

**CITY OF TRUTH OR CONSEQUENCES
PLANNING & ZONING COMMISSION
MINUTES**

MONDAY, MARCH 11, 2024

REGULAR MEETING

Regular meeting of the Planning & Zoning Commission of the City of Truth or Consequences, New Mexico to be held in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico, on Monday, March 11, 2024 at 4:00 p.m.

INTRODUCTION:

ROLL CALL:

Chris Sisney, Chairman
Susan Buhler, Vice Chairman
Esther Luchini, Member
Lisa Kent, Member

ALSO PRESENT:

Traci Alvarez, Assistant City Manager
Angela A. Torres, City Clerk

1. APPROVAL OF AGENDA:

Chairman Sisney made a motion to approve the agenda. Member Luchini seconded the motion. Motion carried unanimously.

2. APPROVAL OF MINUTES:

a) February 12, 2024.

Member Luchini made a motion to approve the minutes. Vice Chairman Buhler seconded the motion. Motion carried unanimously.

3. COMMENTS FROM THE PUBLIC (3 Minute Rule Applies)

There were no comments from the public.

4. PUBLIC HEARINGS (5 Minute Rule Applies)

a) Public Hearing/Discussion/Action: Variance at 401 Hwy. 181 to allow a mobile home that exceeds the age limit.

City Clerk Torres swore in the participants for the public hearing.

Assistant City Manager Alvarez: This public hearing is for a variance request at 401 Hwy. 181 to allow a mobile home that exceeds the age limit. The mobile home in question is the mobile home that was located on the old Anderson Home property as an office for them. The applicant Jose Rios is from RY Construction, and he wants to continue to use that as an office and move it to the lot at 401 Hwy. 181. He relocated it there. He has just has not done any of the installation, pending this hearing, due to the film crew in town. They needed to move it from that lot. As a contractor he has every intent of bringing the exterior up to code on the mobile home and doing all of the work required to make it look nice. The public hearing is the request to be able to relocate that mobile home that is used as an office to this property and continue using it as an office.

Chairman Sisney opened the public hearing.

Vice Chairman Buhler: How old is that mobile home?

Applicant Jose Rios: We tried to look for a year on it, but there was nothing we could find on it. I think it is in the 90's.

Assistant City Manager Alvarez: We looked at the county and they didn't have anything on the file at the county either which was surprising.

Applicant Jose Rios: It is a modular unit vs. a mobile unit. The difference is that it was never a home. It was always an office. There weren't bedrooms, showers, or things of that nature. There is a restroom and 3 offices.

Assistant City Manager Alvarez: I was in there when Anderson Homes was there, and it was an office at that time.

Vice Chairman Buhler: What is the code for if you take an old mobile home off and you put it somewhere else in the city. Can you do that?

Assistant City Manager Alvarez: That's why we are here. It has to go through a public hearing.

Vice Chairman Buhler: So, no you're not supposed to. Is that correct?

Assistant City Manager Alvarez: In order to move a mobile home to a property that is older than 20 years, it has to go through this process. Due to the filming, he relocated the mobile home to

the property, because the film crew is taking over that lot for filming, but it is not unloaded or installed on the property. He had to wait until it came through here.

Applicant Jose Rios: I went through the purchase process with the state, but I do need a signature from Planning & Zoning for the variance and to sign off on my permit application so I can turn it in with the state, and then I will have to go through a process with the State of New Mexico.

Vice Chairman Buhler: So, you would ground set it and do all that, and nobody would be living there?

Applicant Jose Rios: No ma'am.

Vice Chairman Buhler: Would it have air conditioning and heating?

Applicant Jose Rios: Absolutely, and it's all going to get redone. It's actually immaculate inside. That's why I bought it.

Member Kent: You bought this from another business and you're moving onto your property? So, the movie didn't really have anything to do with it. You were moving it anyways?

Applicant Jose Rios: I was not going to move it until we got everything approved, but the film crew got here, and Andersons asked if I could move it.

Member Kent: So that rushed you along.

Applicant Jose Rios: I just put it on that lot in hopes to get it approved by you guys so I can get it set up. It will all go through the state process, and if it does get approved, I will be getting city electric and water. All of that will be moved onto that lot also, so there will be new services going in there from the city.

Vice Chairman Buhler: How long will it take for you to get it fixed up?

Applicant Jose Rios: No more than 90 days once it is approved. There is a process that we have to go through. Electric has to get moved on to it, and also water.

Assistant City Manager Alvarez: They will have to put in a tap request for utilities. None of that is there yet.

