have been done. He stated it will be linked then to the address and this will be in a data base. He stated this will be a tedious process, and within the next several months we will see more.

He stated that some people talk about a home occupation as a zoning issue, but in fact it really is not, it’s a property use, it is a use issue. He stated he would say that each one would get scrutinized and if it fits the
requirements, the requirements are in there for a purpose and if in fact the application meets the requirements you can grant it, but in fact it has no bearing on the zoning, there’s no need to rezone an area if you have a preponderance of home occupations.

Discussion ensued.

Joey Perry stated she feels that from the information that was presented today that this request really doesn’t comply with the level III occupation permit, particularly when it comes to the floor area, when 500 square feet is really all there is supposed to have for the business part of the building, or 25% of the floor area. She stated it looks like there is a lot more than that for the business purposes.

She stated it seems to her that the residential is subordinate to the business as opposed to the business being subordinate to the residential especially given that in addition to the storage buildings there’s going to be outside storage as well.

Ms. Perry stated she thinks the impacts for the most part in terms of noise, she thinks is not going to be a problem, she doesn’t have a problem with UPS deliveries or clients coming and going to buy small parts but she is concerned about the number of boats that might be coming and going on a weekly basis unless they really limit that.

Ms. Perry stated the other thing that she has concerns about is the property right now looks very much like business property because it’s got the big fence all the way around it and it’s like fortified off and it doesn’t feel very neighborhoodie and it is a residential neighborhood, so while she generally doesn’t support the application, she thinks that if the other members of the commission want to support the application then she thinks they need to put in a number of restrictions or conditions including the number of clients that can be there at any one time, or boats that could be there at any one time. She stated she would also like to see some improvements, landscaping or something on the outside of the property for the neighborhood so that it doesn’t look as commercial, because it is a residential neighborhood.

Discussion ensued.

Lee Foerstner stated he is not comfortable with the comings and goings of the boats, although the hospital seems to have eased up on that a little bit, and yet he understands that there needs to be a transition.

He asked Mr. Jones if this Commission were to put a time limit such as six months or a year on his repair of boats on the property would he be able to transition out of the repair work. He stated that mainly what he is hearing is the transition is to get into internet sales.

Mr. Jones stated just by himself it would take at least two years to get totally out of it. He stated quite a bit of the work they do is small motors where the motor owner just brings in the motor only.

Discussion ensued.

Raymond Ruffini asked why a review every six months couldn’t be done and see if there is a problem with the traffic, and if he has too many boats on the property, look at it at that point, if we were to pass this with conditions. He stated a lot could happen in two years, he would prefer to look at it on a 180 day period of time and go from that point. He stated it seems right now the adjoining property owners don’t have a problem with this.
Bill Howell stated he is sure that if there were any complaints in the neighborhood Chris would hear about them right away and this Commission would hear about them before too long.

Further discussion ensued.

"Lee Foerstner moved approval of an internet boat parts business on this residential property with the stipulation that he be given one year to do boat repairs and to transition out of that and there be a six month probation period and an inspection in the next six months to make sure that he hasn't adversely impacted his neighbors."

Motion dies for lack of a second.

"Joey Perry moved denial of the permit because she does not believe the request meets the intent of the home occupation permit, being to much occupation and not enough home."

Motion dies for lack of a second.

"Raymond Ruffini moved approval of the Home Occupation Level III Application with the following stipulations:

1. The property is reviewed by the city Code Compliance Officer or Building Inspector on a 180 day basis
2. That Mr. Jones within a two year period of time cease to do boat mechanic work
3. No boats on the property over twenty-four feet."

Joey Perry asked if Mr. Ruffini would be willing to amend his motion to include landscaping improvements to take the industrial look out and make it a more residential friendly appearance.

Mr. Ruffini stated he does not have a problem with that and would amend his motion to include:

4. Landscaping improvements around the outside of the fence for a friendly residential appearance."

Seconded by Lee Foerstner
Motion carried with Commissioners Howell, Foerstner, Perry & Ruffini voted aye.

Jeff Richter approached the podium and explained why the Lutheran Church was requesting the Summary Replat.

Discussion ensued.

Chris Nobes stated that this application has not been released by the Public Utility Advisory Board as of yet and if this Commission makes a recommendation this evening it will be conditional upon their approval and will be on the agenda at the next Public Utility Advisory Board meeting.

"Raymond Ruffini moved approval of the Summary Replat submitted by St. John's Lutheran Church subject to the approval of the Public Utility Advisory Board."

Seconded by Joey Perry
Motion carried with Commissioners Howell, Foerstner, Perry & Ruffini voted aye.
Joey Perry stated she wanted to commend Mr. Ruffini for his perfect attendance record and three others have had only one absence in the past sixteen meeting including three special meetings.

She stated she is concerned that there is one Planning Commissioner who has missed almost half of the regularly scheduled meeting. She stated she doesn't know exactly where she wants to go with this but she thinks there needs to be some discussion about it and perhaps make a recommendation to the City Commission about perhaps finding a new commissioner that might attend meetings with more regularity. She stated the Commissioner who has missed a lot of meetings is not in attendance tonight which she thinks is unfortunate because it would be good to have discussion about the reasons for the absence and she knows that four of the absence happened in four consecutive months so there could have been something happening in her personal life that prevented her from coming, but she does think that missing almost half of the regularly scheduled meetings in the past year is a very high absentee rate, and when that commissioner is here she thinks that they get some good input from her, but she thinks that is just to many meetings to miss.

Jaime Aguilera, City Manager stated he thinks there is a provision in the by-laws about commissioners being absent more than three time in a row as being grounds for removal. He stated that the City Commission pretty much leaves it up to each Commission to regulate themselves and police themselves. He stated it would be an appropriate issue to be discussed by this commission. He stated he knows that the Recreation Advisory Board recently made a similar recommendation to the City Commission and requested that one of the members be replaced because they were not being able to attend. He stated it's totally up to this commission if you want to discuss it, make recommendations to the Commission or not.

Hazel Peterson stated that this particular Commissioner's seat does expire in June 2009 and if the seat was vacated now and someone else was appointed to the position, the position would still expire in June 2009.

Discussion ensued.

It was the consensus of the Commission that Chairman Bill Howell contact Viola Bonner and find out what her intentions are concerning her position being up for renewal.

Discussion only, no action taken.

Chris Nobes, Building Inspector stated this is in response to a Comment from the Public at last meeting and he wanted to do this as information for this Commission.

He stated there was a press release from Construction Industries Division dated July 8, 2008 which stated "New Mexico is one of a handful of states that has adopted the International Energy Conservation Code (IECC). Out of those, we are one of the few that has implemented the IECC as a minimum standard for the state," said Lisa Martinez, Director of CID. "By incorporating our green build initiatives into the building codes and adopting the IECC, CID has laid the groundwork for statewide continuity and conformity relating to important energy and water conservation initiatives."

Discussion ensued with no action being taken.
ADJOURNMENT: There being no further business to come before the Commission, Bill Howell, Chairman called the meeting adjourned.

APPROVAL: PASSED AND APPROVED this 7 day of April, 2009, on motion duly made by [Signature], and seconded by [Signature] and carried.

Bill Howell, Chairman