

**CITY OF TRUTH OR CONSEQUENCES  
PLANNING & ZONING COMMISSION  
AGENDA  
MONDAY, DECEMBER 7, 2020**

**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, December 07, 2020 at 5:30 p.m.

**CALL TO ORDER**

**ROLL CALL:** Rick Dumiak, Interim-Chairman  
James Bush, Member  
Chris Sisney, Member  
Steven Zeschke, Member

**1. APPROVAL OF AGENDA**

**2. APPROVAL OF MINUTES:**

- a. Regular meeting of Monday, October 5, 2020

**3. COMMENTS FROM THE PUBLIC**

**4. RESPONSE TO COMMENTS FROM THE PUBLIC**

**5. PUBLIC HEARING:**

- a. Public Hearing/Discussion/Action: Chapter 15 Subdivision Sec. 15-18. Vacation of plats. Applicant is requesting the city vacate a portion of Platinum Street that is adjacent 1300 Veater Street.

**6. NEW BUSINESS:**

- a. Discussion/Action: Appointment of Chairman
- b. Discussion/Action: Appointment of Vice-Chairman
- c. Discussion/Action: Appointment of 2<sup>nd</sup> Vice-Chairman.

**7. COMMENTS FROM THE PLANNING & ZONING COMMISSION**

**8. COMMENTS FROM STAFF**

**9. ADJOURNMENT**

The public will be allowed to attend the meeting via teleconference using the information listed below:

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**CITY OF TRUTH OR CONSEQUENCES  
PLANNING & ZONING COMMISSION  
MINUTES  
MONDAY, OCTOBER 5, 2020**

**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, October 5, 2020 at 5:30 p.m.

**INTRODUCTION:**

**ROLL CALL:**

James Bush, Member  
Rick Dumiak, Member  
Chris Sisney, Member

**ALSO PRESENT:**

Morris Madrid, City Manager  
Traci Alvarez, Grant/Project/Zoning Official  
Jay Rubin, City Attorney  
Angela A. Torres, City Clerk  
Lisa Gabaldon, Secretary

**1. APPROVAL OF AGENDA:**

Member Dumiak made a motion to approve the agenda. Member Bush seconded the motion. Motion carried unanimously.

**2. APPROVAL OF MINUTES:**

**a. Regular meeting of July 8, 2020:**

Member Dumiak moved to approve the Minutes from July 8, 2020. Member Bush seconded the motion. Member Sisney abstained. Motion carried.

**b. Regular meeting of August 3, 2020:**

Member Dumiak moved to approve the Minutes from July 8, 2020. Member Bush seconded the motion. Member Sisney abstained. Motion carried.

**3. COMMENTS FROM THE PUBLIC:**

No comments.

**4. RESPONSE TO COMMENTS FROM THE PUBLIC:**

None.

## **5. NEW BUSINESS:**

### **a. Discussion/Action: Selection of a new Chairman and Vice-Chairman:**

Member Dumiak asked to table the item until they have 5 members so that they have a full board to select from. Member Bush agreed with this.

City Clerk Torres asked if they would like to make a selection for someone to run the meetings as an interim until they select a Chairman.

City Attorney Rubin agreed with City Clerk Torres. Member Dumiak agreed.

**Member Sisney made a motion to nominate Rick Dumiak as Interim Chairman.**

**Member Bush seconded the motion.**

**Member Dumiak abstained.**

**Motion carried.**

Member Dumiak made a statement that this will be a temporary position. He does not seek or desire to be a Chair or Vice-Chair. However, he does feel that they do need to get 5 members in order to make this happen. Member Bush agreed.

### **b. Discussion/Action: Recommendation of a new board member to fill vacancy:**

Mr. Steven Zeschke took a few minutes to introduce himself and give the members some of his background information.