Applicant Jose Rios: If this gets approved, then Traci will be able to sign off on my application, and it will get sent into the state, so there is a process for the application that I have to go through after this is done, but I think I can get it done within 90 days.

Vice Chairman Buhler: You'll cut the tongues off too?

Applicant Jose Rios: Oh yeah. It is going to be ground set, and it will look like it is level to the ground. I will make it look pretty.

Member Luchini: What color are you going to paint it?

Applicant Jose Rios: I am going to keep it tan because all of the rest of the buildings that are already existing are tan.

Member Luchini: Is that city sewer also?

Applicant Jose Rios: I will have to look into it, but I'm pretty sure that we are going to have to install a septic.

Assistant City Manager Alvarez: I think so too. I don't think this sewer goes out that far, and I think that it is probably going to be Sierra Electric Coop. It might be really close to the city electric.

Applicant Jose Rios: I am right on the border with you guys, but is considered city limits along there.

Assistant City Manager Alvarez: The property is located in the area where you turn to go out to Elephant Butte. It is right at the edge of the city limits and county limits.

Member Kent: So, will this be visible from the street? So, if the mobile home were to be approved and you left it there, would it be visible from the road?

Applicant Jose Rios: It will be yes. It will be kinda hard to see because that property is down there on the bottom, but if you look hard, you can see it. And again, nobody can live in it because it was never a home.

Member Luchini: So, I imagine that the electrical inside is up to date?

Applicant Jose Rios: Yes. Licensed electricians, plumbers, and HVAC specialists will be hired. I am a licensed general contractor.

Assistant City Manager Alvarez: I work with RY Construction on quite a bit of their projects and they are always very good at bringing in their plans and submitting for their permits through the state. I can go to the state website and look very easily to see who has a state permit, and never a doubt, when I look his up, they have always been permitted through the state.

Vice Chairman Buhler: What is the time limit on bringing it up to date?

Assistant City Manager Alvarez: So that can be designated by you guys. We don't have a time limit set in our Municipal Code.

Applicant Jose Rios: I have 120 days before I have to renew my permit through the state, so let's say it takes me longer than 120 days, I will then have to re-submit for renewal through the state. Once I submit the renewal, then they will renew it for another 120 days. That is a state standard.

Proponents:

There were no proponents.

Opponents:

There were no opponents.

Chairman Sisney closed the public hearing.

Chairman Sisney made a motion to recommend approval to the City Commission for a Variance at 401 Hwy. 181 to allow a mobile home that exceeds the age limit. Vice Chairman Buhler seconded the motion. Roll call vote was taken. Motion carried unanimously.

5. NEW BUSINESS:

a) Discussion/Action: Permitted Uses—With Conditions - 401 Hwy 181 – Construction Yard and Storage units.

Assistant City Manager Alvarez: This property is in the commercial district, and by right allowance in the commercial district with conditions is allowance for a construction yard, as well as for storage units. They are permitted in accordance with the state and conditions and upon approval by the Planning & Zoning Board. I included that section of the code in your packet. If you look at page 3 of 4, number 11: Construction or Contractor's yard shall be maintained in a neat and orderly fashion, enclosed by a fence (6) feet in height, except that the height shall be limited to (3) feet on the street curb with a clear site triangle as defined in this code. Number 19 under Storage Units says: Units shall not be for commercial sales of products, merchandise, service or repair. This does not preclude a business from using the storage unit solely for storage of commercial or business-related items provide that the actual commercial operation or business is conducted elsewhere, and there is no external evidence of the business at the storage unit. This will be a normal storage unit place. He will have some storage units for people to store stuff in. We are requesting approval from the Planning & Zoning Board for that property to be used for a construction yard, as well as for the storage units.

Member Kent: So, the storage units don't exist yet? That's part of what you want to do with the land?

Assistant City Manager Alvarez: No not yet, and yes.

Vice Chairman Buhler: And that would be for the general public?

Applicant Jose Rios: Yes. I will not be storing junk in there either. I plan on buying all enclosed storage units.

Vice Chairman Buhler: You'll keep it neat and nice?

Applicant Jose Rios: Yes ma'am.

Vice Chairman Buhler made a motion to recommend approval to the City Commission for Permitted Uses—With Conditions - 401 Hwy 181 – Construction Yard and Storage units. Member Luchini seconded the motion. Roll call vote was taken. Motion carried unanimously.

b) Discussion/Action: Revocation of Variance at 1306 Tin St.

