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MAYOR PRO-TEM

**CITY OF BELEN
PLANNING & ZONING COMMISSION MEETING
MINUTES
AUGUST 29, 2011**

Chairman Rod Storey called the regular meeting of the Belen Planning and Zoning Commission meeting to order at 6:30 p.m.

Roll call being taken is as follows:

PRESENT: Chairman Rod Storey
Vice-Chair Dubra Karnes-Padilla
Commissioner Steven Fitzgerald
Commissioner Max Cordova
Commissioner Jon Trujillo

CITY STAFF: Lisa Miller, Zoning Enforcement Specialist
Andrew DiCamillo, Planning & Zoning Director

OTHERS: Diana Ross, BNT Preschool & Kindergarten
Renee Baca-Day, Renee Antoinette's School of Dance
Peggy Jaramillo, Citizen
Jonas Jaramillo, Citizen
Glen & Sherry Black, Citizen
Jeff Trembly, Citizen
Bertha Florez, Citizen
Mike Cordova, Mikes Auto

APPROVAL OF AGENDA:

Vice Chair Dubra Karnes-Padilla moved to approve the Agenda as presented.

Commissioner Max Cordova seconded the motion.

Motion carried.

APPROVE OF MINUTES:

Commissioner Steven Fitzgerald moved to approve the Minutes of July 25, 2011 as presented.

Commissioner Jon Trujillo seconded the motion.

Motion carried.

ACTION ITEMS

- A. REQUEST FOR A PRELIMINARY PLAT APPROVAL OF ADOBE MOONS MOBILE HOME SUBDIVISION: RUBEN RODRIQUEZ. LEGAL DESCRIPTION:** Township 5 North, Range 2 East, Section 19, Map 101, Tract 25A, consisting of 1.23 ac; Land of ER & k Roman, Tract D, Map 101, consisting of 6.17 ac and Lot 6 Tony Castillo Addition, consisting of .17 ac.

Andrew DiCamillo informed the Commission that this project was approved approximately 4 years ago as a zone change. That zone change was approved to a SU-1 which does allow Mobile Home Parks. On April 15 of this year Mr. Rodriquez submitted a subdivision review application and despite the recommendation for the beginning process of the subdivision procedure, which should have been checked off as a sketch plan review and as you will note for the record the set of plans that is before you are sketch plans; however, Mr. Rodriquez checked of Preliminary Plat approval. When the agenda was being approved, it was suggested that the agenda reflect a pre-application procedure which is more appropriate for this evening. This is development driven and he has met with this developer over ten times within the last four years. The developer has gone through four engineers and the latest is Jon Mortensen of Socorro Engineering, Inc., who provided the plans this evening. As of Friday, an email was received, informing him that the engineer would no longer be working with Mr. Rodriquez, due to non-payment but over the weekend a call was received from Mr. Rodriquez stating that the engineer and Mr. Rodriquez had worked things out and that he is back on schedule with complying with our development standards.

Chairman Rod Storey asked if the communication was received by both Mr. Rodriquez and the engineer or just one of them.

Andrew DiCamillo said that it was just Mr. Rodriquez. Mr. Rodriquez also left a phone message requesting that the request be removed from the meeting this evening because they would not be ready to meet all the requirements and standards. He was informed that we were unable to do this because of the process involved with public notices, legal adds, etc. Unfortunately Mr. Rodriquez informed Ms. Miller that he would be here but he is not present and no word was received that he would be

represented by anyone so being he is not present but insisted on having the preliminary plat hearing and trying to cancel it at the last minute, it is at the discretion of the Commission as to whether you wish to hear this and what he has complied and not complied with, to approve, deny, or defer to go to the Council.

Commissioner Jon Trujillo said that if it meant so much for him to get this approved, then why is he not present. It would be nice to hear what he has to say because either these people that are here are either for this or against this.

Chairman Rod Storey said that is one of the problems with not having all parties present but it can be heard and whatever the public has to say he will not be here to answer questions and asked Mr. DiCamillo what was left that has not been provided for the preliminary plat application.

Mr. DiCamillo informed the Commission that there are quite a few things missing. There was a meeting conducted with Mr. Rodriguez, his engineer, Mr. John Best, and at that meeting it was basically returned to them. The detail specifications, which tells us how they are going to build their development, the design standards have not been met, some of the things that they are presenting is the use of brick manholes and the city does not allow brick manholes, concrete manhole covers, which is also not allowed, backfill and compaction and our design standards call for 12 inch lifts with mechanical compaction, which in his designs it was hand tamping and the backfill and lifts were not referenced.

