

**CITY OF TRUTH OR CONSEQUENCES  
PLANNING & ZONING COMMISSION  
MINUTES  
WEDNESDAY, JUNE 24, 2020**

**SPECIAL MEETING MINUTES**

Special 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 Wednesday, June 24, 2020 at 5:30 p.m.

**ROLL CALL:**

Lillis Urban, Chair  
Richard Dumiak, Member  
Merrill Dicks, Member  
**James Bush, Member – ARRIVED LATE**  
**Dennis Dunnum, Vice Chairman – ABSENT**

**ALSO PRESENT:**

Morris Madrid, City Manager  
Angela A. Torres, City Clerk  
Traci Alvarez, Grants/P&Z Coordinator  
Jay Rubin, City Attorney  
Lisa Gabaldon, Secretary

**APPROVAL OF AGENDA**

**Member Dicks moved to approve the agenda as submitted. Member Dumiak seconded the motion. Motion carried unanimously.**

**APPROVAL OF MINUTES:**

Regular meeting of Wednesday, June 10, 2020

**Member Dumiak moved to approve the Minutes from June 10, 2020. Member Dicks seconded the motion. Motion carried unanimously.**

**PUBLIC HEARINGS:**

- a. Public Hearing/Discussion/Action: Request for a Special Use Permit to do a live/work Retail Store/Art Gallery at 320 Broadway, Truth or Consequences, NM.  
Traci Alvarez, Designated Zoning Official

Chairman Urban opened up the meeting by giving a brief overview of the Batter shell procedures and the facts and findings for each item.

Chairman Urban: OK, so on the agenda now we're moving to public hearing discussion action request for a special use permit to do a live/work, retail store/art Gallery at 320 Broadway and T or C, New Mexico. Tracy Alvarez who is our designated zoning official is here to explain that to us and the audience. Who do we have as a proponent? We have 2. Do we have any opponents?

Traci Alvarez: We have one via email.

Chairman Urban: And any public comment? Thank you. And with that, will the clerk, please swear in Miss Alvarez.

City Clerk Torres: Do you swear to tell the truth, the whole truth and nothing but the truth?

Everyone agreed.

Traci Alvarez: Good evening chairman and members of the board. Your applicants are Anna Scattoloni and Corinne Farner of Galactic Digs Gallery & Other Treasures. They would like to maintain their retail store in the front and then do a live apartment in the back. We have done an onsite inspection at the place and done a walk through with the city manager. They've discussed their building and business plans with him as well. Per the city code which I attached in your packet, the code of ordinances for Chapter 16, any dwelling unit request in a commercial zone that's adjacent to the Broadway Ave, Main Street or Date Street needs to come before planning and zoning for special use permit. And with that I will stand for any questions. But applicants are in the audience.

Chairman Urban: And to clarify, for the Commission because we're all new for special use permit such as this our planning and zoning Commission will vote and provide a recommendation and the final decision goes to the city Commission for decision.

Traci Alvarez: Correct.

Chairman Urban: Any questions for Miss Alvarez from the planning and zoning Commission? And with that, I'd like to move on to the proponents. I'm calling forward Miss Scattoloni. And if you like to come together, you can. And, Miss Farner is that right? Thanks for coming.

Corrinne Farner: We started our business in December of this year. It is a small retail, collectables and we opened our Gallery maybe a week before the governor did the stay at home order. So we've had a lot of success with establishing ourselves in the community. I think we had a couple people offer to be here, but I'm not sure what occurred with that. I feel like we have a lot of support. We would like to be able to use the space in the back. It's quite large for art work, painting and stained glass, but also to have as a living situation with the potential of being able to rent our home as either an Air BnB or a rental. Things are influx with the economy such as it is, we are just looking for ways to make it work and continue to be a presence on Broadway. I think we've got big thumbs up when we got our inspection.

We've done some painting and would like to further improve the property. Since then and we're excited to move forward. I don't know what the opposition is, so I'm curious to hear about that.

