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

Tuesday, July 6, 2010  

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, July 6, 2010 at 6:00 P.M. in the Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico to receive input regarding the following:  

Mr. Bill Howell, Chairman stated that there is a slight change in order of the public hearing due to the fact that Mr. Mackenzie has to leave early for another obligation.  

1. Summary Replat- The request to divide Lot B in half, so that the West half becomes part of Lot A, and the East half becomes part of Lot C. lot B thus becomes Lot AB and BC- Milton & Sandra Teston, representative, Scott Mackenzie.  

Mr. Howell administered the oath to Scott Mackenzie.  

Mr. Howell asked the Staff if they had anything to say on this item.  

Mr. Charlie Friberg, Building inspector stated that Mr. Mackenzie and the Teston' have been very patient with the City and the Board in their application. He has reviewed the application and he does not see anything that is lacking.  

Mr. Scott Mackenzie came before the Commission and stated he is the one who initiated the subdivision of Lot B in half. He gave a proposal to divide an existing lot in order to provide sufficient space for the construction of a residence. Mr. Mackenzie is the owner of lot A and Milton and Sandra Teston are the owners and sellers of Lot B and lot C.  

Mr. Mackenzie stated the reason for the request of Lot B to be subdivided is due to Lot A being mostly a drainage area. By adding half of Lot B to Lot A, it creates a house site that is somewhat flat on the top of the lot.  

Joey Perry, Vice Chairman stated that she had immediate reservations about the issue being addressed as a “Summary Replat.” Ms. Perry noted that in reviewing related city regulations and codes, she found no such procedure identified.  

Joey Perry referred to pg. 17 in the city ordinance book on a Summary replat. The Book stated that: When the creation of lots when the summary subdivision process is not applicable. When a replat is proposed it does not meet the standards for summary procedure. The sub-divider shall follow the procedures required for approval of preliminary and final plats.”  

She then stated she felt the commission should be addressing the matter as an “Alternate Summary Procedure,” which she said seemed to most
accurately pertain to the requested action.

Charlie Friberg, Building Inspector replied to Ms. Perry, that this issue has come up before. As far as the definition of summary replat, he did not assess the difference between the two of them. He looked at it as a Sub-division that was already platted. As far as them dividing the lots that they have, that would fall into a summary replat.

Raymond Ruffini, Member noted that the property owners claimed the lots in question were originally established as one-acre parcels and questioned the validity of this claim.

Mr. Mackenzie testified that the lots were originally laid out in 1939 as one-acre parcels and were part of what was defined as the Yucca Heights Subdivision.

Mr. Ruffini, Member acknowledged Mr. Mackenzie’s statement, but emphasized he still questioned whether this was correct.

Joey Perry, Vice Chair then noted several other discrepancies, including subdivision requirements for each lot to have street access, as well as water, wastewater and electric connections. She further emphasized that the only existing access was along an undeveloped thoroughfare, currently referred to as Prosperity Street. She questioned if the property owner or the City were planning to improve this thoroughfare.

Mr. Mackenzie stated that he had discussion with city authorities, he had been assured that the city was planning to install a proper roadway. Mr. Mackenzie also stated that he had obtained estimates and was prepared to personally cover all costs associated with acquiring proper electric, water and wastewater connections to the proposed home site.

The Board discussed the vague terminology and whether or not the city would actually follow through with paving plans for Prosperity Street.

The commission also discussed Perry’s concerns about proper access to future home sites and other lots in the subdivision.

Mr. Howell, Chairman, asked the Board and the public if they had anymore comments pertaining to the summary replat on the Teston’s and Mr. Mackenzie’s properties.

Mr. Milton Teston stated he had some comments for the Commission concerning the two properties.

Mr. Teston came before the Commission and Mr. Howell, administered the oath to Mr. Teston.

Mr. Teston stated that “Whenever he had purchased the property he was told that Prosperity as a platted street did belong to the City.” He also stated when he purchased the lots that they were not all purchased at the same time.

“Mr. Howell moved to closed the public hearing and move on to the next one.”

Seconded by Lee Foerstner. motion carried unanimously.

Summary Re-plat – The request for subdivision to create a 5 lot
A thoroughfare, affect would chief necessary be how average water concerning Board Mr. Gutierrez and information Mr. was Mr. area utility street time. Charlie Friberg stated that it has been 30 days since they last met on this issue and there were certain factors that were undecided at that time as far as with the street on Gold and Joffre. The sewer was an issue at that time.

He was informed by Mr. Anthony Gutierrez that he has met with the street department which he has information, and he also met with the utility department. Another thing of concern was the fire hydrant in that area for the development. Mr. Gutierrez has information on those issues.

Mr. Howell, asked Mr. Friberg if all of the information was provided that was asked for so that they do not have to continue another public hearing for some other time?

Mr. Friberg replied that he was not sure if Mr. Gutierrez had all of the information that was asked for but from his discussion with Mr. Gutierrez he had gone over it with the street department, the Fire Chief, and all other departments that were listed earlier.

Mr. Friberg stated that he would need documentation of what his findings were and what they proposed.