Vice-Chair Dubra Karnes-Padilla asked what the total is of the requirements that Mr. Rodriguez did not provide.

Mr. DiCamillo said that at this stage it is about 30% in compliance.

Chairman Rod Storey asked why the Commission was hearing this issue if the non-compliance issues have not been addressed.

Mr. DiCamillo informed them that this was his point on the issue.

Commissioner Jon Trujillo asked if Mr. DiCamillo if Mr. Rodriguez was aware or had been provided a copy of our subdivision requirements and standards.

Mr. DiCamillo said that he has a copy of our subdivision design standards and requirements plus a copy of our SU-1 zoning regulations concerning mobile home parks and even in the SU-1 zone regulations it references the subdivision design standards as part of the requirements. At the meeting of August 15th the engineer informed us that he did not have a copy of the subdivision design standards of the SU-1 zoning regulations.

Vice-Chair Dubra Karnes-Padilla asked when that meeting took place.

Mr. DiCamillo said August 15, 2011.

Vice-Chair Dubra Karnes-Padilla commented that Mr. Rodriguez has been working on this for four years and was not aware of the standards that were required.

Mr. DiCamillo said that not only that but his concern and remark was how can you draw up or even begin this process without even knowing what our subdivision design and standards are.

Commissioner Jon Trujillo said that he does not feel confident that Mr. Rodriguez is even on board because according to the email you received the engineer is no longer on board plus you only heard from Mr. Rodriguez that the engineer was back on board and not from the engineer himself.

Mr. DiCamillo said that he has to use caution when working with this engineer because they did not get off on the right foot. He does not know any community that does not have the type of standards that the engineer submitted. They are not only non-compliant but are completely ignoring any type of good workmanship. There are a lot of issues that need to be addressed. At this point Title 16.04.080, which is the subdivision process flowchart, and the very first thing on the flow chart is the design report which shall include storm drain management, soils analysis, water & sewer line calculations, scheduled development, special problems development and any information deemed necessary by the design engineer or the City and what has been provided does not meet this first requirement. This property is also subject to remediation because it is contaminated at one time and was a superfund site so there is extensive, over 14 monitor wells and an eight inch injection water well at 185 feet.

Vice-Chair Dubra Karnes-Padilla asked what was there that contaminated the area.

Mr. DiCamillo said that there, as far as he is aware of, was noting there but that an underground plum became contaminated, and they used are using that property to remediate the contamination. There is a large building located on the property for the water to be continually pump the water out for purification. Once the contamination is filtered then it is returned and injected back into the water table. The injection water well is owned by the property owner and they have offered to transfer that water well to the city and we are in the process of working with the state engineers office to see if that is something that the city wants, but it can not be used as a municipal well at this time. When the remediation has been completed, it can be developed into a municipal well but at some cost. If the engineer, working with the developer, there is a possibility that this well may be developed to meet fire flows for the subdivision. One of the issues with this development is that the developer is required to loop their water line system for fire flow, and on Main Street there is a 6 inch water line of asbestos concrete, and this line is permissible for this, but asbestos concrete is difficult to work with. On the back side, along Vivian, there is a four inch

water line and there is a concern with the fire flow because they are using a six inch line and a four inch line for the water line loop. This is just one of the reasons that we have pre application conferencing, not only for our sake but for the developers sake also, so one of their options is for their engineer to look at that eight inch water injection well to determine whether a pump can be installed and used as the fire flow and our standards do call for eight inch water lines, but six inch is permissible under state fire code. That is an example of one of the issues that we have commented on that the developer and his engineer still have a lot to do.

Vice-Chair Dubra Karnes-Padilla asked if the developer, at any of the meetings that have been held so far, stated how much money has been spent on this so far.

Mr. DiCamillo said that they have not. He has talked about what each unit is worth and part of our standards is that there is a 3% evaluation requirement of the subdivision that is to be paid to the city and we disagree on the evaluation. One and a half is due at the time of the Preliminary Plat review and the other 1.5% is due at the time of Final Plat approval. The preliminary cost analysis, provided by the developer, was estimated at \$458,000.00 but figuring that it takes a minimum of at least \$15,000 a lot, which is for curb & gutters, streets, utilities, etc. which would put the actual cost close to \$1,000,000.00.

Commissioner Jon Trujillo asked how many acre feet of water is estimated to be needed for this project.