Assistant City Manager Alvarez: As you know, you recommended, and the City Commission approved a variance request for an installation of a mobile home that exceeded the age limit on 1306 Tin Street. This one has been a little frustrating because they haven't met any of the development requirements. I know that you guys have been wanting to see this, and just know that we have a process that we have to go through. We have to give a person reasonable time, reach out to them. There are steps that we have to follow, so we have been following those steps. I've had a couple of conversations with that applicant, always with the promise to get going on it. Code Enforcement had to go through their process with the code violations. We still don't have any results. As per the Municipal Code, this board has the ability to revoke this. I know that our Municipal Code says that it should be automatically revoked if they haven't taken care of or constructed within 90 to 180 days after the building permits have been issued, but it is the attorney's recommendation that it come to this board first as a recommendation to proceed with the revocation. If you approve that, then we will issue an official letter from the attorney notifying the applicant that their variance will be heard at a public meeting in front of the City Commission with the intent to revoke, which means that they would have to remove the mobile home from that lot, or bring it to code. Those are the steps that the city attorney has recommended that I follow.

Vice Chairman Buhler: Would you want more time?

Assistant City Manager Alvarez: I think that the applicant has been given ample time. I've had conversations with them, and I feel like I was very clear, including mailing the section of the code that shows exactly what needs to be done. I know times are tight financially. I know that contractors are busy, but I've even requested some very simplified things, and I don't feel that those requests have been met.

Member Kent: Is the one that has been sitting on the property for quite some time before they even came asking for the variance?

"It was noted that was the same property Member Kent was referring to."

Vice Chairman Buhler: They have done a lot of work on it, and I think they have tried.

Member Kent: So, what you are saying today is, if we were to agree to the recommendation for the revocation, is that they would still have a chance to get it done.

Assistant City Manager Alvarez: Correct. They will be issued a letter that says that it will go in front of the Commission by public hearing, and that will give them some time, and then there will be a public hearing, and then the Commission has the opportunity to give them a deadline date at that point, so they have plenty of an opportunity.

Chairman Sisney: Were they invited to today's meeting?

Assistant City Manager Alvarez: No, not at this point in time. It was the attorney's recommendation to bring it to you first to see if this is the process that you wanted to follow. If this is the process you wanted to follow, then they will be notified that we are intending to revoke their variance request.

Member Luchini: What about the one on Simpson?

Assistant City Manager Alvarez: There is a process that we follow for all of these with deadlines and dates, and so I have to go through those processes and procedures. It has to do with the notification and getting a hold of people, then the signing of certified letters because there are dates when they sign for things. I can say that I called somebody and left a message, but I don't necessarily have the proof so that's why we send certified letters, and if I don't get the signed certified mailing back, then there is no proof that they received it. We have to wait until we receive or serve them in another manner if the certified letter is not being signed for or picked up. There are other ways to serve them, so I have to get that documentation for deadline dates or hardcore dates to be able to take it to the attorney to where he feels comfortable enough going through this process.

Chairman Sisney: Why is this one timed out, but the one on Simpson hasn't?

Assistant City Manager Alvarez: Because I was able to get a hold of this person sooner, than I was able to get a hold of the other one.

Chairman Sisney: I'm curious of what the correspondence has been between the city and these people.

Assistant City Manager Alvarez: We have attempted phone calls, certified letters, and from there it goes to Code Enforcement. They attempt onsite visitation and issuance and violation letters. We've also had a turnover with our Code Enforcement Officer, so until we have signed certified letter, or until we have proof that the Code Enforcement Officer has made physical contact with somebody to speak to them, because they have the body cam, or serve in another manner other than a certified letter. Until we have those dates, the City Attorney is not comfortable going through this process until I can give him exact dates of when they received the notice.

Chairman Sisney: What is happening with the one on Simpson?

Assistant City Manager Alvarez: The same thing that is happening for this one here. We've attempted contact. We made some verbal contact with them over the phone, and Code Enforcement has also contacted them. Once we get enough information, and the Attorney feels that we have done our due diligence of contacting them, and he goes through the process of a revocation of a variance, then you will very well see that other one come to you. Hopefully it will be very soon.

Chairman Sisney: Can I see the interaction with you and the people on tin? I would like to see the contact, the letters that were mailed and what attempts were made to contact them.

Assistant City Manager: I can reach out to Code Enforcement and see if they have copies of the violation letters. I will have to ask if they sent a violation letter or if they met in person. I had conversations on the phone with them.

Chairman Sisney: Did they tell you that they just gave up and they don't want to get this thing done?

