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PLANNING COMMISSION MEETING
Thursday, October 1, 2015

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MINUTES OF THE MEETING
OF THE
PLANNING COMMISSION
October 1, 2015

A regular meeting of the City of Santa Fe Planning Commission, was called to order by Chair Michael Harris, at approximately 6:00 p.m., on Thursday, October 1, 2015, in the City Council Chambers, City Hall, Santa Fe, New Mexico.

A. ROLL CALL

MEMBERS PRESENT:
Commissioner Michael Harris, Chair
Commissioner Brian Patrick Gutierrez, Secretary
Commissioner Roman Abeyta
Commissioner Justin Greene
Commissioner Vince Kadlubek
Commissioner Sarah Cottrell Propst
[Vacancy]
[Vacancy]

MEMBERS EXCUSED:
Commissioner Piper Kapin
Commissioner Katharine Anne Chavez [resigned]

OTHERS PRESENT:
Lisa Martínez, Director, Land Use Department
Greg Smith, Director, Current Planning Division – Staff liaison
Zachary Shandler, Assistant City Attorney
Carl Boaz for Melessia Helberg, Stenographer

There was a quorum of the membership in attendance for the conducting of official business.

Lisa Martinez, Land Use Director, said Commissioner Katharine Anne Chavez sent a letter of resignation earlier today via email with a copy to the Chair.

B. PLEDGE OF ALLEGIANCE

C. APPROVAL OF AGENDA

MOTION: Commissioner Propst moved, seconded by Commissioner Kadlubek, to approve the Agenda as presented.

VOTE: The motion was approved unanimously on a voice vote, with Commissioners Abeyta, Greene, Gutierrez, Kadlubek, and Propst, voting in favor of the motion and no one voting against [5-0]

D. APPROVAL OF MINUTES AND FINDINGS/CONCLUSIONS

MINUTES: SEPTEMBER 3, 2015

The following changes were made to the minutes of September 3, 2015:

Commissioner Propst asked a global correction to the spelling of her last name.
Page 3, Items 2(a), (b) and (c) correct as follows "~~St. Chair Harris Drive~~ St. Michaels Drive..."
Page 4, paragraph 4, line 4, add close quote after "for residents."
Page 5, paragraph 2, line 4, correct as follows: "~~To~~ So he felt..."
Page 7, paragraph 6, line 7, correct as follows: "...gap of ~~wind~~ land between..."
Page 8, paragraph 4, line 1, correct as follows: "Mr. William ~~Mean~~ Mee...."
Page 13, paragraph 1 under New Business, line 9, correct as follows: "~~Commissioner~~ Councilor Bushee..."
Page 14, paragraph 4, line 9, Incomplete sentence. Staff to insert a verb.
Page 25, paragraph 5, line 1, correct as follows: "...~~panning~~ planning process..."

MOTION: Commissioner Greene moved, seconded by Commissioner Kadlubek, to approve the minutes of the meeting of September 3, 2015, as amended.

VOTE: The motion was approved unanimously on a voice vote, with Commissioners Abeyta, Greene, Gutierrez, Kadlubek and Propst, voting in favor of the motion and no one voting against [5-0]

FINDINGS/CONCLUSIONS:

A copy of the Findings of Fact and Conclusions of Law, in Case #2015-57, Gerhart Apartments General Plan Amendment, and Case #2015-58, Gerhart Apartment Rezoning to R-21, as presented by staff, is incorporated herewith to these minutes as Exhibit "1."

A copy of the Findings of Fact and Conclusions of Law, in Case #2015-43, 2749 & 2751 Agua Fria Street General Plan Amendment, and Case #2015-44, 2749 & 2751 Agua Fria Street Rezoning to C-2, as presented by staff, is incorporated herewith to these minutes as Exhibit "2."

1. CASE #2015-57. GERHART APARTMENTS GENERAL PLAN AMENDMENT AND CASE #2015-58. GERHART APARTMENTS REZONING TO R-21

Commissioner Greene said, regarding Finding 16, General Plan Amendment, he would propose to add the following at the end, "*Although the City has a lease of neighboring land with plans for a fire station, it was revealed that no master plan or design for access through the subject property and the adjacent property has been proposed at this time.*"

Commissioner Greene said the goal was to make clear that there are plans for a fire station which is less than 20% of the land, and no access or master plan for it has been discussed, and "something should be expedited either at the Councilor Level, through planning or through Long Range Planning to discuss how we're going to get through there and to fulfill the General Plan commitment to connectivity."

Chair Harris agreed saying it is an accurate statement. He asked Mr. Shandler if he would like to speak to the proposed language and Mr. Shandler indicated he did not.

Commissioner Greene said, in Finding 23 under General Plan Amendment, he would propose to add the word "proposed" where it says "fire station," and, anywhere it says "commercial area," to add the word "proposed." He said, "At this time, there is no plan or documentation that this is prepared to go forward."

Commissioner Green proposed, in Finding #24, under General Plan Amendment, to strike the last sentence as follows: ~~*There are no identified inconsistencies with any other adopted policies.*~~ *Insert in lieu the following: "Access through and connecting adjacent properties was not able to be defined at this time. This could affect the use and efficient development of the State owned and City leased land located adjacent to the subject property. The proposed frontage road was not addressed at the time of the hearing. Access to the proposed fire station might be affected by the lack of defined access to the property and should be addressed as part of the development plan.*"

Commissioner Propst said that language seems to be a little beyond the scope.

Chair Harris said, "I'm not sure I followed all of that, because what I remember in reading the discussion is.... again, I'm not following all that you're proposing Commissioner Greene, but I thought there was going to be a pretty clear connection to the roundabout, this is at a fire station."

Commissioner Greene said, "It was proposed as a cul-de-sac and without other connectivity to South Meadows, which the General Plan generally says we shouldn't be doing. But in Finding 13, that was pretty clear, so it might be redundant."

Commissioner Propst said, "The first sentence that you suggested, 'access through and connecting adjacent properties is not able to be defined at this time,' seems accurate. But the rest of it is a little beyond the scope of what that finding is."

Commissioner Greene said, "The second sentence, I'm agreeable to maybe strike it from the proposed frontage road that is not addressed at that point."

Commissioner Propst said right.

