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

Action Minutes

Tuesday, September 6, 2011

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, September 6, 2011 at 5:30 P.M. in the Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico to receive input regarding the following:

1. Zoning Change – For Rio Vista Land Co. Inc. NW4 of Section 3, Township 14 South, Range 4 West in Sierra County, New Mexico. Applicant is Mitchell Brown, and Representative is John Roberts.

Mr. Ron Fenn came before the Board and stated there is an application error, and he wanted to bring it to the boards attention before they start the meeting, and that Rio Vista Land Co., does not exist as a corporation, and that there is a registered business as Rio Vista Land Company LLC, listed to a Mitchell Brown. Mr. Fenn stated the application is made out for a non-existent company. (Complete copy attached hereto and made a part hereof.)

Mr. Juan Fuentes, Interim City Manager replied that the applicants are present at tonight’s meeting, and he would like to give them the opportunity to make that correction for the record, and he does not believe they would need to cancel the meeting due to the error.

Ms. Joey Perry asked if the Public Notice that went out to the adjacent property owners refer to the Rio Vista Land Co., as the applicant?

Mr. Charlie Friberg, Building Inspector stated the notice does say Rio Vista Land Co.

Mr. Bill Howell, Chairman administered the oath to Kim Audette, Bradley Grower, Kathe Bachtel, John Roberts, Gretchen Campbell, and Barbara Salasin.

Mr. Charlie Friberg, Building Inspector presented the staff presentation, and Mr. Friberg stated that the application in his opinion is complete for a T-1 zoning which is a transitional zoning, to an RCPUD which is residential/ commercial planned unit development.

Mr. Bill Howell, Chairman asked Mr. Friberg if the application was for the sole purpose of switching units from a T-1 to a RCPUD, and not for starting development?

Mr. Charlie Friberg, Building Inspector stated that was correct, and that he does not see a problem in applying to change the zoning.

Ms. Joey Perry member asked City staff if their recommendation is to approve or deny the application request.

Mr. Charlie Friberg, Building Inspector stated he recommends that the board receive the application, that it is complete, and that his responsibility is not to recommend pro or con on the situation.
City of Truth or Consequences,
In the interest of fairness to the citizens of Truth or Consequences,
and owing to the short preparation time (this Labor Day weekend prior to prior to the Sept 6th Scheduled P&Z hearing) and the size and number of potentially affected individuals. I request that the scheduled Public Public Hearing be conducted under "Battershell" process and procedure, as utilized in a similar large zoning request i.e. HS LD in 2008.
Respectfully,
Ron Fenn

"Thinking is the key to Reasoning... get it into your Head!"
Mr. Juan Fuentes, Interim City Manager stated as the building inspector, pointed out the application that is before them for the zone change meets all of the requirements. The Public Hearing and testimony is for the purpose of the board to make a determination whether or not to proceed forward with the proposed zone change, and at this time City staff does not have a recommendation for the proposed application.

Mr. John Roberts approached the podium, and stated where the application refers to project name if any, that is not the correct name, and stated he takes responsibility for that. He stated all of the exhibits that were presented to the board, City staff, and the public all register it as Rio Vista Land Co., LLC., but however that is not the applicant, and that the applicant is the Shepards Group Inc.

Mr. Roberts stated, Mitchell Brown authorized for him to act as his representative, and that he will submit something in writing stating that Rio Vista Land Co. is strictly the project name.

Mr. Roberts gave a presentation regarding the application for a zone change. He indicated that Mr. Brown and the Shepards Group have acquired 300 acres, and they have contacted all of the adjacent property owners within the 300 ft. radius, and that the idea was for Mr. Brown to move forward with the property to determine if it is developable. He stated at one point there were some residential properties that were looked at and platted out, and indicated the first thing they would need to do is determine what he wants to do with property whether it be for business or residential, and he also mentioned that they have to go through the code, and see what is permissible in a T-1 Zoning. And stated further down the road Mr. Brown would like to develop the river area to make walkways, and the area more usable for the City. He stated that they will have to go through a master plan initiative on the property once they get approval for an RCPUD, and that the entire purpose to move from a T-1 to an RCPUD is to open the door to start a master plan development.

Ms. January Roberts member asked Mr. Roberts if his company was looking into building a bridge.

Mr. Roberts stated the owner has asked him to prepare some engineering plans as to the design and cost of a bridge. He indicated at one point the City obtained a bridge from Deming, and for whatever reason it ended up as scrap metal. He stated the bridge was going to require that they put pylons in the middle of the river, and stated that would be an issue for the Bureau of Reclamation, and also a problem for people that raft up and down the river.

Mr. Roberts showed the public pictures of bridges that they might like to use when that time comes, and when they develop a master plan. Mr. Brown felt that if they established a green zone, and in the master plan went into some public areas along the rivers edge they can extend the walk path that they have now, come up, and go across the walk bridge then they can utilize the other side, and that it also allows them to put in new vegetation so that the people on the other side of the river still have a nice view, but as of right now they do not have a master plan, and that those are only ideas of what they might want to put in.

Mr. James Jacobs member stated that if they were to leave the designation as T-1 they would have a product where they could actually sell lots, and if it is changed to a RCPUD the land will be totally undevelopable without a bridge because they wouldn’t be able to put that on septic on the other side of the river once they lose T-1, so they would
have to have a sewer portion crossing the river which would have to be attached to the bottom of a bridge. And stated when they have a development of that density they would also have to have fire and emergency access, and right now the existing road “Turtleback Road” is sometimes closed for two days at a stretch when Mescal Canyon floods, so they would not be able to have any type of development over there except for a T-1 without addressing the issue of emergency access.