Andrew DiCamillo said that being a 48 unit mobile home park it can be roughly calculated at 12 acre feet of water rights and that is also one of our requirements but is not due until final plat approval. If all of the engineering and all of the specks were ok'd with the city engineer and myself, the preliminary plat could have proceeded to the City Council with the recommendation of approval/disapproval by the P & Z Commission and at that time the infrastructure and improvements could start. At the time the developer feels that those things are complete he would then come back to the City Council to have them accepted by the City. At that point the final plat would be presented to the Council for final approval. This would include the other 1.5% of the evaluation, street names, house numbering, water rights, all other fees, including a warrantee deed which guarantees his improvements for one year, then if that is all approved he can then start bringing units in with all the proper permitting required through State Manufactured Housing and the City of Belen. It is an extensive process.

Chairman Rod Storey asked since the zone change was done four years ago and it was changed to SU-1, there is no reason that these mobile homes are not permissible, but it is a question of him meeting the subdivision standards that is the problem.

Mr. DiCamillo said yes.

Chairman Rod Storey asked if Mr. Rodriguez owned the property or is the sale of the property to Mr. Rodriguez contingent on the subdivision approval.

Mr. DiCamillo said that he is not clear on that but that Ms. Miller would probably be able to answer that question.

Ms. Miller said that if they would look at the legal print out of the property that it reads Sean Gabaldon C/O Good Homes LLC. What that means is that Sean is the legal owner of the property and the Good Homes LLC has a real estate contract with Mr. Gabaldon. Good Homes LLC will not get title to the property until the real estate contract is paid in full, so until then it is legally Sean Gabaldon.

Mr. DiCamillo said that after the subdivision design review is completed the City staff would set up a pre application procedure which affords the developer to avail himself of the advice of the P & Z Commission and the City engineer before preparation of the preliminary plat and before formal application for approval. The Commission may assist the subdivider in analyzing the development and plan for its sound integration with the city, and may give informal guidance to the development at a stage when potential points of difference can be more easily resolved, but the developer did not adhere to the staff advice on how they should proceed and insured us that all the standards would be met and in compliance and be ready for preliminary plat approval so that he could start work on the development. That just did not happen.

Chairman Rod Storey said that his main concerns are the fact that Mr. Rodriguez has not met very many of the requirements and that a copy of an email is saying that he does not even have an engineer for the project. The public will be allowed to state their concerns/ approval if they wish to do that at this time.

Ms. Renee Baca-Day, of Renee Antoinette's School of Dance, located at 920 S Main St., and the property located adjacent to that at 1006 S Main St. which is directly in front of the proposed Mobile Home Park development. Four years ago she was not aware of the zone change taking place and would have objected to it if she had known about it. She does not feel that this is the right development for Belen, certainly behind the back of the businesses in the area. Her businesses and BNT cater to small children. Six years ago when the dance studio was being built, she was handed a development standards packet for the development of the property. She had to get an engineer, soil samples, drainage plan, etc. and she had to get soil samples from the state due to the contamination. There are monitoring wells located on her property also. She is also located within a flood zone and is required to get flood insurance. They also had to build up the property to street level and said that the property located behind them is at a lower level. She is not sure what year of manufactured homes that is going to be required, the last she heard it was 1980, and that is getting up in age.

Mr. DiCamillo informed them that the required year would be 1995 or newer according to the restrictions placed on the property at the time of the zone change.

Ms. Baca-Day said that her concern is that the people who purchase the manufactured homes would also be able to afford flood insurance. Mobile homes that reach a certain age will not be able to get flood insurance so there would be people who could not insure their homes plus would not be able to get flood insurance, in a high risk area. There is already graffiti all over the building that is located on that property already and that a mobile home park would just bring in more. It would bring property values down and would not enhance the area. She asked that the Commission also consider the fact that the property is in remediation for contamination and will be for awhile.

Ms. Bertha Flores, resides at 31 Moonlight Rd., up by the Belen Alexander airport. A lot of that area was annexed into the City of Belen and she is now a resident. She purchased a lot from Mr. Rodriguez six years ago and has been through hell and back since. Not only did Mr. Rodriguez put the wrong lot number on the deed, which caused all payments to be placed on the improper lot, it almost went to auction due to back property taxes owed on it. If it wasn't for Ms. Miller, during her annexation process, I would have never know and lost my property. I was paying on the wrong lot. It has taken a year and a half for him to straighten it out. She even had to go to a lawyer. She put down \$33,000 down on that lot and has put much more into it and she was not sure whether she was going to have to move all she had built and done to the property that she thought was hers to the property on the deed. She had to threaten him to correct the mistake. He owed over \$7,000 in back taxes on the property that she was on and the taxes on the other property were being paid by her. Mr. Rodriguez is a good talker, he was going to put trees, steps, etc. when she moved the mobile home on the property. It was over a year before she even got electricity and was finally able to force him to connect them correctly. He also added \$7,000 extra to the property and did not even know it until just recently. He has done that to so many people out there. She used to work for Daylight Electric and Mr. Rodriguez owed them over \$5,000 in electrical work that he never paid them for do they disconnected all wiring because of non payment. He does not tell the truth. If it was someone else, a decent person with full intentions of developing it properly, then she would not have a problem with it. Belen needs more housing. The fact that he did not even show up at the meeting shows what kind of man he really is.