Chairman Urban: Thank you, any questions from the Commission for the proponents. Commissioner Dumiak?

Member Dumiak: Real quick question. The plan I presume, is to keep the retail end of this going?

Anna Scattoloni & Corrinne Farner: Yes.

Member Dumiak: Yah, that'll work. Thank you.

Chairman Urban: Any further questions from the proponents from the commission this evening? Thank you so much. Moving on to opponents; calling back Miss Alvarez to read an email or communication.

Traci Alvarez: This email came to me from Eddie Russ of 321 Austin Street. In his email, he said:

Good afternoon.

The email is in reference to the city appears to be planning and zoning Commission public hearing for the proposed live/work special use permit located at 320 Broadway on June 24th. I will be unable to attend this hearing due to work commitments. I request that this letter become a part of the official public hearing.

I am protesting the permit for a live/work special use permit at 320 Broadway in T or C.

We live right behind the Gallery, across the alley at 321 Austin Street. We do not want residential permit behind us in the alley. We bought the house with the expectation of cars coming and going behind our house only during business hours. We do not think with the permit should be given to allow a live/workspace in the commercial space at 320 Broadway. The only parking for 320 Broadway is in the back of the property in the alley behind our property; additionally, the only outdoor space for residential use of the space is also in the alley back side of the property.

We think that 320 Broadway should remain a commercial property only.

And that was from, Eddie Russ 321 Austin Street.

Chairman Urban: Thank you, Miss Alvarez. It is a challenge when people aren't here in person and they can't entertain questions or...

City Attorney Rubin: Of course if you were in a formal court of law, you would not admit email into evidence because it's hearsay. The rules of evidence are relaxed here; you can admit the emails into evidence, which of course you can give as much weight as you want to, based upon the circumstances that the person is not here. And again, if the person was here, then the proponent could answer them. In fairness, you might want to allow the proponent if they wish to respond to what was said, if they're inclined to do that.

Chairman Urban: Thank you, attorney Rubin. Would the proponents care to provide any statement?

Anna Scattoloni: As far as I can see, there are just hotels. There's two hotels behind our rather large parking lot in back. It's only the two of us that would be there anyway. There are no homes, so I'm not sure what homes they're talking about, directly across the street; there are no homes there. There's 2 hotels.

Corrinne Farner: There must be one that somebody is living in. But we're not partyers. We're not allowing in and out privileges for our buddies or anything like that. I don't see I mean, we as the business owners, we could go over there in the middle of the night for an emergency for any kind of occasion, so I don't think that our goings and comings at the shop can really be controlled by someone who's in the neighborhood.

Anna Scattoloni: The other thing is, we're also extremely sensitive to noise, which is partly why we like that area, because downtown at night is really quiet. Which is exactly what we want. It's quieter than at my house. We're very conscious of noise and don't ever want to inconvenience anyone, especially not anyone living next door because I know what that's like.

Chairman Urban: Thank you.

Corrinne Farner: Does anyone have any questions or comments?

Member Dumiak: Yeah I do. How many parking spots are in the back of the building?

Anna Scattoloni: It's a very large parking lot. Probably 3 cars or 4 cars next to each other, at least three cars.

Member Dumiak: Do your deliveries come from the rear or from the back for the front?

Corrinne Farner: We have no deliveries.

Member Dumiak: You have no deliveries?

Anna Scattoloni: I'm the shopper and I go around the country looking for antiques kind of cool stuff. I just put it in my car in the back. I mean, it's not like I have big truck full or anything. It's not a huge store. The gallery is the biggest part of the whole thing. When the artists come through, they come through the front.

Member Dumiak: OK, thank you.

Chairman Urban: Thank you.

Member Bush: Mr. Dicks, there is parking in the front, quite a bit. It's a wide building.

Corrinne Farner: Exactly, there is. The sign says there's a limit, but as far as I've understood from the authorities, there is no real time limit to the parking in front.