Center Line Services Engineer, Mr. Anthony Gutierrez came before the Board and stated that he had met with the Fire Chief Paul Tooley concerning the need of a new fire hydrant. He said they had discussed how the hydrant would have to be adapted to accommodate four inch water lines in the area, and agreed that an appropriate placement would be at the corner of Gold and Joffre Streets.

Mr. Gutierrez assured commissioners that Braxton Merritt was prepared to install the hydrant, and any adaptive equipment that was deemed necessary by the Fire Chief and City Utility department authorities.

The second issue is the widening of Gold.

Mr. Gutierrez then discussed the need for widening portions of Gold Street. The portion of the street in question currently measured to an average width of 21.5 feet, and noted that in discussions with the fire chief and other officials, it was determined that this section of the street should be widened to 26 feet. Mr. Gutierrez also stated that they wanted to put in the same type of curb that there was on Joffre on the north part of their project. He spoke with the street department and agreed that it would make most sense to put in a stand up type curb instead of the roll over curb, that way any drainage that comes against the curb will be diverted against the drainage channel that they’re constructing.

Mr. Gutierrez advised the Commission that Mr. Merritt also agreed to affect this adjustment and was proposing to cover costs to widen the thoroughfare, as well as to install curbs and gutters along his property.
side of the street.

Mr. Gutierrez asked if the City would provide necessary base course and asphalt to complete the project. He had discussed the situation with Streets Supervisor Don Armijo and he would discuss that with the City Manager, and then get back to him, and either way they are willing to move forward.

Mr. Gutierrez went on to detail how Mr. Merritt was also prepared to fully address the drainage concerns, alter plans to ensure each residence was connected to the city sewer system, as well as eliminate a proposed two-story structure. He further ensures Commissioners that the development would include on-site parking and provide access for authorities, should any utility or drainage issues require attention in the future.

Joey Perry had a couple of questions regarding exactly which intersection on Gold and Joffre the fire hydrant was going to be placed.

Mr. Gutierrez replied that the hydrant would be placed the furthest of the upper portion of the subdivision.

Raymond Ruffini asked about the willingness of having only one story units on lots 1, 2, and 3.

Mr. Merritt stated that lot 3 was the only lot that he intended to make a two story unit. He also stated if that was an issue he would only make the unit into a one story unit.

Mr. Gutierrez replied by saying that the elevation of that lot is the lowest elevation in the entire subdivision, and it would more appear as a one story unit even if it was a two story, and it drops quite a bit in elevation.

Ms. Perry reiterated her concern about the issue being addressed as a summary re -plat, and re-emphasized that she felt existing discrepancies between present codes and permit applications were problematic and should be more clearly defined.

Mr. Howell asked the public if there was anyone who opposed the summary re -plat.

Mr. Byron Stevens, 807 E. Joffre came before the Commission and stated his concerns regarding the drainage onto his property.

Mr. Howell asked if anyone else would like to speak.

Mrs. Joyce Hudgens, 176 Magnolia came before the Commission and stated that she would like to read a letter that she had received from Mary Jo Fahl, District Manager, regarding the drainage issues from East to West from Joffre Street. (Complete copy attached hereto and made part hereof.)

Ms. Perry had a question for Mrs. Hudgens regarding the easement.

Mrs. Hudgens stated the information is attached to the letter from Ms. Fahl.

Mrs. Hudgens also had some concerns regarding the side walk. North on Joffre and East on Gold, and asked if that would pertain to Riverside Drive?
She also had concerns about the soil from one side of Gold to another, and she spoke with the Dept. of Agriculture and was told that the soil is very limited to building from Joffre where the water easement is, south to Riverside.

Mrs. Hudgens also stated that she was told by the Dept. of Agriculture that the soil is very unstable for specific use for building a home without a basement.

Bill Howell Chairman asked if there were any other opponents who would like to speak.

Dr. Eve Elting, 212 S. Silver came before the Commission and stated that she did not receive any notification about this meeting despite the fact that she was referenced at the last one.

She said she does not have all the specifics but she has some concerns regarding the view getting blocked by a two story home, the access, and Dr. Elting stated that Gold and Joffre is a very quiet neighborhood.

It is a narrow turn so there is not a whole lot of traffic around there, and this is virtually going to potentially double the traffic that’s around there, and requested that the commission look into this very carefully so that they don’t make this mistake for the third time.

Mr. Neil Weeks, 802 E. Joffre came before the Commission and stated that he was disappointed due to the fact that Mr. Merritt did not, in a timely manner give him time to review blue prints on the property.

He said that the code regarding the widening of Gold Street must be 26 ft. and the code regarding landscaping erosion control gives an extensive list of native plants that they can use to control dust, dirt, and erosion issues.

He also mentioned that the last blue print he was given was incomplete due to the fact that it did not show where the power was coming from, and where they can draw the power, and that high tension lines are right next to his house to get to this property, therefore surrounding his home with high tension lines.

Ms. Kathleen Krysinski Weeks, 802 E. Joffre came before the Commission and stated that she had concerns regarding dust and erosion issues.