**Interim Chairman Dumiak made a motion to recommend Mr. Zeschke to the City Commission to serve as a member on the Planning & Zoning Commission. Member Sisney seconded the motion. Motion carried unanimously.**

City Attorney Rubin took the time to welcome Member Sisney. He then addressed Mr. Zeschke and advised him that now his application will go before the City Commission for final approval. He went on to speak to Member Bush and Interim Chairman Dumiak regarding his guidance and direction for the Planning & Zoning Commission as far as their powers and duties. He said that he should possibly come back for another meeting in order to give another orientation speech for everybody. He advised them to take a look at the first couple of pages of the Planning & Zoning Code, as it specifies their powers and duties and the types of things that will be brought before the Commission.

### **c. Discussion/Action: Minor Amendment of a Plat at 120 W. Third Ave. Traci Alvarez, Grant/Project/Zoning Official:**

Traci Alvarez addressed the board to explain the minor amendment of a plat. On February 26<sup>th</sup>, they had a summary plat amendment at 112 W. Third and that was to split that property into two lots which in turn gave them 112 & 120 W. Third. At this time the applicant is requesting that we just do a minor amendment and move the lot line that was split, by 37 feet to the east,

creating a lot of 90X140. It almost makes 2 equal lots. Applicant has paid all of his fees, has filled out all of the appropriate paperwork, and is in attendance if they have any questions.

Interim Chairman Dumiak asked the applicant as to why this wasn't done back in February.

Dan Steel stated that they had other plans for the middle part of the property, which is vacant. It has nice big trees and they originally wanted to keep them on their parcel, but since then they have cancelled those plans. So they then decided to sell the 37 feet to the owner of the other building, which would improve his parking and bring it right to an original city lot line.

Interim Chairman Dumiak asked if the original variance enabled it to be 2 legal lots.

Traci Alvarez answered that both lots were legal sized. They originally had the bigger size for themselves, and they sold the smaller lot. He wants to give the other owner a little more room by moving it 37 feet and that will improve the parking for the other owner.

**Member Bush made a motion to approve the Minor Amendment of a Plat. Interim Chairman Dumiak seconded the motion. Motion carried unanimously.**

#### **6. COMMENTS FROM THE PLANNING & ZONING COMMISSION:**

Member Bush asked why there was only one applicant brought before the Commission and not two.

City Clerk Torres answered that Mr. Zeschke's application was the only one that the City has received so far, and they are still advertising for the position. Once more applications are turned in; they will be brought to the board for recommendation.

Interim Chairman Dumiak stated that he received a phone call from Marian Wheeler who lives at 626 Charles. She is questioning as to what is going on at 630 Charles. He then stated that he knows there was a resolution passed, but knows nothing else. Ms. Wheeler is concerned due to the signs warning of vicious dog on premises that were recently put up. They recently had a dog attack and they are basically meeting the requirements to have the dog on their property. He stated that Ms. Wheeler is also very concerned about the fences.

Traci Alvarez responded that she has spoken to Ms. Wheeler multiple times. The resolution was approved and has been published. There is also a waiting period for which someone can go in and appeal, and then there is a procedure that will follow after that. She has kept Ms. Wheeler very updated as she calls regularly, and they are in the process of proceeding forward with the abatement.

Interim Chairman Dumiak stated that he knows that the City is spraying for bugs, but he'd like to know exactly what it is that is being sprayed.

City Clerk Torres advised him that he can come into the City Clerk's Office. There is a sheet available for him with that information.

Interim Chairman Dumiak asked about the City Commission meeting minutes, stating that they are not inclusive of everything that is being said in public comment.

City Clerk Torres advised that if someone submits their comments in writing, she puts their comments in the minutes. As per the Open Meetings Act, we are not required to do verbatim minutes. We do summary minutes, unless it's a public hearing, and then we'll do them verbatim.

**7. COMMENTS FROM STAFF:**

City Manager Madrid advised the Planning & Zoning Commission that Mr. Zeschke's recommendation would go before the City Commissioners at the meeting next week for final approval.