Member Bush: So, I don't think that parking is a real issue. That's a good point.

Corrinne Farnier: That's a good point. Thank you for that.

Chairman Urban: Thank you. So at this time the Commission could entertain a motion and I just learned myself last meeting that we had is the way that this might work is that there's a motion put forward, its seconded and then there's discussion. So we can have discussion before we vote.

Member Dicks: I would like to put forward a motion to approve.

Member Bush: I would second the motion.

Chairman Urban: We got a second from Commissioner Bush. Any discussion on the point?

Member Dumiak: Madam Chair, one point. I don't know if there's a way to do this or not, but is there a way to ensure that the retail stays with the live/workspace? Can there be a condition tied to this?

City Attorney Rubin: Yes, I was about ready to throw something out about this. This has been a source of conversation on the city Commission level. We have many concerns due to sometimes you grant these special use permits for live/work and then the business doesn't keep operating, and then the person is still living there. I'm not saying that for feedback, I'm just saying that that's been a problem in the past. One suggestion I have made in the past is that you could make it conditional. If you make special permits on the condition that they continue to operate, under the conditions that the commission imposes. This would be reviewed in 6 months or one year; whatever you feel is appropriate. So those are just ideas.

Chairman Urban: For the point of discussion, thank you Attorney Rubin. Another point of discussion in reading carefully over the downtown master plan, there are a number of places in the plan that distinctly call out the C1 districts in its current code ordinance. In it being in need of revision and specifically, on page 74, under economic, can't read my writing, restructuring. It says support for programs that encourage new mixed use development that fills a niche for artists that want to live and work downtown on page 96. Zoning code revisions, it notes that the quote that the present quote development standards, including setbacks, landscaping, parking, etc., associated with the C1 District are also not compatible with the existing urban character envision for the district. And another final quote is the revisions to the code should address the permitting of mixed use both vertical or horizontal within a single lot or project. So that said, I realize that we are dealing with the city code as written and thus were entertaining, a special use permit. I just did want to point out that the downtown master plan as had been approved by the city Commission that is in the spirit of the document to support mixed use to include residential in the downtown. Um, any other comments or...

Member Dumiak: So how would we write this into the conditional type review? Or can we write it in that if the business that the retail end of it closes down the permit or conditions are rejected?

City Attorney Rubin: Yeah, you could say that there would be a cause for a rescission of the special use permits, upon the showing that the business has been closed down. First you'd have to give notice that you intend to do that. Yeah, I guess that's really what we're talking about. I don't know if you work, but

maybe a number of hours that again operation down off or you want to go with it. But that's something else you can consider.

Member Dumiak: I'll be honest with you, you know, the reason I'm bringing this up is it's kind of a short point for me to drive downtown, and we've got so many businesses that are not businesses. It really bugs me, quite honestly personally and so that's the only thing I'd like to say on this. I'd like for there to be some kind of condition tied to it, that if the retail end of it closes, the live/workspace is revoked.

Member Dicks: Well, I think that under the current conditions that we're working with across the nation and in this community, you know, if we were going to put some kind of time constraint on what you're talking about, it would have to take into account what we're dealing with right now, as far as closures, in a lot of places, with regard to the Congress fact team. I think that with this community and its business district, I think, leaning towards incentives to allow leniency for individuals to open businesses, to continue to operate businesses is kind of important rather than imposing penalties on individuals. They have come to this community, have invested their lives and their time and their energies in doing so and so I think adding penalties to that kind of endeavor is sort of the wrong direction.

Member Dumiak: Yeah, I don't see it as a penalty, I see it more as a condition, and quite honestly looking at your business, it's a business. I like that. Thank you, there is a storefront; it's established. I understand the circumstances we're all operating under with COVID. It's hard to say what businesses are going to survive. I just I just don't want to see another storefront closed up where nothing is there but somebody's living in the back, quite honestly.