Chair Harris said, "I would agree, because in talking it through, I think there was some confusion about what even the frontage road... which side of 599 it was supposed be on, even though it was represented in some of the packet information as being on, call it the City side versus the County. I think that the City frontage road was really never intended. I would be okay with the first statement which just basically reinforces the finding, but I probably think the second sentence went a little too far."

Commissioner Greene said, "Or the third sentence, right."

Chair Harris said, "Yes, the second sentence you're proposing... I guess it is the third sentence."

Commissioner Greene said, "In Finding 25, again 'proposed' new fire station and 'proposed' commercial area.' The same thing in Finding 27, 'proposed' fire station and proposed 'commercial' area."

Commissioner Greene said, "Again Finding 33, 'proposed' fire station and a new 'elementary' school is just to specify what kind of school is there.

Commissioner Greene said, "In Finding 34 add a sentence at the end, '*The Subject property will return to staff and the Planning Commission for staff and Planning Commission review, with a development plan that will address requirements for open space, sidewalks, connectivity to adjacent properties and upgrade to South Meadows to bring to urban standards'*."

Chair Harris said, "That's true, that's part of a process as well *[inaudible because microphone was not turned on]*." Chair Harris said, "Mr. Shandler what do you think."

Mr. Shandler said, "I defer to the Chair."

Chair Harris asked if there is Commission response to Commissioner Greene's proposed language.

Commissioner Kadlubek said, "I guess we're using the word proposed. I don't want to get too much into the nitty-gritty here. If we're saying proposed fire station, it makes me think that there's a fire station that's being proposed. Which the whole point of adding proposed in there is to state that there is not one that is currently being proposed. So, I don't know if it's the right word to use to get what you're trying to get at. I get what you're trying to get at, I just don't know if proposed is the right word, because there isn't a proposed fire station. That's the problem. Right."

Commissioner Propst said, "I think that's why in some places it said 'future,' but they weren't consistent in saying that either, so maybe that's the right term and we should put that consistently throughout.'

Commissioner Kadlubek said, "Or hypothetical."

Chair Harris said, "I think it was pretty clear that they've been working on it since 2008-2009. There was a lot of discussion about the Agua Fria Fire Station that Commissioner Abeyta led. So it didn't say it was a done deal. We didn't hear that from Mr. O'Reilly. I guess I'm okay with either future or proposed, but it should be consistent. I agree it's not consistent."

Mr. Kadlubek said, "That's fine."

[Commissioner Greene's remarks here were inaudible because his microphone was not turned on]

Commissioner Harris asked Commissioner Propst which one she likes – future or proposed, and Commissioner Propst said either is okay with her. She said it doesn't matter.

Commissioner Gutierrez asked Mr. Smith if the commercial property has already been taken care of – it is commercial and ready for sale.

Mr. Smith, "There are two possible meanings to the proposed commercial. There is the potential that the City parcel may have some sort of economic development use. I believe the context of these comments are with regard to C-2 Zoning which exists on the zoning map and a master plan for commercial use at the other side of the roundabout which had been approved by the Extraterritorial Zoning Authority, but which has likely expired since then. So, if we are talking about the C-2 Zoning, there is not a specific proposal, but there is zoning, C-2 Zoning, that would support future commercial use at that location."

Chair Harris asked which is the more appropriate word, noting he didn't follow whether he was talking about the commercial area of the 30 acres leased by the City. He asked, "What do you think is the more appropriate word, proposed or future."

Mr. Smith said, "I'm not trying to put words in the Commission's mouth in terms of which type of commercial. In either case, it's anticipated it would cover both bases if we wanted to, or planned or zoned commercial use, either of those would work."

Ms. Martinez said, "I'm thinking the right word might be proposed. And the reason I say that, is if you say future then you've already said this is what's coming, this is what is going to be there. Proposed means maybe yes, maybe no."

Chair Harris said then he is okay with proposed as long as we are consistent.

MOTION: Commissioner Kadlubek moved, seconded by Commissioner Greene, to approve the Findings of Fact and Conclusions of Law in Case #2015-57 Gerhart Apartments General Plan Amendment and Case #2015-58, Gerhart Apartments rezoning, with the corrections, as amended.

VOTE: The motion was approved unanimously on a voice vote, with Commissioners Abeyta, Greene, Gutierrez, Kadlubek, and Propst, voting in favor of the motion and no one voting against. (5-0).

2. CASE #2015-43. 2749 & 2751 AGUA FRIA STREET GENERAL PLAN AMENDMENT & CASE #2015-44. 2749 & 2751 AGUA FRIA STREET REZONE.

Commissioner Greene said under Finding 21, he would propose adding at the end, after "family business," the following: "*The current legal, nonconforming status has affected investment and property owner's ability to bring subject property up to Code. While this General Plan Amendment will address some of the land use issues, it does not bring the property up to current Code standards, and in fact, the property will remain legal, nonconforming until a Land Use and Redevelopment Plan is Developed.*"

Chair Harris said, "I believe that's an accurate statement, is it not, Mr. Shandler."

Mr. Shandler said, "Affected Investment, I don't know that was in the record, but... it was in the record... oh."

Commissioner Kadlubek said, "I would agree. I think also the affected investment is a reach and is not on record."

Commissioner Greene said, "I could strike the first sentence just to be clear, but the fact is it won't bring it up to Code and any new building permit would open a whole new can of worms. There's nothing that can be done to that property. It's still in limbo as to its status."

Mr. Shandler said, "There was testimony about that, yes."

Chair Harris said, "Then we'll accept the second sentence as proposed by Commissioner Greene... well we're consider accepting."

Commissioner Greene said, "Under Finding 22, similarly, add: '*The proposed General Plan Amendment does not address the current land use mix and in fact the property is developed to below current Building Codes. No Development Plan was addressed at the hearing.*' And striking the sentence, "~~*The proposal is consistent with land use policies, ordinances, regulations and plans.*~~"

Commissioner Kadlubek said, "It's true that it doesn't address the land use mix. Was it on the record that the buildings are not up to Code."

Commissioner Propst said, "I don't remember anything about Building Codes. I do remember that there are residential structures on the property and that is a nonconforming usage."

Commissioner Greene said, "Yes. That may be right, that we kept it to land use."

Commissioner Abeyta said, "That is my recollection also. I didn't think we got into Building Codes."

