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

Tuesday, November 7, 2006

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 7th day of November, A.D., 2006 at 5:30 P.M.

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

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

Adam Polley, Chairman
Roger Smith, Vice Chairman
Viola Bonner, Member
Bill Howell, Member
Yolanda Sepulveda, Member

Also Present:

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

Absent:

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

APPROVAL OF AGENDA: Adam Polley, Chairman called for approval of the Agenda.

“Bill Howell moved to approve the Agenda as submitted.”

Seconded by Yolanda Sepulveda
Motion carried unanimously.

APPROVAL OF MINUTES: Adam Polley, Chairman called for review and approval of minutes of the Regular meeting held Tuesday, October 3, 2006.

“Yolanda Sepulveda moved to approve the minutes of the Regular meeting held Tuesday, October 3, 2006 as submitted.”

Seconded by Roger Smith
Motion carried unanimously.

COMMENTS FROM THE PUBLIC: None.

VARIANCE APPLICATION – BALL: Adam Polley stated that this item was acted upon once by the Planning & Zoning Commission and a recommendation sent to the City Commission and has been brought back to the Planning & Zoning Commission at the request of the City Commission.

Mr. Polley asked Chris Nobes to fill in this Commission about what the discussion was at the City Commission meeting.
Chris Nobes, Building Inspector stated that this variance request is a difficult one in that, just as this Commission itself had a little trouble. He stated that people want to try and sympathize with property owners and want to try to help them where they can use their property.

He stated that the Commission seemed to have the same issue. He stated that some felt perhaps it wasn’t such a bad thing, but in fact, it’s still Staff’s position that it does violate the zoning code and the provisions for a variance aren’t met on this property. He stated that a variance is to be approved based on the terrine or problems with this subject property not simply what the owner wishes to do on that property.

Mr. Nobes stated that the minutes from that City Commission meeting had been included and basically, they, perhaps it wasn’t, that one phrase may not be in these minutes, but they say basically that they asked this Commission for just a little further explanation of their decision.

He stated that perhaps a Findings of Fact, whatever this Commission decides, but perhaps it should be accompanied by a Findings of Fact to justify that decision.

Mr. Polley stated that he doesn’t know how the other members of this board feels, but at least he thinks their decisions would be a little bit clearer with a Findings of Fact. He stated that this is essentially a statement of facts that they found during the process that the P & Z Commission went through to come to a decision on that item.

Bill Howell stated that as everyone knows he abstained on the last vote. He stated he has been talking to one or two of the City Commissioner’s, and what Ms. Ball is trying to do is put a carport in place that can be moved at anytime, anywhere. He stated that he has been up and down that street many times looking at that thing and he can’t see how it possibly bothers anybody.

He stated he knows that if they make an exception and then they’re going to have to do it for everybody. He stated he just doesn’t see it; it’s going to be a movable object. He stated that he thinks that should they sell the property or move off the property or whatever they can always just say that’s the end of it, it’s got to be moved back.

Mr. Howell stated that they have to have a little bit of common sense here sometimes. He stated they went about it the wrong way a first, they didn’t do the right thing, and they should have come to us. But the fact remains he really doesn’t see how it’s hurting anybody. He stated it’s not blocking the view of anybody, it’s violating city code, but it’s really not affecting anybody.

Adam Polley stated that from his point it’s the process that was the problem.

Bill Howell stated that they wish they had gone about it the right way, they did the wrong thing, and they know that.

Roger Smith stated that the main reason it was rejected before was because they decided it opens the door.

Bill Howell stated it’s not going to be a permanent type thing.

Roger Smith stated, no but others will put it where they want it, and then ask for a variance.
Bill Howell stated that he thinks they just made a horrible mistake which they probably shouldn’t have done, but he really doesn’t see how it’s hurting one person anywhere, it’s not blocking the view. He stated people make mistakes all the time in our lives.

Roger Smith stated he agrees with that part of it, but what happens is everybody else starts doing it, we’ve open the door.

Bill Howell stated he doesn’t want to open any doors. They should have gone about it a different way, it didn’t happen, maybe they didn’t know that there was another way to go about it.

Roger Smith stated that all this Commission could do is make a recommendation; the City Commission is the ones that are supposed to say yes or no.

Bill Howell stated that if it was him and it was his house he would have tried to go about it the right way, but he can’t see a problem with what they are actually doing. He stated that it’s not even bolted down, it’s movable, you can pick it up a take it out of there in a minute.

Adam Polley asked Chris Nobes if from his experience and knowledge is there anywhere that it’s addressed about a movable object.

Chris Nobes stated that the Building Code defines structures to be covered under the Building Code as having a rigid roof, and they make that cutoff, that distinction. He stated that some people use shade cloths, sun screen over a frame to prep shade a vehicle or as part of their landscaping, and they do consider that landscaping rather than a structure. He stated that a carport with a rigid roof would be construed as a structure, as a building.