**8. ADJOURNMENT:**

**Interim Chairman Dumiak made a motion to adjourn. Member Bush seconded the motion. Motion carried unanimously.**

**PASSED AND APPROVED on this 2<sup>nd</sup> day of November 2020.**

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Rick Dumiak, Interim-Chairman  
Planning & Zoning Commission



**CITY OF TRUTH OR CONSEQUENCES**  
**PLANNING AND ZONING COMMISSION ACTION FORM**  
**DATE: 12-7-2020**

**ITEM: Discussion/Action – Property Vacation Request**

**BACKGROUND:**

Applicant request the City vacate a portion of Platinum Street adjacent to 1300 Veater Street. All applicable documents have been submitted and appropriate fees paid. Certified letters sent to all property owners within 300ft. radius. City staff does not recommend approval of property vacation

**SUPPORT INFORMATION:**

Applicant Letters of Request

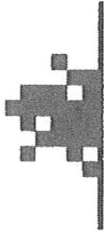
Request for Vacation Application/Review

Letter of Denial/Rejection from City

Code of Ordinances Chapter 15 - SUBDIVISION CODE Sec. 15-18. - Vacation of plats

Notice of Public Hearing

Name of Drafter: Traci Alvarez	:	Meeting date: 12-7-2020
E-mail: <a href="mailto:tburnette@torcnm.org">tburnette@torcnm.org</a>	Phone: 575-894-6673	



LUCHINI ELECTRIC  
440 E. 2nd St.  
P.O. Box 324  
Truth or Consequences, NM 87901

August 17, 2020

City of Truth or Consequences  
Mayor Sandy Whitehead  
505 Sims  
Truth or Consequences, NM 87901

Mayor Whitehead

I am requesting the City of T. or C. begin the process to vacate the portion of Platinum St., south of Veater St.

The property is shown as a City road on maps, however has never been maintained by the City. It has a large amount of over growth and most recently on July 26th with the large amount of rainfall we had the road is washed out and the City has not made any attempt to fix the road. The runoff from the road washed out my fields and property.

The road does contain a City owned water line. I would gladly work with the City to relocate the water line. The water line serves the Teston Property.

I would like to see the City of T. or C. vacate the property and I would pay fair market value for the vacated property. With the City vacating the property it would allow the property to return to the tax roll. I would assume maintenance for the road and the liability.

Please let me know what the next step in this process is.

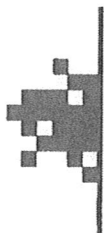
I look forward to hearing from you in regarding this road vacation.

  
Frankie Luchini

Lic. # 26286

Phone: 575-894-3476  
Fax: 575-894-3036  
Email:  
fluchini@windstream.net





LUCHINI ELECTRIC  
440 E. 2nd St.  
P.O. Box 324  
Truth or Consequences, NM 87901

September 3, 2020

City of Truth or Consequences  
Traci Burnette  
505 Sims  
Truth or Consequences, NM 87901

Traci,

I am requesting the City of T. or C. begin the process to vacate the portion of Platinum St., south of Veater St.

The property is shown as a City road on maps, however has never been maintained by the City. It has a large amount of over growth and most recently on July 26th with the large amount of rainfall we had the road is washed out and the City has not made any attempt to fix the road. The runoff from the road washed out my fields and property.

The road does contain a City owned water line. I would gladly work with the City to relocate the water line. The water line serves the Teston Property.

I would like to see the City of T. or C. vacate the property and I would pay fair market value for the vacated property. With the City vacating the property it would allow the property to return to the tax roll. I would assume maintenance for the road and the liability.

Please let me know what the next step in this process is.

I look forward to hearing from you in regarding this road vacation.

