

**CITY OF TRUTH OR CONSEQUENCES
PLANNING & ZONING COMMISSION
MINUTES
MONDAY, MARCH 10, 2025**

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 10, 2025 at 4:00 p.m.

INTRODUCTION:

ROLL CALL:

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

ALSO PRESENT:

Gary Whitehead, City Manager
Traci Alvarez, Assistant City Manager
Katy Martinez, City Clerk Admin Assistant

1. APPROVAL OF AGENDA:

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

2. APPROVAL OF MINUTES:

a) February 18, 2025.

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

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

There were no comments from the public.

Deputy Clerk Martinez swore in the participants for the public hearings.

4. PUBLIC HEARINGS (5 Minute Rule Applies)

- a) Public Hearing/Discussion/Action: Request for a Special Use Permit at 865 W. 4th Ave. for the purpose of a Multi Ani-mal Permit Renewal. Traci Alvarez, Assistant City Manager**

Assistant City Manager Alvarez: This is an annual renewal. The applicant has 7 cats, they are all indoor cats. She has a nice set up for them for what I understand. Animal Control has gone out and done their annual inspection. Everything looks good. We are recommending review and approval for their annual renewal.

Chairman Sisney opened the public hearing.

Proponents:

Opponents:

Chairman Sisney closed the public hearing.

Chairman Sisney made a motion to recommend approval to the City Commission for a Request for a Special Use Permit at 865 W. 4th Ave. for the purpose of a Multi Ani-mal Permit Renewal. Vice Chairman Buhler seconded the motion. Roll call vote was taken. Motion carried unanimously.

- b) Discussion/Action: Recommendation to appoint Molly Hammer to serve as a member on the board.**

Molly Hammer Applicant: I've been a T or C resident for about 9 years. I'm a landlord, a short-term rental owner and a business owner. I've been wanting to get a little bit more involved with the community and planning and zoning is an interest to me in how business and residents how their decisions influence the rest of the community depending on the rules, regulations and the ordinances that are set before us for planning and zoning. Because my business is here it's important to me that people have a good experience either through business or through walking around town. What are they taking away and what are they saying about Truth or Consequences. I think that it's really important to be an advocate and kind of an ambassador of the city in that small little role as a business owner. I just want to bring some of my background to the board.

Member Kent: What business do you own?

Molly Hammer Applicant: I have 3 short-term rentals, but I also rent to long term renters and traveling nurses. I have been doing that full time for about 5 years, so I see a lot of different kinds of people come through. Katy sent me the ordinance section for planning and zoning specifically I was looking for what the roles and responsibilities of the board members? What are you reviewing? I see that you have short term approvals like someone wanting to have 7 cats that kind of thing. Are you guys also developing a long-term vision for the city on a commercial and residential basis or is it more just kind of making sure we are the voice of residents and business and making sure we are complying with city ordinances. My apologies if I'm not explaining that right, but I wanted to understand what is expected in your role should I be included on the board.

Chairman Sisney: There is no planning. We don't get to plan. The only thing that we have done is if there are requests for variances, then we listen to all the stuff they have to say. We make a recommendation. The recommendation then goes to the city commission then they decide whether to follow the recommendations or not. That's been my experience. If somebody comes and everything that they ask for is fine with their request it never comes to us. Only things where they are asking for a variance. That's all we have dealt with since I've been here.

Molly Hammer Applicant: Its more residential or commercial variance of for the property lone of the rules?

Chairman Sisney: Any variance to the rules in the town.

Molly Hammer: But no planning?

Chairman Sisney: No

Assistant City Manager Alvarez: I can speak on what I bring to the planning and zoning commission. I bring anything that is required by the municipal code to go in front of a public hearing, or a special use permit, a variance request, summary plot amendments. If somebody is going to be doing a full subdivision development, then that would come to planning and zoning per out code. We haven't had anybody that's developed an entire subdivision, but you never know down the line things are going a little but that is something. A big development like that would come through planning and zoning. They are encouraged to review the sections of the municipal code, I know they have talked a little bit about short-term rentals. There have been some talks about the section of our code that has been changed or updated, there is review. They can definitely make recommendations or meet as a planning and zoning commission to discuss and recommend potential changes or updates to the code.