Adam Polley asked even though it not permanent?

Chris Nobes stated yes even though it’s not permanent, that our Zoning Code doesn’t address temporary situations like that. The Building Code has provision for temporary structures on skids and such as that, but that’s a construction issue not a zoning issue.

He stated that if there wasn’t some control what percentage, perhaps as many as half of the homes in town would like to get a carport in their front yard. It’s quite convenient to park, pull in if you don’t have room in the garage to have a carport. He stated that’s really, why this control is in place, it to preserve the nature of the various neighborhoods.

Adam Polley stated he would like to suggest to this Commission that they might direct Chris to come up with a Findings of Fact for them to review at the next P & Z meeting. He stated that if their vote is going to hold they can bring that up again at the next meeting and have it on the agenda if they want to change their mind on the recommendation of the variance.

Bill Howell stated he would like to get a little more input from more City Commissioners on exactly how they feel about it.

Tracy Ball approached the podium and stated she was sorry about the way it was done. She stated it was miscommunication and she apologizes for that, that they should have done the paperwork first. She stated they went around and had all the neighbors sign it. She stated she has pictures and it does not block any view whatsoever. She stated all they are trying to do is make the property look better. She stated she didn’t put it in the back because she is hoping to put a yard in the back.
Bill Howell stated the City Commission sent this back to this Commission, he’s not sure why, but he would like to get some of their impressions on what they feel about it. He stated it was wrong the way they went about it, but it’s not a horrible thing because it doesn’t hurt anybody.

"Yolanda Sepulveda moved to table this item and direct Chris Nobes to do a Findings of Fact for the December 5th meeting.”

Seconded by Bill Howell & Roger Smith

Motion carried unanimously.

VACATION OF ALLEY – CITY OF T OR C:

Chris Nobes stated that there are a number of alleys and a few streets around the City which are platted and officially dedicated as public rights-of-way but in fact have no use as a thoroughfare or even as access. He stated that this is where it’s obviously one because of terrain and possibly use as a thoroughfare. He stated there is an overhead electric line in this alley. He stated that if this goes forward and when it got to the Utility Advisory Board they would probably stipulate that if it were to be vacated that no utilities be lost to the city.

Mr. Nobes stated what was being looked at tonight was a zoning issue, whether it would be proper to recommend vacation of that alley in that part of that block 91.

Discussion ensued.

Chris Nobes stated that all property owners would gain ten feet across the north or south bounds of the property.

Bill Howell asked if this would help if there was a bad rain situation where they could do something about it.

Mr. Nobes stated that they are the contiguous owners and the City as an independent entity in between it’s an awkward situation that even to get to it in order to do any improvement they would have to cross private property.

Roger Smith asked how long this has existed like this.

Chris Nobes stated that the original townsite is the Plat, is the name of that subdivision. He stated that probably the 20’s perhaps the 30’s when the original townsite was platted.

David Packard approached the podium and stated that he along with Paula Maslowski owns Coffee Tea or C and he disagrees with what Chris said. He stated that he is the person that is right under the proposed vacated alley and he believes that Chris just called it unusable land so what the City would be doing in effect is passing the buck, giving the property owners unusable land.

He stated he would like to thank the City for working as a team in saving their buildings, as everybody knows they had a little bit of a collapse and that all of the Cities departments worked together real well and saved all the buildings.

Mr. Packard stated that this was the cities property before and during this event therefore he believes the city has a moral and legal responsibility to address what’s wrong, make sure proactively it doesn’t happen again not just vacate the land and pass the buck.

Further discussion ensued.
Brian Trego approach the podium and stated he is the owner of Lot 10. He stated the alley in the back of all the buildings it runs down the line of buildings all the way to Hag Street from Foch Street.

He stated that one of the questions for this Commission was why the proposed vacation only extends down to a certain point but not all the way to Hag Street being that it is a utility easement.

Mr. Trego stated he would like to also ask if the City has a right to vacate that property with utilities and fees going to the city. He stated it’s sort of like a double edge sword; it’s like having your cake and eating it too. He stated the city is receiving funds from the utility lines yet they pass on the responsibility to the property owners now that there’s been problems with erosion after this past summer.

He stated his question is and it needs to probably come from also maybe the County or the State as far as the erosion problem to be addressed to another level to find out how to find adequate funding maybe to stabilize this land that the city wants to vacate.

