

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

Monday, July 9, 2006/7

TIME & PLACE: The Planning & Zoning Commission of the City of Truth or Consequences, New Mexico, held a Public Hearing in the Commission Chambers, 405 W. Third, on Monday, July 9, 2007, at 5:30 P.M.

Adam Polley, Chairman opened the Public Hearing with reading the Legal Notice as follows:

NOTICE is hereby given that the Planning & Zoning Commission will hold a Public Hearing on Monday, July 9, 2007 at 5:30 P.M. in the Commission Chambers 405 W. Third, Truth or Consequences, New Mexico to consider zoning of certain property located in the newly annexed area northwest of the City up to and including the Municipal Airport, and a Variance Application - To reduce required front setback, R-3 Zoning District, from 20' to 12', Tract 1 and 2, O'Neill Subdivision #1 - 505 E. Riverside Dr., T or C - James Hayes

1. The proposed zoning for this area will be Industrial Planned Unit Development District (IPUD) and Airport Impact Overlay District
2. Variance Application - To reduce required front setback, R-3 Zoning District, from 20' to 12', Tract 1 and 2, O'Neill Subdivision #1 - 505 E. Riverside Dr., T or C - James Hayes

Adam Polley, Chairman opened the Public Hearing for the Industrial Planned Unit Development District (IPUD) and the Airport Impact Overlay District.

Joey Perry approached the podium and stated she has been a volunteer working with the City of Truth or Consequences on zoning for this newly annexed area.

She stated she is stepping away from the Planning Commission to give this presentation because she is not allowed to vote on this item.

Ms. Perry stated that the goal for the land around any airport is to maximize the compatibility between airport activity and the surrounding activities and to minimize the impact of noise and other environmental problems. She stated she feels this has been done with the legislation that's before this Commission today.

Ms. Perry reviewed and explained the purpose of both the Industrial Planned Unit Development District (IPUD) and the Airport Impact Overlay District.

Adam Polley asked if there was anyone in the audience who would like to speak against the Industrial Planned Unit Development District and the Airport Impact Overlay District.

Heidi Hubble approached the podium and stated she owns a ranch in the area and she would like a little bit more legal description or a map to describe this area that this is going to affect.

Mr. Polley stated that Chris Nobes the Building Inspector would be able to help her with that situation.

Adam Polley stated that seeing no one against the proposal he asked if there was anyone who wanted to speak for the Industrial Planned Unit Development district and the Airport Impact Overlay District.

Jimmy Rainey approached the podium and stated he was a City Commissioner and former Mayor of T or C.

Adam Polley administered the Oath to Jimmy Rainey.

Mr. Rainey stated that right now the County of Sierra is in a position to actually grow, to actually prosper, to actually bring business into our County. He stated he was born and raised in T or C, Sierra County and for the last sixty years he has been wanting to see Sierra County grow to the point that when our children get to the age where they start working that there will be jobs here in our county for them to be able to stay in our county and not have to leave, go to another state in order to make a living.

He stated that the opportunities the last ten years they have been working on are now coming to fruition and we have developers that are ready to start putting money into the airport and the land around the airport. But that can not happen until two things happen. We have to finish up the land swap and that has to be signed and we have to have a zoning plan in place. As soon as that happens things will start building at the airport.

Mr. Rainey stated he would whole heartedly support this ordinance.

There being no further comments the Public Hearing for the Industrial Planned Unit Development District (IPUD) and the Airport Impact Overlay District was closed.

Adam Polley, Chairman opened the Public Hearing for the Variance Application – To reduce required front setback, R-3 Zoning District, from 20' to 12', Tract 1 and 2, O'Neil Subdivision #1 – 505 E. Riverside Dr., T or C – James Hayes

James Hayes approached the podium and was administered the Oath.

Mr. Hayes stated he and his wife has just put this property into escrow that closes in a few weeks and one of the big issues for them on this property was would they be able to put a modest home, not a trailer, on this lot. He stated it's narrow compared to other lots so they have 40' to build on.