Ms. Susan Lynch, 905 Joffre came before the Commission and wanted to add a small comment to something Ms. Eve Elting brought up.

She went on line and spoke to realtors about vacant properties in T. or C. and the current price is twenty one thousand to forty thousand dollars, and from her understanding Mr. Merritt’s properties may run from forty to sixty thousand dollars, and stated that it is really questionable that the properties may not sell, and may stay empty due to the economy being the way it is, and also because of the responsibility and liability that the holding tanks will have on the new property owners.

Bill Howell Chairman asked if there were any other opponents who would like to speak.

Ms. Rosalee Wells, 101 South Gold came before the Commission and
asked how much of her yard was going to go to the widening of the street.

Mr. Ruffini responded by telling Ms. Wells that Mr. Merritt is giving up his property on the west side of the street to widen the road.

Bill Howell Chairman asked if there were any one else who would like to speak.

Bill Howell Chairman asked if there were any members of the public who would like to say anything about this.

Mr. Merritt came before the Commission and answered a few questions that the Commission and the public had.

Mr. Gutierrez came before the Commission and addressed the questions and issues the Commission, and the public had during the Public Hearing.

He also continued by saying that it has been a chore in finding out what they need to do, and on his clients behalf if it is acceptable by saying "it shouldn't be this hard." And that development is going to happen, and he does not think that it is Mr. Merritt's responsibility to fix everything right now.

Mr. Gutierrez stated his clients intent was never to come into the neighborhood and disrupt everything and make it worst than it was, and that his intentions were to make things better.

Mr. Gutierrez wanted to make a clarification on holding tanks, and that they are not generating any type of holding tanks, on lot ponds are required.

Bill Howell Chairman asked if anyone else would like to speak from the public.

There being no further comments the Public Hearing was closed.

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

Tuesday, July 6, 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, in the Commission Chambers of said City on Tuesday, the 6th day of July, 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 Foersiner, 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.  

Mr. Howell Chairman stated that we will be moving #5 down to #7.  

APPROVAL OF AGENDA:  
“Lee Foerstner made a moved approval of the change in the agenda.”  
Seconded by Raymond Ruffini.  
Opposed by Joey Perry. She does not think the agenda properly describes the projects that we are working on.  
Motion carried.  

Lee Foerstner moved approval of the agenda as amended.  
Seconded by James Jacobs.  
Motioned carried unanimously.  

RE-ORGANIZATION:  
Raymond Ruffini moved approval to re-elect Bill Howell as Chairman and Joey Perry as Vice Chairman.  
Seconded by James Jacobs.  
Motioned carried unanimously.  

APPROVAL OF MINUTES:  
Bill Howell Chairman called for review and approval of minutes of the Regular Meeting held on Tuesday, June 1, 2010.  
Joey Perry stated that page two on the minutes in two different places it states that people who testified provided copies of information. (Complete copy attached hereto and made a part hereof.)  
Mary Penner replied by saying the copies were only attached to the original minutes that go in the minute book and not attached to the copies the board members receive.  
“James Jacobs moved approval the minutes of the regular meeting held Tuesday, June 1, 2010.”
Seconded by Joey Perry.
Motioned carried unanimously.

COMMENTS
FROM THE PUBLIC:

None.

SUMMARY
REPLAT-
MILTON &
SANDRA
TESTON:

Joey Perry moved that they table this item until they get answers on the actual subdivision code that governs this action.

Mr. Howell asked if there were a second.

No response.

Motion dies for lack of second.

"Lee Foerstner to approve the re-plat with the recommendation to staff, and City Manager to review the code to correct the terminology regarding summary re-plats.

He stated the application was made in April and we are already into July and it is a small request, and they are only changing the size of lots between two owners.

Lee Foerstner would like to approve this action.

Raymond Ruffini seconded.

Bill Howell Chairman called 'All in favor say I'.

Ms. Perry then requested the Board have discussion first before making a motion.

Ms. Perry requested to make a recommendation to the city Commission regarding the streets so that each of the parts that are created have public access and also wanted information on if current property taxes were paid, utility releases from the Public Utility Advisory Board for the gas, and input from other departments.

Mr. Howell asked if staff wanted to comment on any of this.

The Commission had brief discussion regarding recommendations to the City Commission for the Teston / Mackenzie properties.

Mr. Howell asked if motion was amended.

Lee Foerstner replied "no".

Joey Perry Opposed.

Motion carried.

SUMMARY
REPLAT-
BRAXTON
MERRITT:

"Joey Perry moved that the motion to table this item until they have a chance to review the information that was provided tonight."

Seconded by Lee Foerstner.
Lee Foerstner requested discussion.

Joey Perry counted the lots as being 6 lots instead of 5, and was also requesting the name be changed to a preliminary plat instead of a summary re-plat.

Bill Howell asked if there were any more discussions.

Motion passes.

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

APPROVAL: PASSED AND APPROVED this 3rd day of August, 2010, on motion duly made by Joey Perry, and seconded by Lee Foerstner and carried.

Bill Howell, Chairman