Molly Hammer Applicant: I reviewed the ordinance and the planning and zoning sections that Katy sent me, and it wasn't really clear about the rules and responsibilities. It said more like

how many members and that they meet once a month, but it wasn't really clear about the decision making.

Vice-Chairman Buhler: We do have a set of rules that you should be given. So, you would know. It's basically like Robert's rules. Jay called it Battershell. If they pass you, they will probably give you that also.

City Manager Whitehead: I have not really reviewed the whole scope of planning and zoning I'm just getting kind of my feet down. I don't want to tell you I think you are going to do this or do that. It feels to like planning and zoning really needs to be intimate in what we do with these areas and maybe we've not done it well, maybe we need some improvements and so I would lean into what Traci said. She's probably got the best view of how it's been up till now and then potentially I might change the whole thing.

Vice-Chairman Buhler made a motion to recommend approval to the City Commission for Recommendation to appoint Molly Hammer to serve as a member on the board. Member Kent seconded the motion. Roll call vote was taken. Motion carried unanimously.

c) REPORTS FROM THE BOARD:

No Reports from the Board

d) REPORTS FROM STAFF:

City Manager Whitehead: I was hoping to meet with the Chairman today. We might want to stay a bit and visit but certainly with the commission with you guys being active I thought it was a good time to come down and visit a little bit. It's the first zoning issue that's come before us, this variance/special use permit that you guys approved at the last meeting. I wanted to take the time to really be diligent in my deliberations and make sure. I understand that I pose a challenge to us in zoning right. Because I've been inside the code. I've worked in it, I've asked for things, I've presented, and I've built things. I certainly want to make sure that I'm not doing something that would be averse to another position that I might have had somewhere else. It's critical that I do that. I don't think there is anything in that except for one issue, we'll get to that in a minute. I went through the code as it relates to special use in this particular issue, it seems that going down the road of tiny homes opens a new door for us. In the variance/special use permit that we ask for, my recommendation to the commission is that we don't call it a tiny home. Under the New Mexico code and under the international building code, tiny homes are identified as anything that's under 400 square feet. When we add tiny homes to the code, it

comes with a set of rules, a very good set of rules. So again, it opens the door to containers, storage containers being tiny homes, but it doesn't open the door to living in a storage container. The storage container has to be built to IRC standards. It would have to meet all the codes, ingress, egress, stairs, doors, width. It's got a whole set of criteria. The point I make is number 1, I don't think I'm going to recommend that we grant a special use permit for a tiny home. Then I went and looked at the manufactured home and the park model, under the code it's very clear if the wheels remain on the unit it's an RV. If the wheels come off the unit, it can be considered a manufactured house or a home. So, it does seem reasonable that you maybe talk about these park models, especially because they become, they become the next step. Which is a concern to me which is affordable housing. I studied a lot of places that said being able to put these park models in places really open the door because they're 35,40 and 50 thousand dollars. They're not \$250,000 and is it in an area where you open it? It feels like that's a new item to come down to. The third thing that challenged me to say, if we're going to pass a variance or a special use permit, what door are we opening? Are we potentially walking into something that we can't get out of? Or in this particular case, are we opening a door for something that we probably need to do. As it relates to the item that we have on the table, if R3, we looked at it as a 2-family dwelling, 2 families would be separate locations, they can be connected, they can be separate. It already requires that space to be 3000 square feet per unit in the particular case, they have 6000 square feet, so they already qualify. So, there's 2 things we don't need to give a variance to. The only item would be that the unit has to be a minimum of 500 square feet. My recommendation to the commission is probably going to be that we allow the special use permit, not a variance, a special use permit that would grant them 390 square feet because the park models all of them come out to be 397 square feet. Also, we require that they remove the wheels and set it on a permanent foundation. In this case, that would be the only thing that you would be granting to them in your approval, correct? You've already approved that they could do it, but you've said, and the question was, is it a special use or is it a variance? I'm going to request that the commission grant them a special use permit for the particular lot and that the special use permit say that in that particular lot they can reduce the size of the home from 500 to 390 and that it requires that the foundation be set, and the wheels be removed. That would give them the choice of either using a park model or they could simply build a house of 390 square feet, or a house of 500. They wouldn't need any special use to build a 500-square-foot home on those lots. That's the deliberation I came with, and then the challenge would come where I would want to come back to this committee, and this where it comes into what are we going to do. Do we open up R2 to two families to the same kind of condition where we would reduce that form a 700 square foot build to a potentially say, you could apply for a special use permit, and we might grant a special use for 390 provided the wheels are off and it's on a permanent foundation. Then somebody in R2 could also add a park model. This is our discussion time I would stand for questions, or thoughts of where I could be

going down the wrong line. I'm certainly here to hear your feedback. I wanted to brief you. I was hoping to call you today and at least let you see my notes