Frankie Luchini

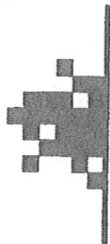
Lic. # 26286

Phone: 575-894-3476

Fax: 575-894-3036

Email:

fluchini@windstream.net



LUCHINI ELECTRIC  
440 E. 2nd St.  
P.O. Box 324  
Truth or Consequences, NM 87901

September 11, 2020

City of Truth or Consequences  
City Commission  
505 Sims  
Truth or Consequences, NM 87901

RE: 1300 Veater

City Commission,

I am requesting the City of T. or C. begin the process to vacate the portion of Platinum St., south of 1300 Veater St.

The property is shown as a City road on maps, however has never been maintained by the City. It has a large amount of over growth and most recently on July 26th with the large amount of rainfall we had the road is washed out and the City has not made any attempt to fix the road. The runoff from the road washed out my fields and property.

The road does contain a City owned water line. I would gladly work with the City to provide an easement for maintenance and access to water line. The water line serves the Teston Property.

I would like to see the City of T. or C. vacate the property and I would pay fair market value for the vacated property. With the City vacating the property it would benefit the city with the property returning to the tax roll and relinquishes responsibility of maintaining the road.

I look forward to hearing from you in regarding this road vacation.

Frankie Luchini

Lic. # 26286

Phone: 575-894-3476

Fax: 575-894-3036

Email:

fluchini@windstream.net



## CITY OF TRUTH OR CONSEQUENCES

505 Sims Street, Truth or Consequences, New Mexico

Phone: 575-894-6673 ext. 353 Fax: 575-894-6690

### REQUEST FOR VACATION APPLICATION

Date of Application Sept. 11, 2020

Comes now the undersigned and hereby requests the City of Truth or Consequences, New Mexico to consider vacation of the following described property:

1300 Veater South of Platinum St.

REASON FOR VACATION: SEE ATTACHMENT

Applicant Name: Wm. Frank Luchini Telephone No.: 575-740-7156

Address: 1300 Veater

City: T.O.C. State: NM Zip Code: 89401

E-mail Address: FLUCHINI@windstream.net

Applicants Signature: Wm. Frank Luchini

#### Reviewed By:

Electric Department:	<input type="checkbox"/> Approved	<input checked="" type="checkbox"/> Disapproved	Date <u>9/22/2020</u>
Water/Wastewater:	<input type="checkbox"/> Approved	<input checked="" type="checkbox"/> Disapproved	Date <u>9-24-2020</u>
Streets Department:	<input checked="" type="checkbox"/> Approved	<input type="checkbox"/> Disapproved	Date <u>9/24/2020</u>
Planning/Zoning:	<input type="checkbox"/> Approved	<input checked="" type="checkbox"/> Disapproved	Date <u>9/24/2020</u>

Utility Review Comments: Will not have access to Pole. Wz DO  
MAINTAIN ROAD WITHIN WASHED OUT WEED GROWTH SHOULD BE  
TAKEN CARE OF BY PROPERTY OWNERS. - Streets  
City should retain for future development/River Trail Access. - Comm. Dev.  
See Attached comments from WA/WW



## **City of Truth or Consequences**

505 Sims Street

Truth or Consequences, New Mexico 87901

City (575) 894-6673 • Fax (575) 894-7767

9-24-2020

Frankie Luchini

Platinum vacation of roadway request

The water department has disapproved the vacation of roadway request upon the following finding.

1. Existing water main would have limited or no access in emergency situations without going onto customer property.
2. Potential for property damage would exist from water mainline breakage.
3. The meter for the property adjacent to this roadway would have limited access without going on to customers property.
4. Access for future improvements would be unavailable.

Jesse Cole

City of Truth or Consequences

W/WW Director



## City of Truth or Consequences

505 Sims Street

Truth or Consequences, New Mexico 87901

City (575) 894-6673 • Fax (575) 894-7767

October 7, 2020

Frank Luchini  
P.O. Box 324  
Truth or Consequences, NM 87901

**VIA E-MAIL**  
**fluchini@windstream.net**

Re: Request for Vacation Application – 1300 Veater

Dear Mr. Luchini,

Please be advised that I am the City Manager for the City of Truth or Consequences. I am responding to your September 11, 2020 Request for Vacation Application.