He stated that his understanding originally was that it was 25' back from the street but Adam just said 20', and we are asking for 12' because their next door neighbor is sitting at 12' back from the street, and she has a trailer.

Mr. Hayes stated they really haven't drawn up plans for a house or anything, before we submitted plans to Chris we want to know what we can do.

Adam Polley asked if there was anyone who wanted to speak against the Variance Application.

There being none Mr. Polley asked if there was anyone who wanted to speak for the Variance Application.

Adam Polley, Chairman asked Chris Nobes, Building Inspector if he has reviewed this application and was it within the standing of the Ordinance.

Chris Nobes stated yes, and Mr. Hayes has applied for a variance according to required procedures.

Mr. Polley asked Mr. Nobes if the variance is going to be at 12'.

Mr. Nobes stated yes, there was some confusion from the real estate office actually as to the exact location of the property. They were dealing with two different properties simultaneously and the first information he got placed this subject property in the wrong zoning district. He stated that it is in fact R-3 and the required setback is 20' and the applicant is asking to reduce that to 12'.

There being no further comments the Public Hearing for the Variance Application – To reduce required front setback, R-3 Zoning District, from 20' to 12', Tract 1 and 2, O'Neil Subdivision #1 – 505 E. Riverside Dr., T or C submitted by James Hayes was closed.

Adam Polley, Chairman stated this would close the Public Hearing portion of the meeting and open the Regular Meeting of the Planning & Zoning Commission

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

Monday, July 9, 2007

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 Monday, the 9th day of July, A.D., 2007 immediately following the Public Hearing.

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

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

Adam Polley, Chairman
Roger Smith, Vice Chairman
Joey Perry, Member

Also Present:

Chris Nobes, Building Inspector
Jaime Aguilera, City Manager
Hazel F. Peterson, Deputy City Clerk II
Heidi Hubble
Jimmy Rainey
James Hayes
John Manning
Karen Monday

Absent:

Viola Bonner, Member
Bill Howell, Member

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

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

AGENDA:	<p>“Joey Perry moved to approve the Agenda as submitted.”</p> <p style="padding-left: 40px;">Seconded by Roger Smith Motion carried unanimously.</p>
APPROVAL OF MINUTES:	<p>Adam Polley, Chairman called for review and approval of minutes of the Regular meeting held Tuesday, June 5, 2007.</p> <p>“Joey Perry moved to approve the minutes of the Regular meeting held Tuesday, June 5, 2007 as submitted.”</p> <p style="padding-left: 40px;">Seconded by Roger Smith Motion carried unanimously.</p>
COMMENTS FROM THE PUBLIC:	<p>None.</p>
REORGANIZATION – SELECTION OF CHAIRMAN & VICE CHAIRMAN:	<p>Adam Polley, Chairman stated he would prefer they table this item and wait for a full membership meeting to select officer and would make the motion to that effect.</p> <p style="padding-left: 40px;">Seconded by Roger Smith Motion carried unanimously.</p>
INDUSTRIAL PLANNED UNIT DEVELOPMENT DISTRICT & AIRPORT IMPACT OVERLAY DISTRICT:	<p>Adam Polley asked what process this Commission was looking at.</p> <p>Chris Nobes stated if this is approved tonight it will be presented to the Airport Advisory Board next week, Wednesday, July 18 and from there all recommendations will be forward to the City Commission on Tuesday, July 24.</p> <p>Mr. Nobes stated Staff recommends this Commission recommend approval and then there can be discussion and address specific items of concern.</p> <p>“Roger Smith moved to approve the Industrial Planned Unit Development District and the Airport Impact Overlay District and submit it to the Airport Advisory Board and to the City Commission for their consideration.”</p> <p style="padding-left: 40px;">Seconded by Adam Polley</p> <p>Chris Nobes stated he would like to mention something that might put peoples mind to rest. He stated that one thing in the IPUD that the general background of the zoning district is any use would go through the Special Use procedure, which means a public hearing, so if this Commission does recommend adoption of this based zoning any specific project would have to go through a public hearing process so the public would be informed and it would all be open to discussion and input.</p> <p>He stated that another thing is that if the developer doesn’t wish to use the IPUD industrial aspect of it, there’s a default provision which uses the Permitted Uses in the T-1 zone, and you can default. The T-1 zone is a transition zone which is primarily agricultural and livestock. If you don’t have a formal project with specific industrial proposals default zoning is rural agricultural and livestock orientated.</p> <p>Mr. Nobes stated that another thing in the Airport Overlay District there’s a section for Non-conforming Uses that says, “Legal uses that existed as of the date of adoption of this ordinance but do not meet the requirements of this Overlay District will be grandfathered in as non-</p>

