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

TIME & PLACE:

NOTICE is hereby given that the Planning & Zoning Commission will hold a Public Hearing on Tuesday, June 1, 2010 at 5:30 P.M. in the Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico to receive input regarding the following:

Summary Plat— Of the parcel of land located between Riverside & Joffre in Truth or Consequences, NM. This is a request for subdivision to create a 5 lot sub-division of a 2.123 acre tract of land located in the southwest quarter of Section 34, Township 13 South, Range 4 East of the southwest corner of Joffre and Gold, and extending south to Riverside Drive. Property owner – Braxton Merritt.

Bill Howell Chairman asked if there were any that would like to speak during the public hearing to please come forward.

Mr. Howell administered the Oath to Sandra Cushman, Byron L. Stevens, Bill Hudgens, and Kathleen K. Weeks.

Mr. Charlie Friberg, Building Inspector stated there was a presentation by Anthony Gutierrez who works for this firm, and is not here yet.

He indicated this is a complicated issue, and stated there are a lot of adjacent property owners that would like to voice their concerns.

Bill Howell Chairman asked if there were any proponents...people who are for the change to come forward and speak, which no one responded.

Bill Howell Chairman stated they will now have the opponent’s presentations, and asked that they come forward one at a time.

Ms. Sandra Cushman of 900 E. Joffre Street came before the Commission, and stated her biggest concern is that they live on the corner of Joffre and Gold, and indicated they arrived here during a big rainfall in July, and that they nearly lost their fence coming down Joffre, and stated she is concerned about the drainage.

She stated she is also concerned about the road which is 20 feet wide, and that on the corner of Gold & Joffre meet there is a stop sign and a lot of trees and cannot see a car coming, and stated the roads needs to be widened before any works begins.

Ms. Cushman presented her written concerns. (Complete copy attached hereto and made a part hereof.)

Mr. Byron L. Stevens of 807 E. Joffre came before the Commission, and stated since they have been there they have experienced a couple of pretty good rain storms, and that he is skeptical about the ability if they have a guilty-washer that the water will go under his property. He stated it would be more prudent to build some kind of retaining wall from Joffre along the west side of the proposed development.
He stated he had another consideration...and that is no two-story buildings are placed on the property.

Bill Howell Chairman swore in Mr. Neal Weeks, and Mr. Neal Weeks of 802 E. Joffre came before the Commission, and stated he is across the street from the proposed development.

He stated his major concern is that the developer is planning filling in an active arroyo, and indicated he is a volunteer firefighter, and that he sees a major problem of access to lots number 4 & 5, and stated the distance of the nearest fire hydrant is 687 feet, and that he sees no new fire hydrants in this building plan.

Mr. Weeks stated that Gold Street needs to be widened with curbs, gutters and all necessary infrastructures installed prior to any land development.

He also mentioned that he does not want to see two-story housing because of the view.

Mr. Weeks presented his written concerns. (Complete copy attached hereto and made a part hereof.)

Mr. Bill Hudgens of 176 South Magnolia came before the Commission, and stated he would like to encourage the members of the Planning & Zoning Commission to go by and take a look at the property and try to picture for themselves where the 5 lots will fit in, and not have the drainage problem, and the congestion they have been speaking of.

Mr. Hudgens presented his written comments with pictures. (Complete copy attached hereto and made a part hereof.)

Ms. Kathleen Weeks of 802 E. Joffre came before the Commission in regards to the privacy in that area.

Ms. Sandra Cushman also had pictures that she presented to the Commission.

Mr. Anthony Gutierrez arrived and stated they sent out their certified mail with the time of the meeting being 6:00 P.M., and indicated that is the information that was given by the city offices, and that they reviewed the letters before they were sent out.

Bill Howell Chairman swore in Mr. Gutierrez. Mr. Anthony Gutierrez of 103 E. Gallagher, Las Cruces, NM with Center Line Services came before the Commission, and stated he was representing Mr. Merritt regarding the proposed subdivision.

Mr. Gutierrez stated they have been working with Mr. Friberg and the City staff, and stated any information that he sent out to the adjoining property owners has come from the City either by paperwork or conversation. He stated he has a one page application, and that he has worked with the City before under Chris Nobes, and had more paperwork in the past, and stated he has a copy of the zoning code, and that one of the issues is that they have been trying to get this to the P&Z for several months.

He stated they have done thorough research, and had a power point presentation for the P&Z Commission which they presented at this time.

Mr. Gutierrez stated one of the first things they did was identify the drainage problem. He stated that restrictive covenants will be used to
control parking, and maintain a private septic collection system that connects to the city sewer.

He stated two of the lots will allow for manufactured homes, and three of them will require site built homes, and stated the development will improve the drainage, and the value of the neighborhood.

Bill Howell Chairman swore in Mr. Steven Pacheco. Mr. Steven Pacheco of 6770 Cordova Circle, Las Cruces, NM engineer for the firm came before the Commission, and stated they asked if they were set up for 100 year storm, and explained that is what he set the ponds for each of the homes, and indicated by NM law they can’t increase or decrease historic flows through a property.