Mr. Smith said, "If I may, also for the record, I believe it's appropriate that there should be an affirmative finding that it does comply with the standards in that subsection. I think that would be significant to the record. The absence of a Finding of consistency with Subsection G might question the Commission's subsequent recommendation for approval."

Commissioner Greene said, "I can pull my proposal completely and return it to it's original form."

Commissioner Kadlubek said, "I think it's important. It might be important to state that it doesn't deal with the mixed usage of the land. I think that's true and that was an issue that came up. It is also stated in your previous amendment that it is still legally nonconforming, and I think that's true. So if you want to restate that there, I think that's fine. I agree the last sentence should remain. I think that is what Mr. Smith is saying is that the proposal is consistent with land use policies, ordinances, regulations and plans. We allow for legally non-conforming."

Commissioner Greene restated his amendment to Finding 22 as follows: "*The proposed General Plan Amendment does not address the current land use mix as developed. No development plan was addressed at this hearing.*"

Chair Harris said then that keeps the first sentence as proposed, and asked Commissioner Greene to read it one more time.

Commissioner Greene said, "*The proposed General Plan Amendment does not address the current land use mix and its legal, nonconforming status. No development plan was addressed at the hearing.*"

Commissioner Propst said she is unsure we need the last sentence and the Chair agreed.

Commissioner Kadlubek said, "There are a lot of things that weren't addressed at the last meeting."

Chair Harris said he would be okay with it, if Commissioner Greene drops the last sentence.

Commissioner Greene said, "On the last one, Finding 32, strike the last 4 words, '~~*project at full development*~~,' and change the sentence to read, '*Existing infrastructure is available to serve this development and has the capacity to accommodate* <u>*the current uses*</u>.' Add new language that says, '*At the time of this Rezoning Proposal there was no planned change of use, no detailed development plan for which to address specific infrastructure requirements. A development plan might be required for future redevelopment and change of land use mix. Depending on those future plans, this property and proposed new uses might be subject to review by the Planning Commission.*"

Chair Harris said, "I like the fact that you are digging into these, and I certainly don't want to discourage you from doing so into the future, but I need something in front of me in writing. I just couldn't follow it, and I can't read it on the screen with it grayed out like that."

Commissioner Kadlubek said, "I think what is important here is that he's trying to get at that like the issue at the end of that case, which was what if they come back wanting to do something that's of more intensity, do they have to submit a new Development Plan. Yes."

Chair Harris said, "We didn't consider any type of Development Plan."

Commissioner Greene said, "It was a question of if they come back with a 9,000 sq. ft. commercial building that is not subject to our review. If the Council decides to put a PUD over [it], it would automatically come back to the Planning Commission for review at any level, but we did not choose to slap that on there as a part of the *[inaudible]* just to be clear."

Chair Harris asked him to read the proposed language again.

Commissioner Propst said, "Could I make a suggestion before he reads that, that might simplify it. Again, the first sentence you're suggesting I think starts to get the whole point. And then maybe the end of it is not necessary, the last sentence or two. If they have to come in front of us for a development plan, they will. If they don't, they won't. We don't need to say that in the Findings here."

Chair Harris reiterated his request of Commissioner Greene to reread his proposed language.

Commissioner Greene said, "*At the time of this Rezoning Proposal, there was no planned change of use and no detailed development plan for which to address specific infrastructure requirements. A development plan might be required for future redevelopment and change of land use mix. Depending on those future plans, this property and the proposed uses might be subject to review by the Planning Commission.*"

Mr. Smith said, "Simplified language might refer to the likelihood that upgrades to infrastructure could be required at the time of future development and approvals. I'm trying to look at the point of the finding.... that the infrastructure is or will be adequate to accommodate the likely intensity of development. And it seems to me that the discussion is.... although we don't know, we do not have a development plan today, when and if there is a development plan for more intense..... the Commission believes it's likely that the infrastructure can be upgraded at that point."

Commissioner Greene said he is fine with that. He said, "I'm not sure why we have to list all of the hypotheticals. I think there are hundreds of hypotheticals with that property, right, why choose this one as the one that we're listing. But either way...."

Commissioner Propst, "I do think it's fair to state that first sentence, because it is somewhat unusual that someone came to us for a rezone but didn't have a plan with what they wanted to develop for the rezone.

Commissioner Greene said, "I think the first sentence is accurate."

Chair Harris said, "To repeat. Here's what I heard then. Existing infrastructure is available to serve this development and has the capacity to accommodate the current uses..... I simply can't..."

Commissioner Greene said, "At the time of this rezoning proposal there were [was] no planned change of use and there were no detailed development plans for which to address specific infrastructure requirements."

Chair Harris said if we leave it at that, he can support it.

Commissioner Greene, "On Finding 31, add a sentence that says, *'Future land uses that may be proposed on the property might require further review by the Planning Commission to address traffic, access, connectivity and other infrastructure requirements.'* That would be the catch-all."

Commissioner Greene said, "Pardon me, Mr. Chairman, but you opened a can of worms last time in giving us the option to read and review our findings."

Commissioner Kadlubek said, "I think what Commissioner Greene is getting at should be stated somehow. I do agree that part of the discussion we were having had to do with future usage and future development of that unit, so I think stating it in that way... I mean, again, I think there are a lot of things that might happen, and so I don't know why we're choosing one, but I think it's fine."

Chair Harris asked Mr. Shandler, "Can you can capture most of that, or do you need to get with Commissioner Greene afterward."

Mr. Shandler said, "Mr. Chairman, I'm ready for a motion."

MOTION: Commissioner Propst moved, seconded by Commissioner Kadlubek, to approve the Findings of Fact and Conclusions of Law in Case #2015-57, 2749 & 2751 Agua Fria Street General Plan Amendment and Case #2015-44, 2749 & 2751 Agua Fria Street Rezone, as amended with the edits the Commission just discussed.

VOTE: The motion was approved unanimously on a voice vote, with Commissioners Abeyta, Greene, Gutierrez, Kadlubek, and Propst, voting in favor of the motion and no one voting against [5-0]

E. OLD BUSINESS

There was no old business.

F. NEW BUSINESS

1. A RESOLUTION DIRECTING STAFF TO COMPLETE THE OLD PECOS TRAIL SCENIC CORRIDOR PLAN BY FOLLOWING THE NECESSARY PUBLIC PROCESS (COUNCILOR PATTI J. BUSHEE, SPONSOR)

Items F(1) and F(2) were combined for purposes of presentation and discussion.

