TIME & PLACE: The Planning & Zoning Commission of the City of Truth or Consequences, New Mexico, held a Public Hearing in Commission Chambers, on Tuesday, July 5, 2005, at 5:30 P.M.

PRESIDING OFFICER: Kerry Kent, Chairman opened the Public Hearing with reading the Legal Notice as follows:

NOTICE is hereby given that the Planning & Zoning Board will hold a Public Hearing on Tuesday, July 5, 2005 at 5:30 P.M., in the Commission Chambers 405 W. Third, Truth or Consequences, New Mexico to receive input regarding the following:

1. Special Use Application – Billboard considered a special use in any District – Section 11/13-3 E, City Zoning Code, 700 Matson #17, T or C, Cary L. “Jagger” Gustin.
2. Special Use Application – Dwelling unit on parcel adjacent to Broadway – Section 11-9-7 E (1) City Zoning Code, 400 Broadway, T or C, Dean Brock.

SPECIAL USE APPLICATION – GUSTIN: Kerry Kent, Chairman asked if there was anyone in the audience to speak for the billboard consideration.

Mr. Gustin approached the podium and stated he has been a resident of T or C for approximately thirty-four years and he has owned the commercial property since 1986.

Mr. Gustin stated there is already an existing billboard on this property so basically his request is to place a similar billboard below the existing board. He stated the land is commercial, it doesn’t have any other use and it is perfect for this use.

He stated that in each packet there is approval from the surrounding property owners. He stated he went through the application process and Chris has been very helpful in doing all of that.

He stated the use would be either his personal use for a store on Main Street or there is a new Gallery Association that’s formed locally and they’re also looking at possibly using the billboard.

Mr. Kent asked if there was anyone to speak against the billboard.

There being no one to speak against the billboard Mr. Kent asked if there was anyone to speak for the Special Use Application on the dwelling.

Mr. Chris Nobes, Building Inspector stated that just before the meeting this evening Mr. Brock notified him that he has changed his plans. He stated he still intends to develop that building but he no longer intends to have a dwelling unit there so he withdrew his Special Use Application.

Mr. Kent stated that with that information is will close the Public Hearing portion of the meeting.

Public Hearing was concluded at 5:40 P. M.
PLANNING & ZONING COMMISSION
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
REGULAR MEETING

Tuesday, July 5, 2005

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 5th day of July, A.D., 2005, at 5:40 P.M.

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

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

Kerry Kent, Chairman
Roger Smith, Vice Chairman
Yolanda Sepulveda, Member
Bill Howell, Member

Also Present:

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

Absent:

Viola Bonner, Member

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

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

"Bill Howell made a motion to remove the Special Use Application submitted by Mr. Dean Brock."

Seconded by Roger Smith
Motion carried unanimously.

"Bill Howell made a motion to approve the Agenda as amended."

Seconded by Yolanda Sepulveda
Motion carried unanimously.

APPROVAL OF MINUTES: Kerry Kent, Chairman called for review and approval of minutes of the Regular meeting held Tuesday, June 7, 2005.

"Yolanda Sepulveda moved to approve the minutes of the Regular meeting held Tuesday, June 7, 2005 as submitted."

Seconded by Roger Smith
Motion carried unanimously.

REORGANIZATION
N – SELECTION OF CHAIRMAN AND VICE CHAIRMAN

"Yolanda Sepulveda made a motion to retain Kerry Kent as Chairman."

Seconded by Bill Howell
Motion carried unanimously.
"Yolanda Sepulveda made a motion to retain Roger Smith as Vice Chairman."
Seconded by Kerry Kent
Motion carried unanimously.

Kerry Kent, Chairman asked Mr. Cary Gustin to approach the podium.

Mr. Kent asked if he wanted to put a board right underneath the one he already has there.

Mr. Gustin stated yes he does, but a much smaller one. He stated the one that is currently there is 10' x 40' and the site he is looking at right below won't fit that big of a piece so it needs to be quite a bit smaller. He stated he thought a 10 x 25 or 30 would fit.

