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

Thursday, July 16, 2009  

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

TIME & PLACE:  

NOTICE is hereby given that the City of Truth or Consequences Planning & Zoning Commission will hold a Public Hearing and Special Meeting on Thursday, July 16, 2009 at 5:30 P.M. in the Commission Chambers 405 W. Third, Truth or Consequences, New Mexico to consider the following:  

Zone Change – From C-1 to Residential/Commercial Planned Unit Development (RCPUD) – 13.375 acres & 10.19 acres NW4, NW4, Section 27, Township 13 S, Range 4W – generally located on Hwy 181 & T or C city limits - Shepards Group, Inc.  

Bill Howell, Chairman administered the Planning & Zoning Oath of Office to the newly appointed member James Jacobs.  

Bill Howell, Chairman administered the Oath to Alvin Campbell at which time Mr. Campbell as the representative for the Shepards Group explained the reason for the Zone Change.  

Joey Perry asked Mr. Campbell if there was any sense of what residential density or the number of residential dwelling units the property owners are looking for.  

Mr. Campbell stated that would be based upon the developed plan that would come back to this Commission for approval for that particular portion. He stated there’s nothing set in stone as far as plans on density, but it would certainly be compatible with the cities Comprehensive Plan and the needs of the community as they develop.  

Further discussion ensued.  

City Manager Aguilera stated the applicant came to staff several months ago, he has purchased several pieces of property in the city including this one and in the county and they were talking about the most developable piece that he might have currently that he might start developing on. He represents an investor group out of California.  

Mr. Aguilera stated it turns out that this property is zoned C-1 and the developer would like to do a mixed use development, so he suggested that the RCPUD zoning would be more appropriate if they wanted to do apartments, and commercial and don’t really have a property line where they want to do apartments and where they want to do commercial. He stated that by zoning it RCPUD the entire property is allowed to be zoned one or the other or in combination all the way from single family too apartments, all the way from a neighborhood store up to a large shopping center. He stated RCPUD seemed to be more palatable to the applicant and he decided to go ahead and apply for the zone change.  

Mr. Aguilera stated that if the property was zoned residential then an RCPUD zoning would be an upgrade of the zoning, in this case it is pretty much a lateral transfer or lateral change from a commercial zone to a commercial/residential zone, and depending on how hot the market was in commercial verses high density residential one might even think that this is somewhat of a down zoning because if the property is
developed mostly as residential then there's some value that is lost from a commercial zoning. If the market as it is right now or is going to be in the near future, the markets going to be in the residential because of the Spaceport and as the residential area grows then that will create a market for commercial zoning.

Mr. Aguilera stated the requirements for a zone change does not require that they present to the commission a plan of development, the only requirement is that they prove to the commission that it is not harmful to the other zoning in the area, to property values in the area and to other property owners.

He stated that from a planning perspective the RCPUD is a good move. The other reason staff is recommending in favor is that with the C-1 zoning they simply go to the Building Inspector, get a building permit and start building, this commission never sees it, the city commission never sees it, and they just get a permit and start building. He stated that in a C-1 zone they can develop whatever is allowed in a C-1 zone. The PUD says that when you want to develop this land you have to come to this commission with a comprehensive plan of how you're going to develop this land. You can't come with a little corner and say I want to put in a little mom and pop store on Hwy 181, you have to come with a plan that shows the entire piece of property that you are now zoning and how this all is going to interact together, that's real planning as opposed to just issuing building permits.

Mr. Aguilera stated this is advantageous to the developer because he can vary from the requirements of the code, he can mix and match, he can respond to the market. It's advantageous to the city because we have a little more control about how the whole area develops as opposed to little plots of land.

He stated he has written a resolution for this commission to review, which is a suggested set of findings that may be changed by adding or subtracting as the commission wishes, this is just to keep in tune with what's being said and what the possible findings could be and staff recommendation is for approval.

Mr. Aguilera stated he thinks the Clerk will testify that she did advertise and that the notices to the adjacent property owners did go out.