Corrinne Farner: We're very enthusiastic and committed to this business.

Member Dumiak: And quite honestly, it shows because you got some skin in the game. You opened the storefront already, it's there.

Chairman Urban: If I may, if you want to speak, I'll have to acknowledge you. I'm learning the ropes myself. Would you care to respond to the commissioners? That's fine with me. Do we need you at the mic so the people on the phone can hear?

Corrinne Farner: I wish I knew how to open up my new phone, but I don't because I would just show you all pictures and photos of the various angles for the advertising and the artist's work and the beautiful glass that Anna has collected. We're very enthusiastic and committed. We can sign anything you want, I mean, and then we talked with Mr. Madrid, about if we fail, what is our backup plan? And it's to rent out business space to someone else, but we don't intend to fail. We feel very enthusiastic. We have savings to tie us over and we're very happy to sign any kind of commitment papers. That sounds a little odd, but yes.

Chairman Urban: Thank you. If I may, I'd like to add to the discussion wherein I believe that this evening it may be too much to endeavor to come up with a finite and completely thought out list of conditions for the approval of this permit. And I do believe that this discussion is one that we need to continue, and



perhaps in its own venue, in another meeting in a regular session. I think there's a lot to discuss on this point, and I don't want to keep the meeting going for hours here this evening.

Member Dumiak: I'd like to make a motion then. And the motion is basically going to state that this permit would be reviewed in one year. If the retail establishment continues to go, the permit continues to go. If not, there has to be some kind of a timeline that the live/work has to disappear until it becomes retail again.

Chairman Urban: Do we have a second? So if there's no second, the motion fails. I would like to make a suggestion just to respond to you. I think again I would like to continue the conversation of this idea on when we get live/work permits for the downtown, how they could be handled, and if there would be conditions put upon them. But I think it might be in haste to try to put any conditions on at this time, and that being the case, I'd like to make a motion to approve the permit.

Member Dumiak: Just one more question. City attorney or city manager, what is there to read currently rights now with these other permits that have been given out, special use conditions, for live/work spaces? Is there anything to review at a later date? Or is there anything to come back on currently in the paperwork that exists? Am I going down the path that's already been gone down?

City Attorney Rubin: Traci might know better than I, but I'm not sure that you're gonna find a whole lot that's going to give you any guidance. In fact, the commission has recognized the same problem that you recognize Mr. Dumiak, about the situation where you have these vacant places and it's been recently that I've been making the advice that we need to put these conditions on these permits, but we haven't really had test case. Am I right?

Traci Alvarez: You're correct. It is something that they are looking into. I can tell you we're also looking into it on the administrative side as well and that will come with the revision of the municipal code. In the meantime, we have people that come in and until we get those done, you know we can't put everybody on hold either.

City Manager Madrid: Before you all were appointed, this process had been started and then they said if I did try to handle this administratively the process would be started. And I did ask them for a little business plan, which is a good plan. And I did actually tour their facility to see if it could be considered a growing concern. And I did a couple of interviews with them to see what their contingency plan was, if there was a downturn in their business, they have one. They showed me their financial information to show that they could endure for a little while if they needed to. That was a good thing. I also did a walkthrough in their living space. And it seemed to be completely adequate for two people and adequately segregated too. So, I just want to let you know that I was satisfied as to those conditions, prior to you all being appointed. The other thing that I'd like to tell you is that, I think it is appropriate and I actually believe that I can say that the city commissioners would expect some type of reasonable condition; it is a conditional use permit. I believe that if the business would stop, that in itself would be a violation of the conditions of the permit. However, I think it is appropriate, and you can do this by your motion, to approve it for one year and its renewal is conditional upon adequate business conditions in

place. And that could be handled by a simple 10 minute walkthrough again. And I don't think anyone would object to that, that's reasonable. Thank you.