Mr. Pacheco stated what they have done is allow the historic flows to go through the property, and that for each home that increases the run off…they calculated the size of the pond due to the size of the home…so they assumed a size, and on the construction drawings it notes that depending on the size if there is a larger home, or a smaller home they can adjust the size of the pond, however the calculations are there so they know how big to size the pond.

He stated that he is suggesting controlling the flow of water through the property by use of retention ponds.

Bill Howell Chairman swore in Braxton Merritt. Mr. Braxton Merritt of 2821 Titanic Ave., El Paso Texas the landowner came before the Commission, and stated the property below that is part of the drainage line as well as the one next east of Riverside are also his properties, and stated he is the one who stands to loose more than anyone if it is done wrong.

Mr. Merritt stated the whole drainage problem was created by no codes existing prior, and indicated he has spent over $10,000 on this with the intentions of knowing he has no intention of selling the homes that are below, and that he also has one of the homes up top above…so his property values are as much affected by this as anyone else’s.

Mr. Jim Jacobs stated they received a letter from the fire department, and indicated they oppose the subdivision unless a fire hydrant went in.

Bill Howell Chairman stated another concern of the fire department is the width of Gold Street, and the fact they can’t get emergency vehicles up and down that small area.

Mr. Braxton stated that is not an issue for him. And indicated they have been working on this for several months.

Mr. Ruffini stated on lot 5 they indicated they were going to change the flow of water to the ponding area, so they are going to do that by filling in that lot…or how are they going to do that.

Mr. Gutierrez stated they want to displace some of that and move it over to the south without going over the slope.

Mr. Ruffini stated so on lot 5 you are going to change the direction of the flow of water on the lot itself.

Mr. Gutierrez on the lot itself, and the ponding area was made larger between lots 4 and 5 to account for that.

Mr. Ruffini…the driveway easement across lot 4…what are they doing
with that?

Mr. Gutierrez stated it meets the zoning code design standards still allowing access across that lot.

Joey Perry stated she still has questions about the fact they don’t have a homeowners association, or a property owners association...because she doesn’t understand how all these deals, easement and maintenance rules are going to be enforced or maintained.

Jim Jacobs stated the biggest thing they are leading into is who is responsible for maintaining this sewer system?

Joey Perry stated what she would like to see before they make a decision is that she would like to see samples of their conveyance of the rules and regulations...recognize if they can be changed or modified later.

Mr. Howell stated he thinks it is a good idea of the homeowners association also.

Mr. Foerstner stated the easement thing, and the stub outs, and all of that seem a lit bit convoluted, and if they are amenable to giving over that property to the City...and it sounds like you are, and then the City could take over responsibility.

Mr. Gutierrez stated if the City was willing...and there is a couple of issues here...I mean at one point there was no survey done, and utilities put in the ground across private property, and there was curb and gutter and street put in. He stated if there was some kind of guarantee that the City could work out with the property owner then if he did improve that roadway if he could still...and they have enough room after that 25 ft. easement, and if there was some kind of agreement...say let’s say if you give us the minimum width on back to curb...to back to curb so you could get access in there.

Joey Perry stated she had a question on the trash, and did not hear them address that in their presentation.

Mr. Gutierrez stated he thinks there is adequate space for each lot to have...

Mr. Jacobs stated the trucks are side loads.

Joey Perry stated one other issue that she heard several of the opponents raise had to do with the development of the construction...what measures are they taking to control dust?

Mr. Pacheco stated there is an erosion control plan.

Bill Howell Chairman called for public presentation.

Bill Howell swore in Lonnie Litton of 808 E. Riverside Drive. She stated she had a question...on the arroyo coming down between the Braxton property and ours...is that going to be paved?

The response from the developers was no ma’am...only on the upper portion will it be re-graded and shaped...on the lower end they are not doing anything, and with the upper end they are slowing it down, and adjusting the flow to come around however it’s not going to be any kind of canal or anything all the way down to the river.

Ms. Litton – and the flow from the other properties will increase the
flow?

Someone replied — "it is suppose to keep it the same."

Mr. Weeks came before the Commission and stated he is not sure if people really understand how much water actually goes down this road, and stated he has seen Joffre over top in front of his house over top the curb, and stated he has seen it over top Gold between Magnolia & Joffre, and a lot of water that goes down this property…or this area.

And stated he still does not see access for a fire truck, and is not happy with that, and for emergency situations, and the other question is the 30 ft. drainage that they have going down the center of the property.

Mr. Pacheco – that is natural ground. He stated the design for the 100-year storm is kinda misleading, and does not mean that every 100 years you are going to have a storm of this size, and that it is a 1% chance per year.

Mr. Hudgins came before the Commission, and had them put in the power point presentation to point out some of his concerns.