Chairman Rod Storey asked if there was anything in the development that state they would be rentals of would they be individually owned.

Mr. DiCamillo said that some of them would be individually owned and some were rentals according to the discussions that have taken place. There has not been anything in writing stating this.

Commissioner Jon Trujillo said that if he wanted to purchase 10 lots with the intent of placing rental units there, he could do that.

Mr. DiCamillo said that the way it is now, yes it could be done, but according to the subdivision development regulations for the City of Belen this can not be done. You can not subdivide an already subdivided subdivision. This will have to be written in the proposal.

Ms. Consuelo Baldonado would like to know how long it has been since the zone change because she had over 100 signatures, when it was originally proposed, that were against the change and we were completely ignored. How many chances does he get. He has already had four years, he has not complied with the subdivision standards, he has gone through four engineers, he has screwed over half of the people of Belen and are probably still paying on those lots, how long is this going to go on. Can a stop be put on this.

Chairman Rod Storey said that this was why they were there to either approve the preliminary plat or not. They is why the public hearing is taking place.

Ms. Baldonado asked if there was any way that the zoning on the property could be changed back to what it originally was because south main is zoned in certain areas for mobile homes on the west side and not on the east side.

Chairman Rod Storey explained that the only way would be for the property owner to request a zone change back to the original zoning.

Ms. Baldonado said that she does not see the benefits of having another such mobile home park off of Main Street. They have police on south main all the time now and this would only add to this problem. It is of no benefit at all and wanted to know that if it is denied, at this time, is this the end of it or are they going to have to come back in.

Chairman Rod Storey explained that the Commission was there to hear the request for a preliminary plat approval, which requires all of what has been said for approval. The zoning has already been heard and approved with a SU-1 zone. Once Mr. Rodriguez meets all of the requirements for the subdivision regulations he can bring it back for approval.

Mr. DiCamillo said that if it is denied tonight, that under the preliminary plat procedure.....

Commissioner Jon Trujillo said that he thought that it was only a preliminary sketch review and that Mr. Rodriguez filled out the wrong spots on the application form.

Mr. DiCamillo informed the Commission that under the preliminary plat procedure it says that the Commission shall review the preliminary plat and supplementary material and shall request comments from city staff, city engineer and other governmental agencies as may be appropriate. It also says that the council shall, within thirty-five days of receipt of the application package act thereon. It is the City Council that has the final approval and the P & Z Commission acts as a primary pass through for comments, conditions, and opinions on the proposed subdivision. There is, in his experience, always something that needs to be fine tuned and taken care of in the development of a subdivision approval.

Vice-Chair Dubra Karnes-Padilla asked if none of the conditions are met what happens then.

Mr. DiCamillo informed them that if the request is denied it would then go to City Council with the P & Z Commissions recommendation of a denial and if the Council were to deny this request the applicant would have one year to reapply.

Ms. Baldonado asked why Mr. Rodriguez was not looked into what his track record is since he has several mobile home parks in the county area.

Chairman Rod Storey said that it would have been a part of the process just like it was now. It would be a part of public comment. The next time there is a request for a zone change or an issue similar to this the person should also be looked into.

Mr. Mike Cordova, owner of Mike's Auto located at S Main St. Mr. Rodriguez's character is questionable because there have been people that have come by the shop asking for information on this gentleman. His question concerns whether he or anybody else can build on top of any property that is contaminated, because that whole area back there is contaminated and talking with Tim Hallier with Hallier Remediation, they are saying it was going to be between five to eight years before that area was going to be cleaned up.

Mr. DiCamillo said that he had a copy of Mr. Hallier's reports and the final remediation plan basically says that all the requirements of the property owner and the remediation process is not complete. They are still removing contaminates out of the ground. According to the state environment department the subdivision can go in since that process is underway but that they have to adhere to those monitoring wells and all the equipment that is there and the engineer for the subdivision project is the one to determine whether it can be developed or not. That is why the soils report, topography report, etc. are required especially with this site. There are two things that area must and one is that the area is contaminated and the other is the fact that the property sits a least two feet lower than the adjacent properties.