After carefully investigating this matter, I have several serious concerns regarding your application.

1. The relocation of the utility lines (both electrical and water) would be cost prohibitive.
2. The existing water main would have limited or no access in emergency situations without going onto customer property.
3. Potential for property damage would exist from water mainline breakage.
4. The meter for the property adjacent to this roadway would have limited access without going onto customer property.
5. Access to future improvements would be unavailable.
6. The real property has value. Therefore, a vacation of the property without equal consideration would be a violation of the state's anti-donation clause.
7. We anticipate some opposition from the neighbors.

Therefore, at the present time, I am recommending that the City reject your Application. Nevertheless, if you wish to pursue this matter further, we can refer this matter to the City's Planning and Zoning Board, which would then make a recommendation to the City Commission. Please advise if you wish for me to make that referral.

Very sincerely,

A handwritten signature in dark ink, appearing to read "Morris Madrid", is written over a horizontal line.

Morris Madrid, City Manager



## Sec. 15-18. - Vacation of plats.

- A. *Purpose of vacation of plat:* A vacation of plat occurs when part or all of a filed subdivision plat is eliminated.
- B. *Cause:* All of or any part of a final plat filed with the County Clerk may be vacated if:
  - 1. The owners of record of the land proposed to be vacated sign an acknowledged statement declaring their wish that the plat or portion of a plat be vacated; or
  - 2. The City Commission finds that the plat's approval was obtained by misrepresentation or fraud and orders a statement of vacation to be prepared.
- C. *Processes of vacation:* Vacations of plat that result in the decrease in the number of lots by not more than one lot may be processed using the Alternate Summary Process.
- D. *Statement of vacation:*
  - 1. The vacation of all or a portion of a final plat by the owners of land within a subdivision may be initiated by submittal to the City's Zoning Administrator of the statement of vacation bearing the acknowledged signatures of all owners of record of property within the subdivided land to be vacated.
  - 2. The vacation of all or a portion of a final plat by the owners of land within a subdivision may also be initiated by a vote of a majority of the City Commission.
  - 3. Statements of vacation shall be accompanied by a list of the names of all owners of record of property within and contiguous to the subdivided land to be vacated, and shall also be accompanied by acknowledged statements by the authorized representatives of all utility companies that have easements within the area proposed for vacation, which statements shall state the utilities' agreement to or opposition to such vacation insofar as it affects their rights to use dedicated easements in the subdivision.
- E. *Scheduling and notification:* Within 60 days of receiving a statement of vacation and the appropriate review fee, the City Commission shall approve or deny the vacation, subject to the following:
  - 1. Action shall be taken in a public meeting;
  - 2. At least 15 days prior to the meeting, notice of public hearing shall have been transmitted by first class mail to all owners of private property contiguous to or within 300 feet of the land to be vacated, and to all utilities with easements within or adjacent to the land proposed for vacation.
- F. *Action:* In approving conditionally approving or denying a vacation, the City Commission shall determine if the vacation is in the best interests of the public well-being, and whether any person is adversely affected by the vacation.
- G. *Right to retain roadways and utility easements:* The City Commission may require that dedicated roads within the area proposed for vacation remain dedicated, and may require that the rights of

any utility existing before the vacation not be affected by the vacation.

- H. *Filing:* The City Commission's decision shall be filed in the records of the County Clerk of Sierra County by the applicant who shall also pay all required fees. When a vacation is approved, The County Clerk shall mark the final plat with the words "vacated" and shall refer on the final plat to the volume and page on which the statement of vacation is recorded. When a plat is partially vacated, both the City Commission's decision and the plat showing the partial vacation shall be filed in the records of the County Clerk of Sierra County. The County Clerk shall mark the final plat with the words "partially vacated" and shall refer on the final plat to both the volume and page on which the statement of vacation is filed, and the volume and page of the plat showing the area vacated.