A Legislative Summary for Resolution No. 2015- ___ Old Pecos Trail Corridor, with attachments, is incorporated herewith to these minutes as Exhibit "3."

A Legislative Summary for Resolution No. 2015- ___ West Santa Fe River Corridor, with attachments, is incorporated herewith to these minutes as Exhibit "4."

A proposed Amendment Sheet to this bill, submitted by Councilor Peter N. Ives, is incorporated herewith to these minutes as Exhibit "5."

A Memorandum regarding Proposed West Santa Fe River Corridor, undated, to Kate Chavez, Justin Greene, Lisa D. Martinez, from Simon Brackley, President, Santa Fe Chamber of Commerce, is incorporated herewith to these minutes as Exhibit "6."

Mr. Smith said he spoke with Councilor Bushee yesterday and she is unable to attend this evening because of a conflict. He said the Resolution was presented to the Public Works Committee, and understands there are additional sponsors. He said it was presented in a study session at PARC at its previous meeting.

Mr. Smith said the Commission is not required to take any action on this Resolution or the next Resolution on the agenda. This is on the Commission Agenda in the event the Commission does want to give advice to the Governing Body as it does effect the Commission's general authority over planning issues. The staff, subsequent to the September meeting of the Commission, did meet one time with a small group of neighbors involved in the original Old Pecos Trail Overlay District, and with Cyrus Samii in the Long Range Planning Division in 2003-2004."

Mr. Smith continued, saying the working group formulated four recommendations for amendments to the Old Pecos Trail Corridor area, changing the boundary to include the part of Old Pecos Trail north of St. Michael's intersection up to the H-District. They proposed a height limit, use restrictions and those aspects of the proposal never made it to a formal Planning Commission or City Council hearing. He said the setback recommendations of that working group have been incorporated into the Old Pecos Trail part of the existing South Central Highway Corridor Overlay District. He said if the Governing Body adopts this Resolution, the Current Planning Staff will resume work with the neighborhood, anticipating one or two meetings with the neighborhood working group and then presenting some form of a relatively brief Code amendment to the Commission for a public hearing, which then would go to the City Council for a formal hearing for adoption.

Commissioner Abeyta said his concern is he doesn't see the need for a $10,000 professional services contract for a professional meeting facilitator, and would think staff could do that themselves, especially in light of what we read about our budget deficit. He thinks it is a good idea to move this forward, but questions whether it is necessary to pay $10,000 to have someone to come in and facilitate a meeting for us.

Commissioner Kadlubek said with regard to this Resolution and the next Resolution, "I'll just reiterate what I said at the last Commission meetings, and I will say this again when we talk about the next Resolution, and I'll probably say this again for the next couple of years. If I'm going to be on the Planning Commission I'm going to be making decisions about the future development of our City. I want to have more criteria than just a developer telling me what they think and neighbors telling me what they think. I really think I want to hear more strong testimony from the City regarding economic impact from economic development, maybe long term. We read in the newspaper about a $15 million deficit. We read that Santa Fé County has the lowest amount of construction out of all counties across the United States. We read that 97% of our housing is occupied. We read that 38% of our workers live in Santa Fe, while 62% live outside of City limits, and these are all tied together."

Commissioner Kadlubek continued, "I want to know, because I'm not an economist, and I can't put these things together. I want to hear how the future of our City's economy is tied to housing and development. And I want to be able to base my decision on that and not on views, and not on hypothetical traffic increases, even when the Traffic Engineer tells us there's not. We've got to get real here. I guess I'm continuing to ask staff and maybe administration to get some teeth behind the economic future of our City and how development is tied to it."

Chair Harris said he agrees with Commissioner Abeyta regarding the expenditure. He said, "The expenditure narrative talks about the impact of staff, hiring a combination of a, b and c, of this. And then it goes on to say it could absorb the management. I think it's something staff should be able to do without bringing in additional consultants. That's my own view. The big question for me really is... we'll be talking about River Trail Lofts and we look at the Governing Body's comments which were interesting. One was from Councilor Bushee, and it was a different context. It talked about political stop signs. Do you remember that. Well it seems to me this is a different form of political stop sign. Just like the other Resolution is a different form of a political stop sign. And I think a more appropriate approach would be to make a real concerted effort to look at the General Plan and see how these sector plans really fit within that context. Both of the Resolutions, I think, just respond to the immediate circumstances here in 2015, as opposed to really thinking about.... is the 1999 General Plan still appropriate. My view is it needs attention, it needs a lot of attention. It needs prioritization. That's really what it comes down to for me."

Chair Harris continued, "I also think there should be an answer really about what went on before, whereas those standards were not fully adopted. I wrote in there, why not. What happened in 2004. You mentioned 4 categories, Mr. Smith, of things that were being considered. Poof. They went away. What happened."

Chair Harris continued saying, with regard to the Resolution, "It is not presented by anybody this evening, it is not defended by anybody, and, even if it was, I would probably have the same point of view in

terms of context with the General Plan, and my characterization, borrowing Councilor Bushee's characterization, of a political stop sign. And that's really what I have to say."

Commissioner Greene said both of the Resolutions will mean $40,000 in professional services. He said a neighborhood planner internal to the City might be able to do more and cover more of a scope than two projects. He said if the City has $40,000, the City might be better using those funds for an internal hire focused on neighborhood planning, overlay zones and facilitating this sort of thing. He said, "That is a comment more than it is anything else."

Mr. Smith said, "The questions about the FIR and the Old Pecos Corridor Rehabilitation.... we had initially anticipated that it would not be possible to locate the work product. I'm not clear that we did locate an official work product, although we do have more material available to us on Old Pecos Trail than we had at the time that the FIR was drafted. Our request for facilitation services anticipated that it would be highly controversial as was the case with MorningStar since it's in that same neighborhood, and also the Hospital. As I indicated in our presentation, we have scaled back the idea that we do any kind of comprehensive outreach process as part of this first translation."

Mr. Smith continued, "With regard to the specifics about staffing, Mr. MacPherson from the Long Range Planning Division is available to make any presentation or answer specific questions about staffing that the Commission has. I did not mean to present both simultaneously, but certainly the Commission can proceed in tandem if they wish to, just that Mr. MacPherson is available to address that second Resolution."