Mr. Roberts stated that he addressed that issue with Mr. Brown, and stated Mr. Brown is investigating that with the bridge, and improvements of the back road, as well as outlining what he feels is necessary for him to move into a master plan to present to an architect and engineer to figure out. And stated they discussed that, and they feel a bridge will solve a lot of problems. And when Mr. Brown contacted him, and asked him to be his representative they reviewed the property, and that’s why the pictures of the bridges are on there, and that they talked about the issues they were going to have with a RCPUD, and Mr. Brown indicated he wanted to move forward with the RCPUD.

Ms. Roberts stated that several people asked if the company is doing any kind of wildlife study as to what is going to happen over there.

Mr. Roberts stated they have not initiated any kind of study so far, and that the first step was to change the zoning to a RCPUD with the next step to begin to hire some professionals for master planning, and to reach out and start nature studies because he does want the walking path, and that is the first thing he brought up to him. And stated he can’t imagine having the river, and pushing development right up to the bank, and the only way it makes sense is for them to put in a 5 ft. asphalt Parkway, and a nice green zone so that it looks good from both sides.

Board member Roberts asked Mr. Roberts “which type of commercial businesses would they be putting out there?”

Mr. Roberts replied the only indications that he had about commercial development are like manufacture, office spaces, classrooms, and stated there is going to be a call for some multi-family housing at some point.

January Roberts asked if there was a possibility that there will be condos there.

Mr. Roberts stated possibly, and he wants them to understand that Rio Vista Land Development is not a virtual developer, and that Mr. Brown is a property owner just like anyone else in town that owns a piece of property, so what he will do is put together a master plan, and then other companies who want to come in such as condo developers, or office developers, or strip mall developers that will buy his land, will put up whatever and willing to risk their capital to put in.

Ms. Gretchen Campbell approached the podium and stated she supports the RCPUD Zoning for the proposed property.

Mr. Bill Howell Chairman administered the oath to Mr. John Mulcahy.

Mr. John Mulcahy approached the podium and stated why he supports the zoning change.

Mr. Bill Howell Chairman asked of the Planning & Zoning Commissioners if they had questions of City staff.
There were no questions of City staff at this time.

Mr. Brad Grower approached the podium with concerns on why he believes the application is incomplete.

Ms. Kathe Bachtel approached the podium with comments on why she believes the Commission should not approve the zoning change.

Ms. Kim Audette approached the podium and stated why she is against the zoning change.

Mr. Bill Howell Chairman asked if there were anyone that would like to cross-examine the proponents.

Mr. Brad Grower cross-examined Mr. John Roberts with his concerns.

Ms. Kathe Bachtel also cross-examined Mr. John Roberts with her concerns.

Ms. Kim Audette asked Mr. John Roberts if a notice was posted on the property.

Mr. John Roberts stated there was no posting on the property, and stated that he was not aware the property had to have a notice posted.

Ms. Kim Audette also cross-examined Mr. John Roberts with her concerns.

Juan Fuentes, Interim City Manager asked the opponents to give him the section in the zoning code where they are referring to where it states a notice had to be posted on the property, so that he can research it, and properly advise the Commission.

Ms. Kim Audette stated she thinks it was section 11-9.

Mr. John Roberts stated that he did see it on the list he was given to address in his application he did see a mention of that but did not determine it as a posting on the property, and he was told by the City Building Inspector that he did not need to post a notice on the property.

Ms. Joey Perry member stated that she did find the section that Ms. Audette is referring to in the zoning code under Article 7: Meetings, Hearings, Appeals, and Petitions to the District Court. Section 11-7-2 B4:

Notice of proposed hearing, date, time, and location shall be placed on the subject property 15 days prior to required Public Hearing.

Mr. Bill Howell Chairman stated they did not fully adhere to the City Code, and they will have to postpone this meeting until next month.
PLANNING & ZONING COMMISSION
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO
REGULAR MEETING

Tuesday, September 6, 2011

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 6th day of September, A.D., 2011.

PRESIDING OFFICER: The meeting was called to order by Bill Howell, Chairman. Angela A. 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
January Roberts, Member

Absent:

Also Present:

Juan Fuentes, Interim City Manager
Charlie Friberg, Building Inspector
Angela A. Torres, Deputy City Clerk

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

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

"Lee Foerstner moved approval of the Agenda with the removal of items 4 & 5."

Seconded by Joey Perry
Motion carried unanimously.

APPROVAL OF MINUTES: Bill Howell, Chairman called for approval of minutes of the Regular meeting held Tuesday, August 2, 2011.

Joey Perry stated that she was not in attendance at the meeting but she believes there is an error in the minutes where it states:

A. ADE requirements for the disabled.

She believes it should say ADA requirements not ADE.
“James Jacobs moved approval of the minutes of the Regular meeting held Tuesday, August 2, 2011 with the correction of the wording to say ADA instead of ADE.”

Seconded by January Roberts
Motion carried unanimously.

COMMENTS FROM PUBLIC:

Brad Grower approached the podium and voiced his concerns.

ADJOURNMENT:

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

APPROVAL

PASSED AND APPROVED this \( \frac{4^{th}}{4} \) day of \( \text{August} \), 2011, on motion duly made by \( \text{Bill Howell} \), and seconded by \( \text{January Roberts} \), and carried.

Bill Howell, Chairman