Sid Bryan approached the podium and stated he has Lot 14 and during the last rains in August part of this hill came down and completely flooded out the inside of his building. He stated they were not allowed to correct it because it was to the alley that this work was going on. He stated they put up ribbons so they couldn’t get back there. He stated that if the city said the problem was taken care of and then wanted to vacate it, it would be a little bit different than right now when it looks like behind him the hill could still come down at any moment. He stated that it wouldn’t even really require rain to have much more come down, and it seems like the city just decides at that point they want to unload it and then have them take care of it. He stated that if the city wanted to do this they should have done this before there was a problem, and they make sure the owners could not do anything with the land that was still in the alley when he put in a hot water heater in the back with a shed around it was measured to make sure that he didn’t exceed at all into that alley, and so they couldn’t do anything with prevention for it so he doesn’t think now they should be responsible for it. He stated he thinks the city has a situation where they have to show where they clean it up and then they can say they want to vacate it or they want to keep it. He stated that in his case he doesn’t want it unless the study says that it’s safe and he doesn’t want to inherit that problem from the municipal government.

Dean Howell approached the podium and stated he and his wife own the Country Store and he concurs with the other property owners. He stated they receive their utilities from that alley. He stated the city can’t say they’re not going to do anything but tell them that they’ve got the responsibility of that hill. He stated he didn’t create the hill, he didn’t bring the hill down, it’s the city problem, it’s the cities problem not theirs and don’t ever think the city is going to deed him some of that, because he won’t sign the paper.

Bill Howell stated he thinks there needs to be a meeting between the City Manager and the property owner to hash out what can be done in the fairest solution to everybody. He stated he doesn’t think it is the place of the Planning & Zoning Commission to do anything right now. He stated he thinks they need to have discussions with the city.

Chris Nobes stated that the initial assertion was made that he said it was unusable property, which is not the case. He stated he said it was unusable as a thoroughfare.

He stated then for Mr. Trego’s question of why the vacation is proposed
for only half the block is because there is a project in the works, the Hot Springs Waterfall project, which is to pump the mineral water from Geronimo Springs up the hill then it will come trickling down the hill and there will be a series of little scenes representing our historical culture, our heritage here, and it was simply more practical to keep maintaining that eastern portion of that alley in Block 91 as publicly dedicated right-of-way rather than interfering with that project. He stated that if they proposed vacating that alley further east there are some individual owners and it would sort of jog up into that proposed project so the vacation was to end at the southeast corner of Lot 4 and the northeast corner of Lot 16.

Further discussion ensued.

Chris Nobes stated that the City is in active negotiations with the owner above, Mr. Broomfield, and once they find the cost to abate this problem they are about to enter into an agreement to stabilize that part of the hill. He stated the city is committed to that; they are not going to walk away and leave things as they are. He stated the hill will be stabilized between south of Lots 3 to 4 where the mudslide took place.

Further discussion ensued.

Brian Trego asked that since during the flooding down here in Sierra County, and also in Dona Ana County as well as Hatch especially, is there anyway to get grant money to help the city out to stabilize that land behind them since they were in the mist of that flood.

Chris Nobes stated the city is looking into that. He stated that there are several programs in effect. He stated he is going to meet with some FEMA people next week in Las Cruces.

Further discussion ensued.

"Yolanda Sepulveda moved to deny the Vacation of Alley and send it back to the city for further study because of the concerns that were raised from the general public and property owners."

Seconded by Roger Smith
Motion carried unanimously.

VACATION OF ALLEY – WELCH:

Edmund Welch approached the podium and stated that when he bought this property he had no idea he had this on his property. He stated that he was planning on selling this property and had a survey done and was informed that he could not sell it with this on there. He stated there is a ten-foot fence down the middle of it and it serves no purpose.

Chris Nobes stated that Lucky to the east has been vacated so this is just a short stub, a thirty-foot long portion of an alley which really serves no purpose, goes no where. He stated that the property to the east in the vacated Lucky Street has been developed and really is just a housekeeping issue.

He stated that the Fire Chief has signed off on it and the neighbors who own the property, Lot 2 to the north has signed off as agreeing to the proposed vacation. He stated that if this Commission so wishes and so makes a recommendation tonight it would then go to the Public Utility Advisory Board who acts on any vacation as well for utility purposes.

"Bill Howell moved to approve the Vacation of Alley submitted by Edmund Welch."
Seconded by Roger Smith
Motion carried unanimously.

SUMMARY
REPLAT –
MCCRARY:
Bill McCrary approached the podium and stated that he was there to represent his mother and the reason for this was if she decides to sell her house and keep the storage business or vice versa then she would have a separate title for each piece of property.

Chris Nobes stated this is very straight forward, there is a C-1 Commercial Zoning District which starts at North Hwy 51 but then right after that it becomes T-1, Transition Residential. He stated that would be an appropriate use from a zoning standpoint and also the Tract 1 meets the minimum size requirement for the T-1 zone. He stated there really are no issues as far as Staff is concerned.

“Roger Smith moved to approve the Summary Replat submitted by Mile McCrary.”
Seconded by Viola Bonner
Motion carried unanimously.

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

PASSED AND APPROVED this 5 day of December, 2006, on motion duly made by Yolanda Sigler and seconded by Bill Harwell and carried.

APPROVAL: Adam Polley, Chairman