Vice-Chairman Buhler: What are other cities doing, larger cities?

City Manager Whitehead: Las Cruces is where I started, I find no comment on tiny homes. When I went into their code, I could find nothing in the code. I found nothing in Silver City for the code. All I can assume in those 2 areas where I looked, they are using them probably like we are, where it's a special use and somebody's coming and saying "I want to build a tiny home. Here's all my plans. Here is my design". I have to assume that the committee's giving them some permission to do so. I couldn't find anything in those places. In the code for New Mexico in the N Mac which in section 147-328, which is tiny homes and that's where the definition comes from. When I think about us granting a variance or a special use to do something. It's what are we doing on this particular case that may or may not get us in trouble or may not open the door? I feel like this park model thing is not a bad thing. It opens a door to affordable housing; it looks like they are built to a very good standard, and people might clean up especially on Marr Street. When I drive down the entire street it's the last piece of property there that doesn't have anything really nice on it. Otherwise, everybody kind of cleaned up that street.

Vice-Chairman Buhler: You might talk to Socorro. I have googled and they have something that they're doing with RV's. We had a case not too long ago where a man wanted to make his permanent home in a motor home. You can't take the wheels off of a motor home and make it a home it doesn't have smoke detectors in it. It's not safe.

City Manager Whitehead: It's not, it's not built to a standard.

Vice-Chairman Buhler: We had another case on the riverbank, a very small lot where a man wants to build a home, and the neighbors are very upset on each side. One of them had already built what looks like to me an 8-foot fence to wall this guy out. Another question is you have someone who spends \$400,000 for a home and then to have a tiny home right next to them. What is that going to do to their property values? Also, if you have several of these, there's not going to be parking. There are lots of factors that are involved with these types of units.

City Manager Whitehead: I concur. I think again going down the code, the one thing with the word tiny homes that kind of got me nervous if we were going to say yes, we give you permission to put a tiny home, its it could be he could do it 200 square feet house, right? If they were crafty enough to do it. That's where we wouldn't want to open it, and then if we do allow

tiny homes, then how do we consider something that's beneficial to someone that's going to build a really cool tiny home. That may be 600 or 700 square feet, but it's got all these cool features versus someone that says I'm going to build a 100 square foot house.

Vice-Chairman Buhler: Basically, a shack.

City Manager Whitehead: It would be. I feel like if I want to build a tiny home, I want to be fair to how I would ask, and I probably would. I would hope that we had it protected enough that we would have a good standard that would give us a great tiny home. I've got no problem with somebody wanting to stack 3 storage containers and paint them and fix them, make all the patios like you see on TV, build it beautiful. Maybe that's what we need to a kind of eclectic, cool place, but we don't want someone sticking one out, putting a TV up on the wall and saying I have a home.

Vice-Chairman Buhler: Someone the river who builds a three-story home. Now the people on the other side are not going to be able to see the river anymore. That is another factor with height. There are lots of different things that really need to be taken into perspective with this.

Assistant City Manager Alvarez: All of our zones have a maximum height code.

City Manager Whitehead: Somebody asked me about a piece of structure that is in the R3 zone and how they got that in, but it meets the height requirements and so your kind of limited in that. It's a good structure, it's just really high.

Member Kent: I think with the small home having some good guideline standards for these homes because it's a slippery slope with like well they got to roll in with an RV which we have already talked about its outlined in our code so you can't do that. I think requiring something to be set on a foundation, whether they bought a park model, modular type thing and put it on a foundation or do a small stick-built home, so that you at least get a certain quality of home. The number they can put on a lot needs to be greatly monitored. I know some of these lots already can allow a duplex, so I guess two small homes is no different than a duplex. I agree not just completely going off the rails and saying yes, we will grant whatever you want but having specific guidelines to allow it and probably still requiring a special use maybe.