Vice-Chair Dubra Karnes-Padilla asked if there is the situation that a development in that area could contribute to the contamination of the property.

Mr. DiCamillo said that it could and our minimum standards do require that they do connect to city sewer and water, and that installation has to meet those standards and be installed correctly, because we do not want to contaminate our own system and other people who use the system and we do not want to contaminate the area. The soils analysis will also determine where your water table is too because one of the requirements for this subdivision is to have all the mobile homes installed on a permanent foundation, so it is still a foundation that has to be excavated at least two feet down and that is just the foundation, but when you are running water and sewer lines they go deeper than that, around four feet down. The first thing that you do is to find out what you are going to deal with before you continue.

Mr. Cordova said that it was his understanding that it would be another five to six years before the property contamination would be cleaned up.

Mr. DiCamillo said that the report reflects that. The city does not allow a new subdivision to operate off of its own well or septic. They have to be connected to city utilities.

Mr. Cordova said that he agrees with the other residents in that area in that they are concerned for south main and do not want to bring anything else into that area that would increase those problems and that Mr. Rodriquez's character does seem to be questionable.

Ms. Bea Dutcher, a resident at 1024 S Main St., was raised on the property that she still resides at. The south main area has always been commercial on the east side and residential on the west side and when this thing started four years ago she let everyone who would listen to her on what is actually on the property in question. There is cement, tar, junk, etc. all buried in that area. Mr. Rodriquez was informed of this and was told that this would have to be excavated to remove this debris and bring the property elevation level up and then was later informed that the water was also contaminated. For the sixty eight years that she has been here the east side has always been commercial and now, all of a sudden, someone comes in and gets the zone change and proposes to bring in raggedy ass trailers and put them in our back yards. I just seems unfair, granted there is extra housing needed, and the type of people, if what is already on south main is any indication, we do not need any more of.

Ms. Diana Ross, BNT Preschool owner, said that up until the middle of last year she had no problems with the property and building located at 1006 S. Main St. and since there has been more and more discussion on this proposed subdivision and more concern, there are several issues with the existing housing in the area as to the questionable people living in that area. They do not stay long and are of questionable character. In this time period she has been broken into three times, these people are stealing from children and not from her. They have taken things from the

playground, have tried to remove the back door, bars were placed on the windows and to have a questionable community behind us does not sit well. She was originally informed that the community was to have been for older couples, with no children but with what she has been hearing any tom, dick, or harry will be able to move in there, being in their trash and in three weeks be gone with another such person, of the same character, moving in. She is supposed to keep her children safe and what is she going to tell the parents they would be safe when ten feet away from them this will all be going on, but your kids are safe. She can not afford to have someone living on the property for security purposes. We do not need more of this type of situation in our area.

Vice-Chair Dubra Karnes-Padilla said that she has many concerns that over the four years that Mr. Rodriquez has not meet the standards that were needed, has not inquired on the standards, has not gotten a soils analysis done and not gone through the steps that would make this a beneficial area to the community. She made the decision to serve on the Planning & Zoning Commission because she was concerned about the quality of life in our community as from her personal view she would deny this request.

Chairman Rod Storey agreed with her saying that being the span of time in which Mr. Rodriquez has had to do this and by this time it should have been a very well developed proposal with all the conditions and requirements met. A lot of comments have been heard on his character but the Commission is not there to hear comments on his character, they are there to hear the proposal on the subdivision itself and all of the conditions, and requirements have not been met. The basis for the Commissions decision will be based on this information and not his character.

Commissioner Steven Fitzgerald moved to deny the request for a preliminary plat approval.

Commissioner Max Cordova seconded the motion.

Motion carried.

Vote was as follows:	Vice-Chair Dubra Karnes-Padilla	Yes
	Commissioner Jon Trujillo	Yes
	Commissioner Max Cordova	Yes
	Commissioner Steven Fitzgerald	Yes

ADJOURNMENT

There being no further business to come before the City of Belen Planning & Zoning Commission, Vice-Chair Dubra Karnes-Padilla moved to adjourn.

Commissioner Max Cordova seconded the motion.

Motion carried.

The regular meeting of the City of Belen Planning & Zoning Commission adjourned at 7:30 pm.

/s/
Roderick Storey, Chairman

ATTEST:

/s/
Andrew DiCamillo
Planning & Zoning Director