conforming uses", so perhaps that helps a little bit.

Discussion ensued.

Chris Nobes stated Staff recommends approval of the Industrial Planned Unit Development District and the Airport Impact Overlay District.

Motion carried.

Joey Perry abstained.

VARIANCE
APPLICATION –
JAMES HAYES:

Chris Nobes stated that each Commissioner's packet includes the full application and also includes a Power of Attorney where by Mr. Hayes can act in behalf of the existing property owner for this purpose.

Discussion ensued.

Mr. Nobes stated that Staff would recommend approval.

"Joey Perry moved to approve the Variance Application submitted by James Hayes and submit it to the City Commission for their consideration."

Seconded by Roger Smith

Motion carried unanimously.

SUBDIVISION
APPLICATION –
JOHN MANNING:

John Manning approached the podium and stated on tract 2b where he presently resides he wants to get a mortgage. He stated that once he gets a mortgage it's almost impossible to split land off. He stated he has no immediate plans for the 50' tract 2a, but in the future his neighbor to the east showed an interest in possibly add to his property, or he may sell tract 2b and move to tract 2a himself with a smaller maintenance lot.

Discussion ensued.

Chris Nobes stated that Staff recommends approval.

"Roger Smith moved to approve the Subdivision Application submitted by John Manning and submit it to the Public Utility Advisory Board and the City Commission for their consideration."

Seconded by Joey Perry

Motion carried unanimously.

SUMMARY
REPLAT –
SMITHCO
PROPERTIES:

Karen Monday approached the podium and stated this property is owned by the Smith's and it's an eight plex, two separate four unit buildings, and they are in the process of selling the property and it's very difficult to get financing for an eight plex, it's much easier to get financing on a four plex, so their requesting to split the property.

Discussion ensued.

"Joey Perry moved to deny.

Seconded by Roger Smith

Joey Perry stated that since she is new to the Commission she has some questions of Staff, and that she had spoken to Chris earlier about this issue.

Ms. Perry stated this has to do with, is this a development or is this not a development. Because this property is in a C-1 zone and development in a C-1 zone needs to have landscaping, and parking. She stated that when

she did her site visit on this property she thought, nice buildings, the buildings look real nice, but the property itself, there's not parking lots, spaces setup for the cars. Yes lots of dirt that they can park in, but that dirt isn't landscaped at all, it's not paved. She stated she thought they were going to have problems with erosion, runoff, mud and gunk for the residence.

She stated she was just wondering if this is development and as development would require landscaping and parking improvements.

Chris Nobes stated that was an interesting question. He stated that Staff feels that this is just simply a replat, moving property boundaries, there's no permits involved, there's no improvements intended to the particular buildings so Staff would interpret it as not development under the terms of the City Zoning Code and these requirements would not be imposed.

He stated that one advantage to the way this replat is proposed is this utility easement to the west side of Tract 1 is an alley south of Marie Street which goes north, south, there's an overhead electric line there already in place, and the buildings sewers are in that area. He stated that this plat if it was approved would in fact dedicate that easement to the City for utility purposes, the 20' wide utility easement. He stated that currently the City has had what would only be a prescriptive easement and so in fact the owners as they develop this plat agreed to provide that utility easement. He stated that would be a critical improvement in this situation.

He stated that as far as the rest of it they simply did not interpret it as development, they just see it as moving a property boundary and the rest is up to this Commission.