City Manager Whitehead: It feels like that's the right structure to give you guys the ability to say we are only going to do that if it meets these conditions. I don't know if it catches right. I don't know how much enforcement we've done. I'm not trying to throw Traci under the bus, but I don't know if somebody puts an RV on their lot and we find out a year later, I don't know what

we are doing. As I'm watching it feels like the codes guys are writing tickets, were doing stuff but that becomes the second piece of it, are we going to be stronger in the enforcement to do those things.

Member Kent: There's a lot of RVs in my neighborhood that people live in right now and they have been there a while.

Vice-Chairman Buhler: Well, you know we don't have building inspector either and that's a problem. I've had people tell me all you have to do is put a piece of paper up in a window and you can do whatever you want to do inside your building.

City Manager Whitehead: I spend a lot of time on YouTube researching, so I put in tiny homes and I started watching different videos about thinking about different things when you are going to zoning and there was a video on there that said if you are going to zoning to build your tiny home don't because you're wasting your time. Just go build it, let me show you how to do it and they can't make you move. So, it's wow there are things out there trying to help people be thoughtful and there's things out there that tell people if you have a zoning committee don't worry about it just go build your thing, they're not going to stop you and potentially we are not better or worse. Any thoughts?

Member Luchini: I like the setting guidelines, terms and ordinance, the problem I have is when they come to ask for a variance. When do we stick to the rules and the guidelines or when do we give a variance? Why do we have the guidelines if we are going to allow variances?

City Manager Whitehead: I remember that statement. I've done some soul searching on that I'll be honest. I'll get myself in trouble here. I see nowhere in the code where you have the ability to grant me a variance. Nowhere in our code is there the language that would allow me to have the variance that I requested. I still haven't spoken to the lawyer; Jay may tell me it's here or it's there but again going down this when I was researching is it a special use or is it a variance? A variance only appears in our code 2 times and one time is in the definition. The definition says the only variances that shall be granted are those related to size, scope and the use of the land. So, if the lots are not big enough to do the setbacks. So, say in this case it was 5,500 square feet and they wanted to put 2 units, you have the ability to say it's a good neighborhood, nice people it looks like they are going to do it we can grant that. I don't see where its broad a scope in the code to say you guys have the ability to look at any kind of code, and kind of question within those and do that and say it's ok to move away from that particular thing. No w that's just over research I did I could be wrong, again Jay through the code can show me where that's in some kind of international code, it may be in the bill, it may be somewhere that says, a

variance is something that the city always has, they always have the ability to change their rules and its implied. The lawyer side might say it's an implied factor. So, I'm not telling you that it's wrong, I just didn't see anything in there so that I can say yes they can do that. It looks like the only thing would be for size. That's why I wanted to see if it is a special use or is it a variance in this case. It led me to really begin to challenge that question that I ask the commission for. I'm internally searching and saying I may have been wrong which may mean I'm more than likely not going to accept the variance that I've been granted and move forward with that because I create a problem for us here. Which is if I did it, somebody else is going to use it against us and I need to be in the spot where the law and the zoning code could be administered and enacted fairly and justly without that hanging over our heads. Those are the challenges I thought about. Any other thoughts?

Chairman Sisney: How about the planning part in the name of the commission? I mean everybody that's on here, when they put in their application, I'm sure they thought they were going to be involved in the planning help. What gets approved and what doesn't in town.

City Manager Whitehead: You are not wrong to ask, and I will take that chart seriously especially in this. My recommendation is going to be this let's grant a special use permit to them, they meet every other condition except the size. Let's make the special use permit for those scopes 390 square feet, has to be on a permanent foundation, and we also need to make it for one year because the special use permit expires in 90 days, according to our code because if they haven't begun their project. The second thing I would ask the commission is to send back to the planning committee tiny homes and let us begin to discuss do we or do we not want to put tiny homes in our code. At some point after my discussion with Jay I may talk about variance. I'm not opposed to having the variance language say the planning and zoning can look at a variance from any type of the code provided it doesn't cause a nuisance to the neighborhood. Then we open that door if it needs to be. I think we should start doing those things and I think we should start offering to fix the code a piece at a time. That's the way I feel about it.

