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

Tuesday, December 6, 2005

TIME & PLACE: The Planning & Zoning Commission of the City of Truth or Consequences, New Mexico, held a Public Hearing in Commission Chambers, on Tuesday, December 6, 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, December 6, 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. Variance Application – Bulk fuel storage tank outside fire limits of City, Section 5-30, City Code of Ordinances, near T or C Elementary Schools, 1500 Silver Street, T or C – Truth or Consequences Municipal Schools.

2. Variance Application – To increase advertising sign area from 72 sq. ft. to 100 sq. ft. each face, Section 11-13-3 (D) 1 and height from 15' to 19', Section 11-13-3 (D) 2 – 201 N. Date Street, T or C – Nils Stansen.

VARIANCE REQUEST – MUNICIPAL SCHOOLS: Jim Nesbit, Superintendent of Schools for T or C approached the podium and stated they were requesting a variance to put up to a ten thousand gallon bulk diesel fuel tank on the campus of the Elementary School off Smith Street. He stated they do have all the buses parked up there at this time and they have done some studying on this and found out that by using a bulk storage tank they can use dyed fuel in the school buses, the state will allow them to do that, and by doing this they will save the school district and the tax payers of New Mexico. He stated they figured they use on average five thousand gallons of diesel a month, so they would save on average about twenty to twenty four thousand dollars a year by having their own bulk fuel.

He stated they did visit with all the landowners in the area with the exception of the Health Care Center. He started they did not get a positive or negative from them, he did talk to Tonya Gillespie the Administrator and she said she was having problems getting an answer from someone in their administration as to if they would allow it or not, but the other three property owners they did get letters signed that they would support the variance so they would like to request the Commissions support of this variance.

Mr. Kent asked if this was for a ten thousand gallon tank.

Mr. Nesbit stated up to ten thousand. He stated they have quotes for a ten thousand gallon tank at forty five thousand dollars, and it just depends on what their budget will allow, but they wouldn’t go over ten thousand gallons.

Mr. Howell asked if this tank was going to be located far, far away from the school.

Mr. Nesbit stated its as far west from the school as they can get it, along the fence that borders the west side of the bus lot. He stated they are going to put a privacy fence around the north and the west side of it, the south side will be up against the building, and they will do all the
security issues with chain link around it and then the bollards and everything else that's required for safety codes.

Mike Tooley, City Fire Chief approached the podium and stated he is under the impression they can't give a variance for a fire ordinance, so he is there to state that plus maybe make a recommendation that if they really need this in there that the recommendation would be to change Smith Street to part of the fire zone.

Mr. Tooley stated that as far as the City Code goes anything outside the fire zone they can't have over ten gallons of fuel, for lawn mowers and so forth.

Mr. Kent asked if there was anyone else who wishes to speak to this variance.

There being no response the Commission continued to the next item.

VARIANCE REQUEST—NILS STANSEN:

Nils Stansen from United American Insurance Company approached the podium and stated the reason for this sign is two fold. He stated one is to advertise the company that he works for which is a two part sign. He stated the top of the sign is for rental purposes. The Nursing Home has already expressed interest in renting it from him. He stated the reason he is requesting a variance is the size of the sign that he wants, had he had a business on the property, would be okay but since it's an empty lot the amount of space that he is allowed is a little bit less than what he is wanting. He started the size of the sign he is wanting is not really not that much larger. He did request for it to be a little higher off the ground so that teenagers and whatnot would not destroy it and it's not going to impede the view of any traffic or anything like that.

He stated he submitted some documents showing a visual representation of exactly what it is he is looking for and he would ask the Commissions support for this variance.

Mr. Kent asked if there was anyone present that would like to speak against the variance.

Jaime Aguilera approached the podium and stated the purpose for giving variances should normally be because of constraints having to do with the property. He stated he doesn't believe the gentleman has offered any rational as to why there's something wrong with the property that requires a larger sign. He also intends to rent part of the sign. He stated he says that if he had a business there the size would be allowed, this larger sign; however, he would not be allowed to have somebody else's sign on his building. Mr. Aguilera stated this is really a billboard off-site sign that he wants to utilize.

Mr. Aguilera stated he would recommend against it simply because it creates proliferation of more of these off-site signs which he thinks one of these days the City needs to look at that part of the ordinance to reduce that proliferation of somebody having a business in one part of town and advertising anywhere else that anybody will lend them a space.

Mr. Aguilera stated that his recommendation would be for denial.

Mr. Kent asked if there was anyone else who would like to speak against the variance.

There being no other comments the Public Hearing closed at 5:35 P.M.
PLANNING & ZONING COMMISSION  
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO  
REGULAR MEETING  
Tuesday, December 6, 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 6th day of December, A.D., 2005, at 5:35 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  
Viola Bonner, Member  
Yolanda Sepulveda, Member  
Bill Howell, 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: Kerry Kent, Chairman called for approval of the Agenda.

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

Seconded by Viola Bonner  
Motion carried unanimously.

APPROVAL OF MINUTES: Kerry Kent, Chairman called for review and approval of minutes of the Regular meeting held Tuesday, November 1, 2005.