Joey Perry stated that when she looked at the zoning code she did not see a definition of "Development", but the application itself says "Development Application", and she would think that anytime you subdivide, called subdivide developers, and so development is occurring even though nothing right at this moment is being proposed.

She stated she thinks it needs to have some kind of parking and some kind of landscaping. She doesn't know whether this Commission is able to request that that be added, if the Commission so supports that, or if this Commission just doesn't have any discretion along those lines because the applicant has met the requirements of the replat.

Further discussion ensued.

Jaime Aguilera stated he wanted to answer the question that was posed by Commissioner Perry. He stated they can deny ~~as~~ the motion ^{as} or they can approve with conditions, so if they decided that they want the parking spaces paved then they would approve with a condition that it be paved, or whatever other conditions they may want to add. He stated that that is within the realm of this Commissions authority.

Adam Polley asked Chris Nobes when the apartments were built was there a drainage plan and a vegetation plan that was required.

Chris Nobes stated no, landscaping would not have been required, that was added when they updated the City Zoning Code in 2002. He stated these would have been built under the code of 1988. He stated he really didn't know the history of the buildings when they were constructed.

Mr. Polley asked how about a drainage plan.

Mr. Nobes stated that's in our current zoning code, but he doesn't remember if it was in the 1988 code. He stated it could be legally nonconforming if they were legal at the time they were permitted and constructed and they do not comply with all aspects of the current, it would still in fact be legal and binding.

Mr. Polley asked what about the parking.

Mr. Nobes stated that has not changed, it calls for one and a half spaces per unit and that was not changed in the update, that would have been in place in 1988.

Mr. Polley asked Mr. Nobes if he has visited the site and if so is it in compliance.

Mr. Aguilera stated he would like to comment also on the legal nonconforming status, the property has the protection of being legal nonconforming, for example the Gun Club will attain that status once the zoning is approved and they can keep that status for life, but once they develop that property, and we're back to the question of whether it's development or not, but once they decide to put up instead of just a trap range, now they want to do a shooting range or they want to put in another building, they lose their nonconforming status.

He stated that if this Commission decides that a subdivision is development then they don't have nonconforming status or don't have the protection of the nonconforming status.

Joey Perry stated she would like to withdraw her motion.

Adam Polley, Chairman state the motion to deny has been withdrawn.

"Joey Perry moved to approve this subdivision with conditions, with the conditions be to put in paved parking, meet the requirements of the zoning code today, the C-1 zoning for parking, and have landscaping done according to the zoning code as well."

Seconded by Roger Smith

Adam Polley stated that he disagreed with the motion. He stated he thinks it already conforms to the rules and regulations that was there when it was built. He stated he agrees with the City Manager in that if they want to construct, modify or change then they lose that protection, if you want to call it that. He stated that's where he's going to stand.

Mr. Polley stated he would look kindly upon a motion which will approve the Summary Replat, and he will emphasize this is a summary process so it is supposed to be quick, and somewhat painless for the replat. He stated that if it's for the purpose of mortgages that has nothing to do with construction, we're refinancing.

He stated that his only concern is that if there is going to be any construction on these two tracts in the future then the appropriate and necessary permits and applications be gotten through Chris's office. That's kind of where he stood.

Further discussion ensued.

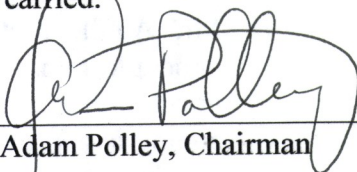
Commissioner Perry – aye
Commissioner's Polley & Smith – nay
Motion failed.

"Adam Polley moved to approve the split with no conditions and to approve the Summary Replat."

Seconded by Roger Smith
Commissioner's Polley & Smith – aye
Commissioner Perry – nay
Motion carried.

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

APPROVAL: PASSED AND APPROVED this 7th day of August, 2007, on motion duly made by Jerry Perry, and seconded by Roger Smith and carried.


Adam Polley, Chairman