Ms. Weeks came before the Commission and asked if they had an engineering book or plans where it shows a history of the soil study or utilities.

Mr. Pacheco stated he does not believe an engineering study is required.

Mr. Merritt stated that he did have a concern expressed from a couple of the neighbors when he walked through that they had issue with the wild animals coming onto their property, and the other concern is the fire engines, and stated this property is basically a fire hazard the way it exists now, and when this property is improved and developed that is going to cut down on the fire danger.

Ms. Cushman still expressed the garbage pick-up.

Ms. Weeks talked about re-vegetation of the area, and would like to see the developer take recommendations from the Sierra County local extension agent for native grasses and shrubs to re-vegetate the disturbed area if the property is not developed within 30 days, and stated that would be like the natural shrubs, cactus, and the grass, and that would apply to all easement areas.

Joey Perry stated comments were made about if they didn’t have a homeowners association that property owners would just have to work it out, and make sure there were proper disclosures when the property was exchanging hands…my question I guess is…what are the requirements in New Mexico about disclosure on property.

She stated what she wanted to do is postpone the hearing so they could have more in put…because she didn’t get a chance to review the blueprints because they were only delivered to her 5 minutes before the meeting started…and would like to review these and have the opportunity to ask more questions.

Mr. Gutierrez stated he would like to add something on behalf of his client, and they would like to see the whole documentation on all the codes, and the application process because one of the fuzzy points…and has changed a lot, and there has been a shift in the position, and stated one of the things his client is suffering is that he has bared a substantial financial expense. And another thing he thinks is lacking is that specific
table of events of how this whole procedure works, and that they would like to have enough documentation before they meet again so they are doing it correctly.

The concerns of the opponents were drainage, width of the road, a fire hydrant, and no 2 story buildings.

There being no further comments the Public Hearing was closed.

PLANNING & ZONING COMMISSION
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
REGULAR MEETING
Tuesday, June 1, 2010

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 1st day of June, A.D., 2010 immediately following the Public Hearing.

PRESIDING OFFICER: The meeting was called to order by Bill Howell Chairman and Mary B. Penner and Angela Torres acted as Secretary.

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

Bill Howell, Chairman
Joey Perry, Vice Chairman
Lee Foerstner, Member
James Jacobs, Member
Raymond Ruffini, Member

Also Present:

Charlie Friberg, Building Inspector
Mary B. Penner, City Clerk
Angela A. Torres, Deputy City Clerk

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

APPROVAL OF AGENDA: Bill Howell Chairman called for approval of the Agenda.

Joey Perry referred to item #5, and that she didn’t get anything in her application packet for item #5, so item #4 and #5 are related...okay never mind.

"James Jacobs moved approval of the Agenda as submitted."

Seconded by Seconded by Lee Foerstner.

Joey Perry stated item 4 stated it is a zone change...that’s what confused me, and thinks before they approve the agenda they need to change that typo.

Motion carried unanimously.

APPROVAL OF MINUTES: Bill Howell Chairman called for review and approval of minutes of the Regular meeting held Tuesday, May 4, 2010.

"Joey Perry moved to approve the minutes of the Regular meeting held
Tuesday, May 4, 2010 as submitted."

Seconded by James Jacobs/Raymond Ruffini.
Motion carried unanimously.

COMMENTS FROM PUBLIC: None.

SUMMARY
REPLAT — BRAXTON MERRITT: Summary Replat — The purpose is a request for subdivision to create a 5 lot subdivision of a 2.123 acre tract of land located in the southwest quarter of section 34, Township 13, South, Range 4 East on the southwest corner of Joffre and Gold, and extending south the Riverside Drive.

"Joey Perry moved that they postpone further discussion and decision on this Summary Replat to obtain additional information and have an opportunity for all Commissioners to review the material."

And to include setting the date for the hearing…continue the hearing for our next meeting July 6, 2010.

"Joey Perry moved that they table the Summary Replat decision so they can continue with the hearing and obtain additional information for their next meeting on July 6, 2010."

James Jacobs stated how they can ask these people to explore the possibility of creating an easement, and deeding it to the City with the water, widening the street, and getting a fire hydrant…so they can be ready with all those things for the next meeting.

"Joey Perry moved to postpone so the proponents can do additional research including looking for fire hydrants, easements, manholes, and potentially widening the street, and look at trash issues, and the covenants and restrictions."

Seconded by Lee Foerstner.
Motion carried unanimously.

EXPIRATION — TERMS — BOARD MEMBERS: Consider/Approval/Action for Expiration of Board members for re-appointment — Expiring June 30, 2010 for — Bill Howell & Lee Foerstner.

"Joey Perry moved the re-appointments of Bill Howell and Lee Foerstner."

Seconded by Raymond Ruffini.
Motion carried unanimously.

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

APPROVAL: PASSED AND APPROVED this [ ]th day of July ____, 2010, on motion duly made by [ ], and seconded by [ ] and carried.

Bill Howell, Chairman