Commissioner Kadlubek proposed to amend the Resolution on page 2, as follows, *"Now Therefore Be It Resolved by the Governing Body of the City of Santa Fe, that Land Use Department staff is directed to ~~immediately~~ reconvene the public process to develop standards for the Old Pecos Trail Scenic Corridor following the prioritization of future land use criteria, and to present those standards to the Governing Body for adoption into the City's Land Use Code."* He said he would like to try to place the prioritization of criteria for future land use, prior to doing these because how are we ever going to decide what our plan is if we don't know what we are planning for.

Commissioner Propst said, "On page 2, line 22 of the Resolution, it says, *'The City of Santa Fe General Plan shall be kept current.'* And I don't know what that means. I would like to see more specificity along the lines of what you just outline, Chair Harris, about calling for an immediate review of the General Plan or something more specific, than just saying we're going to keep it current. I don't know what that means."

Commissioner Propst continued, "I also wondered on page 3, line 7, number 1 refers to a citizen working group, and it might be helpful to specify the size or the makeup in greater detail. Or if it's anyone who wants to be involved and can come, that level of specificity would also be helpful."

Responding to questions from the Chair and Commissioner Kadlubek, Commissioner Propst said it is on page 3, line 7, Item #1 where it says, "Create a citizen working group comprised of interested area residents and community members to advise staff during the process. And asked if that means anybody interested, or a group of 10. She said some way to specify the makeup would be helpful.

There was discussion among the Committee that Commissioner Propst is speaking of the Resolution in F(2).

Chair Harris said then she would like something like her proposed language to be incorporated in the response to the Governing Body as to how we view this Resolution.

Commissioner Propst said she is just suggesting that the Resolution would be more powerful and more clear for staff to implement if there was more specificity.

Responding to the Chair, Commissioner Propst said she isn't suggesting specific language for the Resolution, but suggesting that it might be a more effective Resolution if there is more specificity in the Resolution, for example the size and makeup of this working group.

Commissioner Kadlubek asked, in terms of process, do we want to talk about these Resolutions together, or do we want to stick with talking first about the first Resolution.

Commissioner Propst said she understood the Chair to say we were talking about both of them.

Commissioner Kadlubek said it's okay, he just wanted clarification if that's what we're doing.

Chair Harris said we can discuss them together.

Commissioner Greene said, "I was at one of the... at the meeting about a month ago after the last Planning Commission meeting where we met on that infamous Tuesday, maybe, and one of the concerns at the time... one of my concerns, and we've since received a letter of concern about this, is that the working group include property owners and business owners. And in this case, it's area residents as opposed to just give the property owners and the business owners in the neighborhoods a voice at the table at the same time."

Chair Harris said since we're moving back and forth, he thinks it's appropriate to talk generally. He said under the River Corridor Resolution, page 2, line 16, is the fourth point in a statement that starts, "Whereas the City Desires," and it desires 6 of the 7, but only wishes 1. He said, "And it wishes to work with land owners that have land uses and an existing condition. I think if the City desires to foster a Santa Fe tradition for instance, in number 2, I think the City should desire to protect the property rights of the land owners that have lands uses in existing conditions. That's my own view. I think it's similar to what I said a month ago and I think it's similar, Commissioner Greene, to what you're suggesting now."

Commissioner Greene said, "I think you're recommending striking 'the City wishes,' and then start Item #4 as a continuation, whereas the City desires to Item #4."

Chair Harris said, "I just started by saying number four. So it would read, '*Whereas the City desires to protect the property rights of the landowners that have land uses and existing conditions*,' something like that. But again, I didn't know why there would have to be a distinction when it comes to property rights where the City wishes rather than the City desires.

Commissioner Greene said he thinks the first 4 words should be stricken.

Commissioner Kadlubek agreed, saying it makes sense for it to just read, "Whereas the City desires to work with landowners that have land uses and existing conditions that do not currently meet City zoning regulations."

Chair Harris said, "Well, I'm going further, because this is again a month ago. It really does have to do with the property rights, so I would like to see, that's my own personal view. And I think what we're doing really is just providing comments that are going to back to the Governing Body. Correct."

Mr. Smith said, "The record of the Commission's discussion, and any friendly advice the Commission chooses to give to the Council will be forwarded to them as part of the record."

Commissioner Kadlubek said, "In the list of 'Whereas the City desires to,' I'm surprised to not read that the City desires to create affordable housing or strengthen the economy, or attract new business owners. So I'm wondering if we're listing in this Resolution and, this Resolution is based on the planning of this area, why there are some things that are omitted that I know it has already been determined that the City wishes or that the City desires. So I think there needs to be some language in here about the City desiring to alleviate the housing capacity issue. There needs to be some language about the City desiring to supply more affordable housing. So I think that those are two things I'd like to see in there in the Whereas. The Resolution is obviously slanted to me."

Chair Harris said, "I'm going to try and summarize a few things so that maybe we can just give a consolidated statement of some broad bullet points that I heard mentioned. Would that be appropriate Commissioners. I think it might be hard for them to pull out of our discussion what we're saying. I know when I read my own language in minutes, it's not always clear."

Chair Harris continued, "If I could, I want to start with one of the points that I made, which is I believe the sector plans should follow a thorough updating of the General Plan. That's my view. Whether or not you agree with that, it could coincide with the development of the General Plan. There's language that suggests that. For the Old Pecos Trail Coordinator it would need to be coordinated with other ongoing planning and Code updates, including the update to the General Plan. I don't know exactly what that means. To me, it means that it could still go pretty far along without... and then just be included in the updated General Plan."

Commissioner Propst said, "I'm not sure if I am comfortable in making a recommendation on the sequence. But I am comfortable, and in fact it would make our jobs easier doing the public's business here, if there was a more systematic update of the General Plan happening, and we weren't just reacting to political hot spots."