City Attorney Rubin: I support that and I agree with Mr. Madrid. I'm also noticing by looking at the packet, the proponents submitted their letter 12-18-19. It's been 6 months already, so I'd like to see us move forward on it. I like what City Manager Madrid said.

Chairman Urban: If I may, not to belabor the point, but I do find it unclear on what would be adequate conditions. For me to feel comfortable to vote on a conditional approval, I would want to know what really is meant behind that. That's just someone's decision someone's judgment call. I don't know what adequate conditions are for the business. Who is determining what this is? What are the criteria that that would actually be very clear rather than at this point, to me, just ambiguous?

City Manager Madrid: That's a responsibility you can place on the staff. I think that we would qualify to be able to identify whether a business is actually going to be a concern and continues as a normal business would versus a resident behind the mask of a business. On a normal basis, we could just take a walk down the street, at random times during the week; are they open? If they're open, then it really doesn't matter if they have 1 customer in the store or 10 customers in the store; they're available for business – they are conducting business. So I think there needs to be a decent amount of reasonableness in this whole process until we get it better defined. I think them having their doors open and being available to conduct business is reasonable enough. The time constraint just gives us a checkpoint to be sure. And if the doors are closed a lot in that time and we can't make contact with the business owners, then the permit would be revoked. Now the revocation of the permit is something that I'm not familiar with.

Chairman Urban: If I may, I do believe it's a bigger discussion in that to just put a couple of points forward. What if there is a circumstance wherein the business doesn't open owing to human reasons; someone's family is ill and they have to go care take them, etc., so then would the live permit be revoked for a set of circumstances like that, for example? Or say, someone is undertaking extensive renovations in their building and they have yet to open. And the moreover, many of the buildings downtown, some of them don't yet have the live space in the portion of the building that someone is seeking the permit for; so extensive renovations could be undertaken to make the building into a livable environment for a residence. And then if the permit is revoked, you would end up with a building that had that infrastructure, do you see what I'm saying?

City Manager Madrid: Yes, I understand and I think that those types of things would have to be handled on a case by case basis. It would have to be communicated between the business owner and the city staff and could be dealt with. If there's a lack of communication, then we both deserve to suffer. For example, if restrictions had to be placed on businesses around the time that the renewal would take place, of course that's an extenuating circumstance we would assume that the permit would be continued until those restrictions were lifted. If there was going to be a major renovation, then I would expect the business owners to notify us about that. I don't think that everything needs to be defined in tonight's action, there always can be some leeway as long as the terms of the permit are being met or



there's a major effort made to having them met. And if they're not being met for some reason, that we're informed about that, and it's reasonable. I like to use and I think that the city attorney would agree with me, that we use the 'reasonable man concept'. What would a reasonable man do in every situation? And if it's reasonable and if it's logical, then it's probably ok, as long as it's legal. I hope that's an adequate response.

Chairman Urban: Thank you, yes.

Member Bush: Madam Chair, you made a motion to accept the proposal, as is. We did have public discussion, I'm not sure how much that weighs on your motion because your motion was to approve as is. And I understand that the other items are a little more weighed than just approving these women's request to have a workspace. As it stands, I want to second that motion that you made.

City Clerk Torres: Can I just ask that everybody talk into the mic when they do speak, so that we can capture it on the recording and then everybody else on the phone can hear?

Chairman Urban: Thank you for the reminder.

Member Bush: Did you understand?

Chairman Urban: I did. So I've made a motion to approve the proposal as is and there's a second from Commissioner Bush. Because I am new to the Robert's Rules of Order, and there was a motion previously, can I get some guidance here City Manager Madrid, on orders of operation at present?

City Manager Madrid: You had a motion and second. And then I believe you had another motion and another second, so one of them...

Member Dumiak: The second motion failed. The second motion didn't get a second.

City Manager Madrid: Then the first one with the second is still on the floor. Now you can revoke that; you can modify it if the person that made the second will concur with that. If you choose not to do so, then you should take a vote on the motion and second.