Assistant City Manager: No, they told me that they were going to get stuff done. That's what I'm saying. They haven't done what I requested them to do. That is why it is coming to you guys.

Member Kent: What have you requested that they are not acting on?

Assistant City Manager: it is supposed to be on a permanent foundation, or they need to go through CID for their mobile home permitting if it is not on permanent foundation. There is something with the state that allows that, but they haven't done anything. There is skirting that is required to be around the bottom of it. The wheels have to be out. The tongue can't be hanging out. There is a whole list of requirements that they have to meet for mobile home installation. That is for anybody who has a mobile home, not just someone who is putting one in that is less than 20 years old.

Member Kent: So, have they done any of it?

Assistant City Manager: No. Neither one has done anything that I've asked.

Chairman Sisney: In the future, I would like to ask that we see that stuff.

Assistant City Manager: I will have to check with the attorney to find out what is public record, and what isn't.

Chairman Sisney: I would like the information because I like to be as informed as possible while making a decision. I don't want to make any mistakes. Will this letter give them the opportunity to ask for an extension?

Assistant City Manager: Yes. Potentially. This is a new process. Our attorney hasn't even done it before. I had to do a lot of digging in our Municipal Code before I was able to tell him that we have the authority to do this. A public hearing will be held in front of the Commission, and anybody could come and speak for or against it, including this board. The Commission has the authority at that point in time to grant them more time if they wish. Again, this is a new process. It is not clear in our code.

Member Luchini: Should we create the process before we make a motion?

Assistant City Manager: You can. That is going to be a long process. You are looking at a good 60 to 90 plus days minimum. Probably even more than that because it would be an ordinance change. We would have to draft the ordinance, it would have to go the City Commission for publication, there is a publication timeline, and then it would go back to the Commission for a public hearing and final adoption. Then it takes how many days after they adopt an ordinance?

City Clerk Torres: This type of ordinance would be 5 days after adoption, but since it an ordinance, it could be petitioned within 30 days after adoption.

Assistant City Manager: You also have to take into consideration the time it will take for the Planning & Zoning Commission to draft the ordinance and procedures that they want.

City Clerk Torres: That is something you can keep in mind for the future.

Member Luchini: It's just that, unless we read every section of the code (and we should), we don't realize these things until it comes up here.

City Clerk Torres: Do you want me to provide you with the Planning & Zoning Ordinances again?

Member Kent: It's all online isn't it?

City Clerk Torres nodded yes.

Assistant City Manager: The municipal code is huge, and there are a lot of things that we are very familiar with, but then every once in a while, something odd comes up that we've never done before, so then we start reviewing it in the code, and the code sometimes doesn't give us a whole lot of guidance, and at that point in time, we reach out to the attorney for their recommendation. When this happens, we make note of that section that needs to be revised. We had an engineering firm that came in at one point and talked about working on revising the entire Municipal Code. That is something that has been put on the back burner because it will cost around \$26,000 to revise our entire Municipal Code, so we have been trying to do it little by little in-house.

Vice Chairman Buhler: I think it is a good recommendation, because it will put more pressure on those people to do what they are supposed to do, and what they agreed to do. I don't think anyone is living there.

Member Kent: The things you are asking for by the examples you have given are not huge or overly extensive things. They should be able to follow through with your request because that was part of the agreement when they were granted the variance. That is what you have to do if you want to have this on your property. It is written in the code. I've read it, so if we need to take action to encourage them along a little more, then I hope they come through.

Assistant City Manager: If I saw a little bit of progress, it would be ok. I know that skirting a trailer can be expensive, but if I saw even one panel or one section going up a month or a couple of things done here or there or a little bit at a time, then it would be different, but when you see no progress, that is when you have to learn to draw a line.

Vice Chairman Buhler: This request is not unreasonable.

Vice Chairman Buhler made a motion that city staff work with the City Attorney to draft a letter for the intent to revoke the Variance at 1306 Tin St. Member Kent seconded the motion. Roll call vote was taken. Motion carried unanimously.

6. REPORTS FROM THE BOARD:

There were no reports from the board.

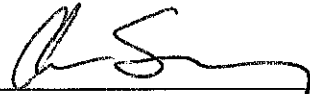
7. REPORTS FROM STAFF:

There were no reports from city staff.

8. ADJOURNMENT:

Chairman Sisney adjourned the meeting at 4:37 p.m.

PASSED AND APPROVED ON THIS 8th DAY OF April, 2024.



Chris Sisney, Chairman
Planning & Zoning Board