Commissioner Kadlubek said, "Being on the Long Range Planning Committee, we were informed that basically, we don't need a thorough restructuring of the General Plan. We need a targeted one. 90% of the General Plan is probably going to remain. And what we need.... and then the conversation completely got dropped because Councilor Lindell pulled her Resolution. So there was a Resolution in the works and at Long Range we were basing off that, but that got pulled and it's no longer on the table. I think we need to urge Councilor Lindell to maybe reintroduce, or any member of the Governing Body, to reintroduce something that looked to the General Plan. And I would say, just from my vantage point, having direction from the City as to what priorities are we determining. And I don't know if we can.... so there's already a list of criteria in the General Plan. But the criteria is like 14 pieces of criteria that are not weighted. So you have water over here. You have economic development over here, and they're not weighted, so it's just a total wash. So I think if we had a better sense from staff and a better sense from the City as to how we should be prioritizing our planning. That would be a first step that would be really helpful. And if we start a public process of planning without that, then what are we planning. What are the pillars of planning at that point."

Commissioner Abeyta said he agrees with Commissioner Kadlubek. He said, "You had mentioned about that we don't have to redo the General Plan, there are these targets. Well, who chooses the targets, and by what criteria I think. Or is it just done by Resolution. Whoever bring forward a Resolution from their District and you get enough votes that's what gets looked at. So I agree, I think we do need to define.... we have to look at where we are today, what are the challenges we are facing as a City, and maybe that's how you determine the weight. Because, certainly at one point water was, and water will always be critical, but economic development, I agree with you. One of my concerns is that as our children grow up and they go to school, there's nothing here for them to come back to. And we've got to try to reverse that. And I think now is the time to do it."

Chair Harris thanked Commissioner Abeyta. He said, "We've had this discussion off and on throughout 2015, and I hear the same things...how difficult it is up here to respond to, quite frankly, typically the loudest voice, and that's just the way it has been, when it comes to how to interpret the General Plan. So perhaps, at the very least, what this body could say, is that we really should start with what they call a targeted prioritization. The 1999 General Plan needs to be addressed. It seems like we can't put these two sector plans at the head of the list and just completely set aside the General Plan. And I've read the same thing too, I haven't talked to any Councilors about this, but at the very least, they should come out of the chute at the same time."

Ms. Martínez said, "In the last year that I've been here in this position and watched this process, and started to learn how it works, the thing that I've seen is there's been a lot of talk about the General Plan. And it seems like when we get into some of these complicated issues, like we looked at, at our last meeting, pertaining to Agua Fria, everybody says we don't have enough specifics to know how to look at this and look into the future and what happens. So ultimately, it always comes back to the General Plan and the need for some updates."

Ms. Martinez continued, "Historic has started to work on some of those updates. It's not that comprehensive as of yet, but some work has started. So, as we've gotten into these more complicated cases that have come forward, then as the public has come out and talked to us about their concerns,

what has come forward are these proposed resolutions to focus on a specific area. So, while we're trying to look at the bigger picture, other folks have come in and said no, you need to get into these specifics. But I think the comment Commissioner Kadlubek made about needing to have priorities defined is absolutely right. We need to have those to focus attention on those for whether it be this Resolution or the next Resolution, General Plan Amendments."

Ms. Martinez continued, "So I'm kind of thinking that that's kind of a good place to start and maybe that might be an opportunity for us to think about an upcoming planning session and to focus and start thinking about what some of those priorities might be. Otherwise, we'll be jumping from whichever Resolution comes up next month or the following month, and we won't have a focus. It will just kind of be all over the place. And so if you are open to that sort of idea, we would be willing to put together a study session and start looking at that."

Commissioner Kadlubek said, "I personally appreciated the last study session we had, and I would welcome another one for sure about this specifically, about the prioritization. Yes."

Chair Harris said, "I think that's fine. What I would like to do though, rather than do it from the podium.... the study session we had in December we did it around the table, people could talk, look one another in the eye. The public was still invited. It's not the biggest room, but it really sets a different tone when, as citizens of Santa Fe and Commissioners for the City, we can talk across the table. It's still a public meeting. It's still *quasi judicial* and we don't get into cases, but it is, I don't want to say relaxed, but the circumstances allow a better conversation. So, that's the way I would like to handle it and I think would be important. And I'd really like to know the specifics too, of what has come out of the internal process that you described, Director Martinez. I don't need to know it now, but I would like to...."

Chair Harris continued, "The Law Center, and I can't remember the exact name of it... Councilor Lindell was on this particular Board and she took it upon herself, and I thought it was a great idea, to list those goals that are found in the Land Use Section, the themes in the Land Use Section of the General Plan, there are about 11 of them and she just ranked them. She said, water consumption, she gave it a 9. Affordable housing, she gave that an 8 or 9. Economic development. I'm not going to put words in her mouth, but I remember it as being just as Commissioner Abeyta said. The City has made some real progress on some of those stated themes within Land Use. I think it would be a useful exercise, perhaps as part of this Study Session, to ask each of the Commissioners how they would rank each of those themes 1-10. I think that might lead to a little bit of understanding where each Commissioner is coming from."

Commissioner Kadlubek said, "As a follow-up to that, if I am going to rank themes, I need to have some expertise.... I would like to hear some testimony or I would like to hear just some education from those themes. And I don't know what they were. I don't know Commissioner Greene, but remember when we saw the board at Long Range Planning, were those the themes, or some criteria under future land use or what was that."

Commissioner Greene said, "Yes, those were generalized themes. Some of them were kind of redundant and I'm not sure if they were all the 11, I think there were more than the 11. Some of them were a process and some others. I think those are included in the General Plan as the end result.

Chair Harris said as citizens, and people who live here, we have a different responsibility, and we can combine both of those as what do we think. He believes there are 14 themes in the General Plan and 11 in the Land Use Section, and they are broad. He said it is an idea, and asked Ms. Martinez to think this through and propose something she thinks might be useful and valuable to do in a study session, somewhere not on the podium.

Commissioner Greene said he would like update from where we were in 1999 to where we are now – report the progress, so we can see how we've done in last 15 years.

Commissioner Kadlubek asked if, as a Commission, we want to recommend the public process on the sector plans be delayed until there is a prioritization, commenting his personal opinion is yes.

Commissioner Abeyta agreed with Commissioner Kadlubek, commenting he thinks some of these resolutions may be appropriate and there may be uses that fit in a certain area of the City, and if there is an area where they do fit, then we should designate that and roll out the red carpet so it happens. However, with a comprehensive look at the whole thing, it is difficult to make those judgment calls.

Commissioner Propst reiterated that she is uncomfortable in telling the Governing Body to pull back on their Resolutions, but she does think we need to make a very strong recommendation for the prioritization as discussed this evening, and take a comprehensive look at the City, and look at other hot spots that we should prioritize like Ms. Martinez was talking about. A study session would be helpful.