Chairman Urban: Thank you, that's very helpful.

Member Bush: The first motion failed because there was not a second. The second motion was by the Chair to approve as presented, and I seconded the motion after the discussion. That's what happened.

Chairman Urban: The motion that did receive the second was the motion to approve the special use permit as is. And then the motion to approve the special use permit with conditions did not receive a second.

City Manager Madrid: At this point to end the discussion at any time, anyone of you can just call for the question, let's get the vote done. And you have the same privilege Madam Chair.

Chairman Urban: I would like to call for a vote with the full acknowledgement that I would like to revisit this discussion in a more robust fashion in our next regular session for the upcoming agenda. And with that, I'd like to make a motion to vote.

City Manager Madrid: Madam Chair, you already have a motion and a second on the floor.

Chairman Urban: So what do I do?

City Manager Madrid: You just call for a roll call vote.

Chairman Urban: I'd like to call for a roll call to vote.

Secretary Gabaldon: Lillis Urban

Chairman Urban: Present, I.

Secretary Gabaldon: Dennis Dunnum. James Bush

Member Bush: Present, I.

Secretary Gabaldon: Rick Dumiak

Member Dumiak: Nay

Secretary Gabaldon: Merrill Dicks

Member Dicks: I

Chairman Urban: And the motion passes. Thank you for your patience. And with that we will move on in the agenda.

**Chairman Urban made a motion to approve the Request for a Special Use Permit. Member Bush seconded the motion. Motion carried.**

- b. Public Hearing/Discussion/Action: Request for a Summary Plat Amendment and Variance at 408 Main Street, 410 Main Street and 412 Main Street, Truth or Consequences, NM pursuant to Chapter 15, Sec. 15-17., Amendment of plats. Traci Alvarez, Designated Zoning Official

**Member James Bush recused himself due to a conflict of interest with Applicant Gerald Bush being his brother.**

Chairman Urban: Miss Alvarez with the city.

Traci Alvarez: Chairman and members of the board, the property owner, is requesting a very minor plat amendment and with that plat amendment because he's making an adjustment, he'll have to do a variance as well. Our applicant is Gerald Bush. He's requesting to amend his existing property lines. He does own the 408, 410 and 412 Main Street. 410 and 412 do not have access in the back. There's a back back there, but if you look at the property line map, you'll see that the way the property line runs, it kind

of covers the back end of 410 and 412, and so what he's requesting is just simply a 5 foot walkway easement so that everybody has lawful access in and out of the rear of their building. Now the reason for the variance is because, when you do something within the plat amendment, or amend something you're supposed to make sure that it is then brought to code, but currently his lots are so small on Main Street they don't meet the minimum lot size anyway as they stand, so we're just requesting a variance so he doesn't have to tear down buildings and redo the entire lot line. And with that, I'll stand for questions. Also, all fees were paid. Certified mailings were done, everybody was notified and I did not hear any opponents to it.

Chairman Urban: Miss Alvarez, if I may, I had a question. I had a hard time. My eyes aren't like what they used to be. So the plat is very, very small, but I need to get a magnifying glass. So does is the proponent own the lot that he is seeking to get the variance on?

Traci Alvarez: Correct, yes, he is the property owner of 408, 410, and 412.

Chairman Urban: And so the city requires, I guess I'm still unclear on why this issue is even before the planning and zoning Commission. Could you explain that to me again? Why it's before the planning and zoning Commission for review; like what's abnormal about someone wanting to do something on their property?

Traci Alvarez: Because he's making a request to amend his plat, and so all items come to planning and zoning Commission for review.

Chairman Urban: Ok and how is he amending it?

Traci Alvarez: He's amending his lot line so that a 5 foot walkway easement is in there, which is amending 408 Main St. So 408 Main St owns that whole corner and it goes to the entire back and all the way to almost to the other side.

Chairman Urban: Thank you, thank you Miss Alvarez. Maybe it does help to hear the proponent's explanation. That might answer all my questions.