(Ord. No. 555, 5-23-06)

*Sandra K. Whitehead*  
Mayor

*Amanda Forrister*  
Mayor Pro-Tem

*Frances Luna*  
Commissioner



505 Sims St.  
Truth or Consequences, New Mexico 87901  
P: 575-894-6673 ♦ F: 575-894-7767  
[www.torcnm.org](http://www.torcnm.org)

*Paul Baca*  
Commissioner

*Randall Aragon*  
Commissioner

*Morris Madrid*  
City Manager

## **NOTICE OF PUBLIC HEARING**

NOTICE is hereby given that the City of Truth or Consequences Planning & Zoning Commission will hold a Public Hearing during their Regular Meeting scheduled on Monday, December 7, 2020 in the Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico to receive input regarding the following:

Public Hearing/Discussion/Action: Chapter 15 Subdivision Sec. 15-18. Vacation of Plats. Applicant is requesting the City vacate a section of land adjacent to 1300 Veater Street, Truth or Consequences, NM.

Please note that the Public Hearing will be held virtually due to the Governor's Executive Order.

If you are an interested party, you may attend the meeting via teleconference, or submit your comments via email to [torcpubliccomment@torcnm.org](mailto:torcpubliccomment@torcnm.org) or [tburnette@torcnm.org](mailto:tburnette@torcnm.org). Please submit any public comment via email no later than Friday, December 4, 2020.

The agenda and information to join the meeting via teleconference may be obtained on Friday, December 4, 2020 on the city website at [www.torcnm.org](http://www.torcnm.org); by contacting the City Clerk's Office at 575-894-6675; or by email to: [aatorres@torcnm.org](mailto:aatorres@torcnm.org).

/s/ Angela A. Torres, CMC, City Clerk

Publish on the following date:

- Sentinel– Friday, December 20, 2020



November 13, 2020

Re: Proposed Vacation of Portion of Platinum St

Dear Truth or Consequences City Planning & Zoning Board

I write to you with respect and concern about this issue.

1. When area subdivisions where Platted (McElroy & Currey -Laiminger ) Platinum St was extended all the way to the river, so that property owner could pump water from the river. These Water rights assigned by The United States Of America and is on file.
2. Platinum St has a drainage ditch that runs all along the said road. The vacation would stop City of T. or C, Sierra County Flood Commission and City of T or C Fire Department any access to provide maintenance and Emergency Services if needed.
3. Platinum St is one of the few platted streets in T. or C that provides access all the way to Bureau of Reclamation property (BOR) rivers that may and can be used.

Therefore, We asked the Planning & Zoning Commission that this request for, Vacation of Platinum St be **Denied.**

This letter is supported by:

Eloy Armijo  
1410 Platinum St.  
1412 Platinum St.

Alfred E. Armijo  
1413 Tin St.

Respectfully,  
Eloy Armijo  
1410 Platinum St  
T. or C. NM 87901  
575-894-3760  
[simba@valornet.com](mailto:simba@valornet.com)

TRUTH OR CONSEQUENCES  
**FIRE**  
DEPARTMENT

December 1, 2020

Planning & Zoning Commission  
Truth or Consequences, NM 87901

Board Members,

The Truth or Consequences Fire Department is AGAINST vacating Platinum street adjacent to said property. The vacation would restrict fire apparatus access for fire suppression and limit access to Bureau of Reclamation property along the Rio Grande.

The vacation of said property would also limit the City of Truth or Consequences to maintain the drainage arroyo along Platinum street that empties into the river as well as limit private water rights of neighbors that would not be able to access their water from the Rio Grande.

If you have any questions, please call me at (575) 740-1640 or e-mail [chief@torcfire.com](mailto:chief@torcfire.com)

Paul Tooley,



Truth or Consequences Fire Chief

**VOLUNTEERS**  
BACKBONE OF America

Email: Traci 12/1