Hazel Peterson stated that is correct and it was done in compliance of the fifteen day notice requirement.

Mr. Howell asked if there were any proponents to the Zone Change that wishes to speak, which no one responded.

Mr. Howell asked if there were any opponents to the Zone Change that wishes to speak, which no one responded.

There being no further comments the Public Hearing was closed.
PLANNING & ZONING COMMISSION  
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO  
SPECIAL MEETING  
Thursday, July 16, 2009

TIME & PLACE:  
The Planning & Zoning Commission of the City of Truth or Consequences, New Mexico, met in Special Session in full conformity with the law and ordinances of said Commission, at the Commission Chambers of said City on Thursday, the 16th day of July, 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  
Joey Perry, Vice Chairman  
Lee Foerstner, Member  
James Jacobs, Member

Absent:

Raymond Ruffini, Member

Also Present:

Jaime Aguilera, City Manager  
Hazel F. Peterson, 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.

"Lee Foerstner moved approval of the Agenda as submitted."

Seconded by Joey Perry  
Motion carried unanimously.

COMMENTS FROM PUBLIC:  
None

ZONE CHANGE FROM C-1 TO RCPUD – SHEPARDS GROUP:  
Lee Foerstner stated he’s always concerned about the water and it seems to him that this change is going to be a lot more water intensive, when you’re talking about putting condominiums in, when you’re talking about putting residences in this obviously uses a lot more water. He stated he’s just wondering about the cities ability to deliver water to this. He stated he knows that Shepards Group has a development across the river and there are two or three others out there, this commission just approved a huge RCPUD to the north of the city and it seems to him that he heard from Al tonight that they definitely have motel, hotel, shopping mall that’s all commercial.

He asked Mr. Aguilera if this zone change is going to use more water per acre because they are talking about twenty three to twenty four acres of development.

Mr. Aguilera stated the largest user and waster of water are laundromats and laundromats are allowed, golf courses are allowed currently under the C-1 zone.
Mr. Foerstner stated that’s not going to change with this, there’s still going to commercial and residential.

Mr. Aguilera stated that’s right but if we didn’t do anything they could still develop all of these high water usage type of users so the issue isn’t a comparison of what could be, the issue he thinks is that the city would be able to find out what they are planning and what energy saving devises or they installing as opposed to just issuing a build permit for a laundromat. Now this commission would say okay you want to put in a laundromat where are you doing to conserve water, are you recycling some of this water, what energy saving devises are you installing which can’t be done now under just the regular C-1 zone, and you can’t even ask for the information.

Mr. Foerstner asked if this is zoned and they come up and they say we’ve got these motels coming, the city says fine, then they say well everybody wants to come to T or C and retire and we want to put in a five hundred unit condominium unit out here. Is the city then obligated to allow them to put whatever they want in with this new zoning or can the city come back and say, well gee guys we don’t know if we can supply the water for that because we’ve got this over here and that over there sort of thing. He asked if this commission makes this zone change is the city bound to be able to allow them to put whatever they want in there that’s allowable under this RCPUD.

Mr. Aguilera stated not the city is not bound to approval with in reason, they can’t just say, I don’t like condominiums, or condominiums use too much water. He stated what the city would have to do is prove there isn’t enough water for anybody, that we would end up being in a moratorium by that point in which users would not be allowed. He stated that what the city can do is say you have a hundred unit condominium, the normal usage rate is 3.2 gallons per house member so we will require that you reduce that by whatever means to 2.5, you could condition them within reason.

Mr. Foerstner asked Mr. Aguilera if he thinks that under the RCPUD the city could control this more, is that what he is saying.

Mr. Aguilera stated yes.

Further discussion ensued.

“Joey Perry moved approval of the zone change from C-1 to RCPUD requested by the Shepards Group and submit to the City Commission Resolution No. P & Z 01-09/10 for their consideration.”

Seconded by Lee Foerstner
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 ___ day of ___ , 2009, on motion duly made by ___ , and seconded by ___ and carried.

Bill Howell, Chairman