Vice-Chairman Buhler: Also make sure they are permitted through the state.

City Manager Whitehead: Yes. Let's take the next issue that we had a variance for, if somebody comes in and asks for a variance in this particular case, it's not a bad one, it's probably a good one, it will probably give us an opportunity to help people create something. Then let's go fix it and make sure the next person doesn't have to ask for a variance. We've addressed it, we fixed it and we've moved on. I think that's what you're asking for, kind of can we get it back and let you guys be a part of the planning?

Chairman Sisney: That also, I was looking at broader. When companies want to come into town and build stuff or that nature. That's what I'm interested in. Do you have to get on a different committee to do that sort of thing?

City Manager Whitehead: I do not know, give me an example?

Vice-Chairman Buhler: Is Loves going to our commission?

City Manager Whitehead: No, they meet every requirement within the zone. They have checked every box of the zoning code according to Traci. I've not reviewed the permit, but I've asked the questions.

Chairman Sisney: But they don't have to come before the planning committee?

City Manager Whitehead: No, they don't.

Chairman Sisney: Wouldn't we want to have input before it gets all the way. Before it gets to the point of them building because firstly, I wouldn't want that in my town. That's trouble.

City Manager Whitehead: That's a tough one because I would tell you if mi going to be honest with the code, if I could buy a Loves franchise and I wanted to put it here and I passed everything with the zoning ordinance, I should be able to build just like anybody else. That's the tough part for you guys to independently say I like that business, or I don't like that business.

Chris Sisney: That's the difference between me and an amateur that doesn't know what's going on because why wouldn't you be able to keep a business out of your town. You tell me if you have got the money, you could do whatever you want, it's what it sounds like to me. I mean that America, right?

City Manager Whitehead: Well, sort of.

Vice-Chairman Buhler: It is beneficial to the city; the city will be making a good amount of money. Will it impact the city? es. There should be some kind of study done on that. I believe also that they are a privately owned family company. They are not a you can buy into.

City Manager Whitehead: I just used that as an example, but to say there was a franchise I wanted to buy, or anybody wanted to buy, and they met the requirements. I would find it hard to think that we would say yes or no because we liked them or didn't like them.

Vice-Chairman Buhler: I don't know if there should be a study sone, but it will impact the city. Their fuel prices may be the same as the city, you just don't know. It will impact McDonalds, it will probably impact Walmart, it will impact the Teston gas station. They will certainly see some less business because of it.

City Manager Whitehead: My door is going to be open. I hope to be able to take what you do seriously, take what I need to do seriously. Be thoughtful in my deliberation for it is, so again I'm not creating problems for you that I don't particularly need to bring and then help you so that we can develop a good code.

Member Luchini: I appreciate that.

Vice-Chairman Buhler: I do to, and we appreciate you. One other thing it would be nice that after our planning and zoning meetings if one of our representatives, and I know that's a lot to ask but could go to the city council and address if we did have something of concern, if we did feel that something was important. We should go to the city meeting.

Member Luchini: To express that concern?

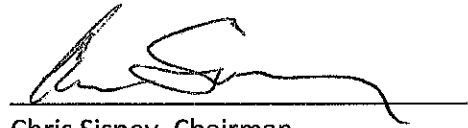
Vice-Chairman Buhler: Yes, because I think some people read what we decide and what we say, but I don't know that every city council member reads what we come up with.

City Manager Whitehead: I was hoping to at least speak to the chair this week to let him know about the deliberation so at least the chair would be notified, but I was good that you guys were meeting today, and I could share with you. At least on how I plan to deal with this first one and I hope to create some consistent work with Traci and I where we're really considering this a little bit more and trying to make sure that we're forward thinking with you. Also try our best to be proactive on these.

e) ADJOURNMENT:

Chairman Sisney adjourned the meeting at 4:38 p.m.

PASSED AND APPROVED ON THIS 14th DAY OF APRIL, 2024.

A handwritten signature in black ink, appearing to read 'Chris Sisney', is positioned above a horizontal line.

Chris Sisney, Chairman
Planning & Zoning Board