"Roger Smith moved to approve the minutes of the Regular meeting held Tuesday, November 1, 2005 as submitted."

Seconded by Bill Howell  
Motion carried unanimously.

COMMENTS FROM THE PUBLIC: None.

VARIANCE APPLICATION – T OR C MUNICIPAL SCHOOLS: Kerry Kent, Chairman asked Mr. Nesbit to approach the podium.

Mr. Kent stated he sympathizes with the fact that this will save the school money. He stated he has a problem with a fuel tanker running up the street. He asked how often they would use that much fuel.

Mr. Nesbit stated on average about five thousand gallons a month.
Mr. Kent stated then they would have a fuel tanker truck running up there once a month.

Mr. Nesbit stated or every other month.

Mr. Kent asked if there was any place else in the schools area that are within the fire zone.

Mr. Nesbit stated no they have no other areas, other than where the Central Office is right now and they can’t get buses in and out of there to do that. He stated that would really be the only real logically place they would have to do it right now.

Mr. Kent stated another problem he has is if they give them a variance pretty soon the hardware store might come and say we have delivery trucks, they would like to get a variance for bulk fuel. He stated that outside the fire zone he has a real problem with it.

Mr. Howell stated he would love to see the school district be able to save money, but according to Mike, it could present real fire problems.

Ms. Bonner asked if they were doing this in other school districts.

Mr. Nesbit stated no he thinks this is something that’s just come about where they will allow school districts to use dyed diesel in school buses. It’s not something that’s been done in the past. He stated they did bounce it off the State Transportation Director of Public Education Department and his comment was I don’t know why they didn’t think about doing this before, so it may be something that’s going to snowball, but they thought they would be first.

He stated there are other districts that have them, but they’re within their codes and they don’t have the issues we have being out of the fire zone.

Mr. Smith asked if there will be a retention barrier under it.

Mr. Nesbit stated that by EPA requirements you have to have a hundred and ten percent retainers.

Ms. Sepulveda asked if there were any rules, regulations about how far this type of fuel tank has to be away from a public place, it’s so close.

Mr. Howell asked approximately, how far that would be.

Mr. Nesbit stated he is guessing from the far west side of the buildings, maybe fifty, sixty yards.

Mr. Toohey stated under the Uniform Fire Code there are restrictions if they change Smith Street to a fire zone then not only does he have to meet the State requirements for setbacks, but he has to meet all requirements of the Uniform Fire Code. He stated he would give Mr. Nesbit a copy of that code tonight.

"Yolanda Sepulveda made a motion to deny the Variance Application submitted by the Truth or Consequences Municipal Schools.”

Seconded by Viola Bonner
Motion carried unanimously.
Mr. Kent stated he also has a real problem with granting a variance just because they want a bigger sign and we have enough sign problems around town that they have to address anyway.

"Yolanda Sepulveda made a motion to deny the Variance Application submitted by Nils Stansen."

Seconded by Roger Smith
Motion carried unanimously.

Mr. Kent stated they need to look at zoning the property the City already has to begin with. He stated he would like this Commission to be thinking about a Special Use Permit for all business that want to go into that area so that each one of them has to come before the Planning & Zoning Commission and the City Commission.

Mr. Nobes stated he has spoken with the City of Las Cruces Planning Department and they are in the process of working with different agencies on ten thousand acres they’ve annexed on the west mesa out toward their airport.

He stated they actually have a zoning district called a “Holding Zone District” which is sort of a holding pattern. He stated he has paperwork on this that he will distribute to each of the members. He stated this might be used as a template that this Commission might use.

Mr. Nobes stated he also has a map of the annexed area showing exactly which sections are BLM lands and which are State lands. He stated he is sure the Commission realizes there are issues involved in zoning on Federal and State property.

Mr. Kent stated there is seven hundred thirty two acres that is the Cities to zone at this time, that isn’t zoned.

Mr. Nobes stated there is another issue, perhaps by next month, there’s someone you’ve probably heard interest in a racetrack facility, a different type out there, perhaps that someone also could be included in this discussion.

Mr. Aguilera stated that because of the racetrack and some other changes that the BLM and the State are doing, what is about to happen apparently is that there’s going to be a trade statewide between BLM land and State land. He stated apparently, as he has been told the whole area that is now BLM land is going to become State land, so there may be a difference, and I don’t know what the difference is as far as us having the ability to zone that area. He stated if it’s Federal land it’s going to be much more difficult than if it is State land. He stated he thinks if we wait, and this is supposed to happen within the next four or five months, this whole area around the airport is going to be State land instead of BLM land.

He stated Chris is doing research as to what our ability is or isn’t regarding zoning State or Federal land.

There was no action taken.

ADJOURNMENT: There being no further business to come before the Commission, Kerry Kent, Chairman asked for a motion to adjourn the meeting.

"Bill Howell made a motion to adjourn."
Seconded by Yolanda Sepulveda
Motion carried unanimously.

APPROVAL: PASSED AND APPROVED this 20th day of
2009, on motion duly made by , and seconded
by , and carried.

Kerry Kent, Chairman