Mr. Kent stated he personally has a problem with another billboard going up there. He stated right now it really jumps out at you as you come into town. He stated they grandfathered the existing one in, but as far as giving a special use permit to put up another billboard there, he feels like they would be opening up a precedence for other people in town that might want to do that.

He stated he didn't know how the rest of the board felt and he thought it was something they needed to discuss. He stated the first one was grandfathered in, but as far as putting new ones up that's something he is a little concerned about.

Mr. Gustin asked even if the use would be personal, for a business that he owns personally.

Mr. Kent stated it's still a advertisement billboard sign.

Mr. Nobes stated that it's the size, which actually defines it as a billboard, if it's over 128 sq. ft.; it's defined as a billboard.

Mr. Kent asked the Board how they felt about this issue.

Mr. Howell asked where exactly this billboard was located.

Mr. Gustin stated it was located at 700 Matson Street up on the hill above T or C Big-A-Burger.

He stated he feels he has a right to use his property and this is a means to do that. He stated he has lived for a number of year's downtown and plans to have a business downtown. He stated he is getting ready to open it this following year and he will need some signage. He stated he would like to utilize his property for that.

Further discussion ensued.

Mr. Nobes stated a lesser size sign would be called an advertisement sign and the total area of each face could not exceed 72 sq. ft., which would be a 6' x 12' or something on that order. That would not be a special use; it would fall under just the sign ordinance in general.

Mr. Howell asked if he thought he could make a go of that size sign.
Mr. Gustin stated he would prefer to go through this process with the Zoning Board and see if he could obtain a larger size, but if not that's automatically going to be allowed anyway.

Mr. Kent asked how the rest of the Board felt.

Discussion resumed.

Mr. Howell stated he was against having billboards all over the City also because of what a mess it made out of Albuquerque, but according to the location of this, it is kind of up out of the way where it's not really downtown down town. He stated he's not really completely against it.

Ms. Sepulveda stated she had a problem with it setting a precedence. She stated if it is a completely different structure, then anybody else that comes in they would have to allow them to put something else underneath if they wanted to. She stated if it was on the same structure, she wouldn't have as big a problem with it or something over the same structure since it's already been grandfathered in, she doesn't have a problem with that, but another structure she does.

Mr. Howell stated he thinks this has to be measured on a case-by-case basis, based on where it's located and how it's going to affect the actual area downtown and things like that. He stated just because you grandfathered one doesn't mean you have to grandfather all of them, depends on location and things like that.

Further discussion ensued.

Mr. Smith stated that what he was looking at is where you come off from Elephant Butte just by Sonic there are signs all over the place. That's what they were concerned with.

Mr. Howell stated that does look cluttered in that area up there.

Mr. Kent stated that’s his concern, he's looking out for the benefit and the beautification of the whole City also.

Mr. Gustin stated directing to that, how are those signs allowed to go up there. He stated he is trying to follow the due process with the system and he thinks some of those signs were put there that shouldn’t be there. He stated they’re probably not legal.

Mr. Kent stated he has questions about that.

Mr. Gustin stated they can confer with Chris he followed all of the regulations and is trying to do it the right way.

Mr. Kent stated he knows that and he knows his own concern here. He stated it’s for the whole benefit of everything. He stated that anything the Board decides if he doesn’t agree with it he is allowed to go to the City Commission and do it that way.

Mr. Kent stated that at this point he would call for a motion to accept this Special Use Application submitted by Cary Gustin.

"Mr. Bill Howell moved to accept the Special Use Application submitted by Cary Gustin."

Motion dies for lack of a second.
Mr. Kent asked if there was a motion to deny the Special Use Application submitted by Cary Gustin?

Ms. Sepulveda stated she would like more discussion.

She stated that if the same structure was restructured, redone or just modifying she doesn’t have a problem with that.

Mr. Kent stated he didn’t have a problem with that either, its allowing a new structure to go up is where his problem is.

Ms. Sepulveda asked if they could make a motion on that?

Mr. Kent stated no they have to follow the agenda. He can do that on the existing billboard without coming to this board.

“Ms. Sepulveda made a motion to deny the Special Use Application submitted by Cary Gustin.”

Seconded by Roger Smith
Motion carried unanimously.