Gerald Bush: So this plat amendment would provide, as Traci mentioned a walkway from Foch St. from the back, parking lot which is actually owned by 412 currently.

Chairman Urban: 412 Foch?

Gerald Bush: 412 Main St., so the properties are 412, 410, which is Main Street office and 408, which was Andy Underwood's office. And 412 was the Cobblestone store. I am the owner of all three now, but at present, there was no access to properties 410 and 408 from the back lot; because the Back lot is surveyed out to 412 Main St. Now that's not a problem when an owner has all three properties. But if I were to sell property later, there's currently no access to the back door, no legal access to the back door from the back parking lot. Again, the parking lot is owned by 412.

Chairman Urban: Thank you that helps me.

Gerald Bush: It's a 5 foot easement and it's already been surveyed and our understanding on the survey, it has to be ultimately signed, I believe by the City Manager.

Chairman Urban: Thank you, Miss Alvarez.

Traci Alvarez: I was just gonna say, he's doing an alternate summary procedure and that is required to come in front of the planning and zoning Commission when you do an alternate summary procedure.

Chairman Urban: Thank you. Any questions for Mr. Bush from the planning and zoning Commission? Any opponents this evening? None. And any public comment?

Member Dumiak: Madam Chair, I make a motion to accept this as is.

Member Dicks: I second that motion.

Chairman Urban: Thank you. And may we have roll call?

Secretary Gabaldon: Lillis Urban

Chairman Urban: I.

Secretary Gabaldon Richard Dumiak

Member Dumiak: I.

Secretary Gabaldon: Merrill Dicks

Member Dicks: I.

Chairman Urban: And the proposal for a summary plan amendment variance of 408 Main Street passes. Thank you, Mr. Dumiak

**Member Dumiak made a motion to approve the Request for a Summary Plat Amendment and Variance. Member Dicks seconded the motion. Motion carried unanimously.**

- c. Public Hearing/Discussion/Action: Request for a Summary Plat Amendment and Variance Request at 323 W. Riverside Drive, Truth or Consequences, NM pursuant to Chapter 15, Sec. 15-17., Amendment of plats. Traci Alvarez, Designated Zoning Official

Chairman Urban: And moving on in the agenda to the final public hearing this evening. Public hearing discussion action request for a summary plat amendment and variance request at 323 W Riverside Drive Truth or Consequences, New Mexico, pursuant to Chapter 15, Section 15-17; amendment of class.

Traci Alvarez: Chairman again, this is a summary plat amendment and a variance request. All notifications went out; applications and fees were submitted and paid for. Probably the easiest thing to look at in your packet is going to be kind of the Google map, and I know that that's not very, very clear map, but it's going to give you the best idea of why we're submitting this out. So the property owner of the applicant who has representation who is here with us today owns this mobile home park here and then this other lot where the residents are. What he's requesting is to adjust this property line; you can see where the buildings encroach over the property line, so he just wants to make a slight amendment for the line, so it goes in between those buildings, so if at some point he decides to sell the mobile home park, the residence is kept separate and there's no encroachment on the property line. And with that I stand for any questions and there is a representative for the property here.

Chairman Urban: Any questions for Miss Alvarez from the Commission? Thank you Miss Alvarez, and now we'd like to hear from the proponent if we may.

Richard Epstein: (via phone) Hello, this is Richard Epstein. Can you hear me?

Chairman Urban: I can Richard.

Richard Epstein: OK, well thank you commissioners for holding this meeting. It's been a long time coming and we're excited to get this one matter completed so we can make the sale.

Chairman Urban: Sir, I'm sorry, we're just having a little confusion on our answer. The city attorney, Rubin, was trying to say something before you began speaking.

City Attorney Rubin: You have a proponent here.

Traci Alvarez: Russell Wade is a representative for the proponent.

Russell Wade: If I can explain. I can explain it.