Commissioner Gutierrez said he would echo Commissioner Propst's remarks, commenting he doesn't think we will slow down the resolutions anyway. He wants to update what we can in the General Plan to make things easier for us.

Commissioner Greene said he would prefer the $40,000 to be used toward the General Plan update which includes focusing on these areas. He believes Agua Fria and the River Corridor are more in need of detailing than the Old Pecos Trail Corridor which was a singular project that raised everybody's ire. He said whether ir goes away or stays, that will have to be resolved, but this probably won't come fast enough for that.

Commissioner Kadlubek said another thing involving public process, is we talk about involving the people from the area and the landowners who own houses or business owners in the area. He said if you're thinking about the River Trail, a lot of that area could be developed as dense housing, infill and affordable housing. He said the people whose voices would matter in this discussion who need affordable housing are not currently in the area. So we can't just base the process in the future development of an area on the people who are already there, because the potential development will affect people living in Rio Rancho or on the southside of town who want to move closer into town. He thinks we need to try to have a broader and better cross section in public input.

Commissioner Gutierrez said he has full faith that staff can mediate these meetings, as opposed to hiring an outside source to help get the ball rolling.

Chair Harris said, "To honor what you've said Commissioner Propst and Commissioner Gutierrez, we acknowledge full well that we are an advisory body on these issues. The Governing Body will set the pace as they decide, but also there is a sentiment that the General Plan needs to be reinvigorated, and that reinvigoration will occur. We can let them know we're going to have another study session. He said that reinvigoration doesn't need to be a complete rewrite but at the very least should look at the themes and talk about a prioritization. And we can encourage the Governing Body also to consider reinvigorating the General Plan as they look at these sector plans. And furthermore we have full faith and confidence in the ability of Current Planning Staff and Long Range Planning staff to lead the effort in the sector plans, and we think the broader effort is the more appropriate place to use the money that is proposed. Is that a fair statement. Okay."

Mr. Smith said, "We can discuss it further under Communications with Staff and the Commission at the end of the meeting if you wish. I heard considerable sentiment with regard to a study session. If it is the consensus of the Commission, we can work with Current Planning and Long Range Planning staff to schedule a study session on some of these topics as early as November 19, 2015, the second scheduled meeting in November.

Chair Harris said he realizes the time constraints, and said for the forum he prefers, November 19th which would be the earliest date.

No action was taken on this Agenda Item.

2. A RESOLUTION DIRECTING STAFF TO CREATE THE WEST SANTA FE RIVER CORRIDOR PLAN BY FOLLOWING THE NECESSARY PUBLIC PROCESS. (COUNCILOR PATTI J. BUSHEE, SPONSOR)

Please see Item F(1) above for discussion.

No action was taken on this Agenda Item.

3. <u>CASE #2015-82.</u> RIVER TRAIL LOFTS FINAL DEVELOPMENT PLAN. SOMMER, KARNES & ASSOCIATES, AGENT FOR ALAMEDA LOFTS INVESTMENTS, LLC, REQUESTS FINAL DEVELOPMENT APPROVAL FOR 32 UNITS ON 4.25 ACRES OF LAND. THE PROPERTY IS ZONED R-7 (RESIDENTIAL, 7 DWELLING UNITS PER ACRE) AND IS LOCATED AT 2180 AND 2184 WEST ALAMEDA. (DONNA WYNANT, CASE MANAGER)

A Memorandum dated September 24, 2015 for the October 1, 2015 Meeting, with attachments, to the Planning Commission from Donna Wynant, Senior Planner, Current Planning Division, is incorporated herewith to these minutes as Exhibit "7."

A Memorandum dated October 1, 2015, with attachments, to the Planning Commission from the Current Planning Division, regarding additional information, is incorporated herewith to these minutes as Exhibit "8."

A Gmail dated October 1, 2015 at 5:44 p.m., to Rachel Watson and Rick Brenner, from Gregory Leon Baird, regarding Testimonial: 2240 W. Alameda Street, is incorporated herewith to these minutes as Exhibit "9."

A copy of a matrix containing DRT Conditions of Approval on the River Trails Loft, Case #2015-46, is incorporated herewith to these minutes as Exhibit "10."

A copy of pages 40-41 of the Planning Commission minutes for the meeting of June 4, 2015, submitted for the record by Zachary Shandler, are incorporated collectively herewith to these minutes as Exhibit "11."

The River Trail Lofts at West Alameda Final Development Plan and Rezoning, Sheet C, prepared by High Desert Surveying, Inc., dated 08/24/15, is on file in and copies can be obtained from the City of Santa Fe Land Use Department.

Disclosure: Commissioner Kadlubek said, "Due to some mutual interests in each others business, I am going to have to recuse myself from this case." Commissioner Kadlubek then left the Council Chambers.

Chair Harris said Commissioner Kadlubek pointed out that the backup materials are for Case #2015-46, and the caption of the Agenda is Case #2015-81.

Ms. Wynant said the caption is correct, Case #2015-82.

Donna Wynant presented information in this matter via overhead. Please see Exhibit "7," for specifics of this presentation.

Ms. Wynant noted there two late communications before the Commission which were received from Charles V. Henry, Esq., an attorney representing a neighbor regarding solar rights, and from Nury Khozein, a neighbor to the west with regard to drainage [Exhibit "8"]. Ms. Wynant noted that John Romero, Director, Traffic Vision, is present to deal with access issues.

Ms. Wynant said Keith Wilson made 2 points. One is any development of this size should be connected to the River Trail, noting how that was to be done wasn't reflected in the Preliminary Development Plan. Secondly was that this development should connect to the Rio Vista Subdivision by way of pedestrian connection, noting Mr. Wilson wasn't making a case for a vehicular connection but for a pedestrian connection. She said, "So I think tonight there is a question of interpretation of his two points. He certainly felt this should be connected to the River Trail and that there should be a pedestrian access to

the Rio Vista Subdivision. So the details of that should go right to his comments. I think that connection could be made by way of a sidewalk, a kind of pathway, but the Memo from Traffic Engineering is to really make the point and emphasize the importance of ADA accessibility from where the sidewalk ends at the drive and continues to the intersection with Don Jose where there is a sidewalk."