Mr. Gustin stated he has a further question. He stated he has lived in a building downtown for about fourteen years and it’s always been his intent to have a tailoring shop there, and at that point he is going to want some signage so can he revisit this issue. He stated he would like to use his property to advertise his business.

Mr. Howell stated there are ordinances for signs for business’ downtown.

Mr. Nobes stated it can be an off premise advertising sign up to 72 sq. ft., per face.

Mr. Kent asked Mr. Desbin to approach the podium

Mr. Desbin stated that what they have is an apartment that they have converted into several spaces that would be separate and would also allow people to stay in the apartment with their animal. He stated they have screened off and partitioned off all the different rooms that the cats could stay individually in the spaces.

He stated that as far as he knows the Animal Control person has been over, and looked at it and thought it would be good.

Mr. Kent stated yes and that he has spoken to Animal Control. He asked what he planned to do with all the cat litter.

Mr. Desbin stated he plans to bag it and dispose of it in the dumpster they have out back.

Mr. Kent asked how many cats they plan to have.

Mr. Desbin stated no more than eight at a time because beyond that, really there would be a problem taking care of them and the space they have they feel different cats would need.

Mr. Howell asked if this was going to be like a dog-boarding place but for cats?

Mr. Desbin stated yes with the added feature that since it is an existing apartment in the bedroom area someone could actually sleep in the bedroom with their own animal if they so desired. The idea is to have it
setup as what would look like an actual apartment because they feel that would make the cats more comfortable so it would be like staying in somebody else’s home for a weekend or so.

Mr. Nobes stated the Roy Schoenradt the Animal Control Officer did inspect the premises and he was impressed by the cleanliness and the orderliness of the installation.

Further discussion ensued.

Ms. Sepulveda stated she had a question. She asked that with him allowing somebody to stay in the cat motel with their cat doesn’t that come into the motel type business. She asked if that was allowed.

Mr. Kent asked how would the Lodger’s Tax fit into that.

Mr. Nobes stated he wasn’t sure. He asked Mr. Desbin when he purchased the property wasn’t that as apartments.

Mr. Desbin stated yes when they purchased it, it was as a commercial property and they left it as commercial because she has always had this in mind and they do have two other renters. He stated they were assuming that covered that. He stated they do pay commercial rates for their water, trash, etc.

Mr. Kent stated that Lodger’s Tax falls under that, it’s additional.

Mr. Howell asked if they were charging for the persons stay along with the cat or just the cat.

Mr. Desbin stated what he thought she had in mind was just a combined rate for the person and the cat.

Mr. Howell stated that would fall under the Lodger’s Tax.

Mr. Kent stated that is something he would have to setup with the Lodger’s Tax. He stated they could give him the permit for him to do that but he would have to follow through with Lodger’s Tax.

“Yolanda Sepulveda moved to approve the Home Occupation Level III Application submitted by Amanda Mitro & John Desbin with the stipulation that they not be allowed to house more than eight cats at a time and that they check in with the City Clerk’s Office on the Lodger’s Tax Board.”

Seconded by Bill Howell
Motion carried unanimously.

Mr. Kent stated he would like to have Chris explain to the rest of the Board exactly what this is.

Mr. Nobes stated that when we get itinerant merchants come into town they get permission from various commercial property owners to setup. He stated that on their business license application they just simply put various C-1 as long as they stay in a commercial district they don’t pin them to one specific location.

He stated that his understanding was they categorized his application as an amusement enterprise, if that’s accurate or not it was the closes they could find in the code and in the code it allows for an amusement enterprise on a temporary basis in a commercial zone as long as it’s at least three hundred feet from a residential district.
He stated basically Ralph just reworded the application, he simply wants to comply with the Zoning Code but he wants the Cities endorsement on his ability to use this piece of equipment.

Discussion ensued.

"Yolanda Sepulveda moved to accept the Conditional Use Application submitted by PowerHouse! YEO, Inc."

Seconded by Roger Smith
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 Bill Howell
Motion carried unanimously.

APPROVAL: PASSED AND APPROVED this _2_ day of _August_ 2005, on motion duly made by _Yolanda Sepulveda_ and seconded by _Roger Smith_ and carried.

Kerry Kent, Chairman