City Clerk Torres: Mr. Epstein, are you an opponent or proponent?

Richard Epstein: Proponent.

City Clerk Torres: Ok, we're gonna hear from our representative and then our chairman will call on you and then you can speak at that time. Thank you.

City Attorney Rubin: I didn't hear what he said. Is he a proponent? Ok, so we don't have any opposition.

Chairman Urban: If you may introduce yourself, please man at the mic, thank you.

City Attorney Rubin: Also, we need to get the witnesses sworn in.

City Clerk Torres: Do you swear to tell the truth, the whole truth and nothing but the truth?

Everyone agreed.

Russell Wade: The properties we're asking for this as Mr. Epstein is wanting to purchase the mobile home park, with the exception of the lot that it is amended. He is a proponent of this; he's just speaking on behalf of it. And it's as simple as that.

Chairman Urban: Thank you Sir. And you own that property, that's for sale?

Russell Wade: That's correct. My step-father runs the trust and I have his power attorney.

Traci Alvarez: I have copies of all of that.

Chairman Urban: Thank you Sir. Remind me of your name again.

Russell Wade: Russell Wade

Chairman Urban: Any questions for Mr. Wade from the Commission? Thank you, Mr. Wade, and we can turn to Mr. Epstein on the phone now. Can you hear us, Mr. Epstein?

Richard Epstein: I'm in favor of it because; I'm hoping to purchase it from Russell and it's just a simple job to make the clarity of the properties. It's not gonna affect any homeowners in the area. It's a simple plat line change. And thank you for your service.

Chairman Urban: Thank you Mr. Epstein. Any questions for Mr. Epstein from the Commission?

Traci Alvarez: I just wanted to state that the variance request is because per our municipal code, any type of a summary plats amendment or preliminary plat both lots must have direct, legal, unobstructed access to existing city, maintained paved street with curb and gutter. The street does not have curb and gutter and it would be a financial hardship to request this property owner to do curb and gutter along the entire street just to make this minor amendment.

Chairman Urban: Thank you Miss Alvarez. And with that I'd like to make a motion that to approve the Request for a Summary Plat Amendment and Variance at 323 W. Riverside.

**Chairman Urban made a motion to approve the Request for a Summary Plat Amendment and Variance. Member Bush seconded the motion. Motion carried unanimously.**

Chairman Urban: May we have roll call?

Secretary Gabaldon: Lillis Urban

Chairman Urban: I

Secretary Gabaldon: James Bush

Member Bush: Present, I

Secretary Gabaldon: Rick Dumiak

Member Dumiak: I

Secretary Gabaldon: Merrill Dicks



Member Dicks: I

Chairman Urban: And the motion passes onto the City Commission for final approval or review.

**NEW BUSINESS:**

- a. Discussion/Action: Set time and date for future meetings.

Chairman Urban stated that due to her work schedule, she will be away frequently in the middle of the weeks, so she would like to have future meetings on Monday evenings. It doesn't matter which Monday it is, as long as it's available and works for everyone.

City Clerk Torres advised the commission that we already have the July meeting scheduled for July 8, 2020 at 5:30 p.m. so any other meeting would start in August.

Chairman Urban stated that she may need to phone in for that meeting for this reason.

City Clerk Torres advised the commission that the Public Utility Advisory Board meetings on the third Monday of each month.

**Chairman Urban made a motion to set all future meetings for the 1<sup>st</sup> Monday of the month beginning on August 3<sup>rd</sup>, 2020 at 5:30 p.m. Member Dicks seconded the motion. Motion carried unanimously.**

**ADJOURNMENT:**

**There being no further business to come before the Planning & Zoning Commission, Member Dumiak declared the meeting adjourned. Member Bush seconded the motion. Motion carried unanimously.**

PASSED AND APPROVED this 8<sup>th</sup> day of July 2020.



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Lillis Urban – Chairman  
Planning & Zoning Commission