Ms. Wynant said, "The Land Use Department felt this proposal was in compliance with and in alignment with the Preliminary Development Plan and the issues have been addressed."

Public Hearing

Presentation by the Applicant

Joseph Karnes, Sommer, Karnes & Associates, 200 West Marcy, Agent for the owner was sworn. Mr. Karnes distributed copies of a late communication from Gregory Baird, a resident of Alameda Lofts [Exhibit "9."].

Mr. Karnes presented information via the overhead, and said, "We appreciate the opportunity to come back tonight and follow through on the decisions that were made by this Commission back in June to unanimously approve the rezoning request from R-5 to R-7, and also unanimously recommended approval of the Preliminary Development Plan. Those items went to City Council in August and were approved there as well. One of the reasons we went through the Preliminary Development Plan process is to set the stage and get everyone's eyeballs on that Preliminary Development Plan. Since that time the project team has had several meetings with staff and has carried out the engineering, taking a schematic plan and turning it into what is proposed to be development as part of this project, and before I launch into my two items I have to talk about, I want to mention that the project architect, Christopher Purvis, is here tonight. He'll spent a few minutes walking through the planning process, particularly for the benefit of those Commissioners who were not at the Planning Commission in June. And the Applicant representatives from Alameda Lofts, LLC, Rick Brenner and Rachel Watson are here tonight and are available to answer any questions you may have."

Mr. Karnes said, "In going through the engineering process, and turning the Preliminary Development Plan into the Final Plan before you tonight, there were a couple, two particular areas where there was focus and some revisions to the Preliminary Plan. Initially, as you are aware and as Ms. Wynant explained, at the north end of the site next to West Alameda Street, there is an area of fill. It is the highest area of the property and there were some challenges that Morrie Walker the Project Engineer, worked closely with staff on, to provide for getting in and out of the property onto West Alameda. There needs to be a pad at the top. It's flat so one or two cars can queue when turning onto West Alameda and need to get down the hill into the property. So that received a lot of focus. The proposal is to take down about 7 feet of that fill and create a situation where you have proper turning radii and are able to get down the hill in and out of the property. As a result of that, the two dwelling units in the northerly part of the property have been reduced from two-stories to one-story, and that will have some ramifications I'll get to in a minute. So that whole area works better as the result of lowering that artificial fill that was placed sometime in the past."

Mr. Karnes continued, "Secondly the plan before you tonight shows the pedestrian path that goes down along the driveway network from West Alameda Street, and you can see down at the southern end of the property, the path goes all the way down to the River Trail and provides the connectivity Ms. Wynant spoke of that was important to the MPO and to the Public Works Department, so that is shown on the plan that Christopher will be walking through in a few minutes."

Mr. Karnes said, "I have two matters to discuss, both of which Ms. Wynant touched upon. The first has to do with solar rights. There was a lot of discussion before the Planning Commission at the June meeting about the proximity of the buildings along the easterly side of the property and the adjacent subdivision. About a week ago, we received a recorded solar rights easement, recorded pursuant to the New Mexico Solar Rights Act. It was recorded by Charlie Henry, an attorney here in town on behalf of Jeanne DiLoreto who owns 149 Calle Don Jose. That easement relates to the two buildings that are in that area of fill, which for reasons having to do with the engineering have been reduced to one story. It provided us the opportunity, in particular, Christopher Purvis with the opportunity to spend some time grappling with the easement provisions and the provisions of the Act, and really focus on and analyze the relation of the protected solar rights which we recognize and the proposed structures."

Mr. Karnes continued, "Mr. Purvis went through that analysis and concluded that there will be no infringement of the proposed buildings in that area on the solar rights claimed by the adjoining property owner. And we presented that analysis to Mr. Henry, and he provided me an email this afternoon saying, 'This is the confirmed agreement that my client will not appear at the public hearing tonight and object or protest the development, and in return, your client will not oppose my client's solar rights declaration.' So that issue has been asked and answered with respect to the one solar rights easement that has been recorded. And I'll also point out that the easement is a purely civil matter between the adjoining property owners, and does not have a direct bearing on this body's actions tonight. But of course, the Applicant does not want to get into a situation where they construct something that would give rise to an issue. So we did the analysis, and as Mr. Purvis will explain, since that area is the highest portion of the site and as Ms. Wynant explained, the southerly portion of the subject property is lower than the adjoining subdivision, so basically, we analyzed the worst case scenario and Mr. Purview has a couple of cross-sections he will show you that demonstrate that the issues that have been asked and answered with respect to the worst case scenario, show there are not going to be issue along the balance of the site."

Mr. Karnes continued, "The other issue I want to speak to has to do with the proposed condition from the Public Works Department and the MPO regarding off-site pedestrian improvements. Apart from that one condition, the Applicants and the project team are in agreement with all of the conditions recommended by staff for the Final Development Plan."

Mr. Karnes continued, "With respect to the off site trail requirements, Condition A-1 in your packet, the focus throughout the process, through the ENN meetings, the Planning Commission's consideration of the application and the City Council's consideration, has really been on providing pedestrian connection between West Alameda Street and the River Trail. With respect to the connection to westerly side of the project, where it intersects where the emergency access intersects with the adjoining subdivision, the discussion was consistent all the way through the process. The Planning Commission and City Council approved the Preliminary Development Plan without imposing a requirement for any off-site construction.

All the discussion was about internal dedication of easement and pedestrian path construction."

Mr. Karnes continued, "I'll start back at the Planning Commission Staff Report from the Public Works Department, dated May 19, 2015. It didn't say anything about an off-site construction requirement. The only requirements were the granting of easements within the project site. And this is one of the reasons we went through the Preliminary Development Plan process, was to get these issues on the table. The Public Works staff had an opportunity to make any recommendations it wanted to that were not in the May 19, 2015 staff report."

Mr. Karnes continued, "Then at the Planning Commission meeting on June 4, 2015, the issue was specifically discussed and there was clarification of the MPO's requested condition, and I'll read to you directly from the motion that preceded the unanimous vote to approve the Preliminary Development Plan. It said, '*The condition of approval from the MPO was clarified to include internal pedestrian pathways/ sidewalks or pedestrian connections to the existing neighborhood to its east.*' Internal means within the project side and exactly what the Final Development Plan provides. There was not discussion, no request by either Public Works staff or the MPO for any off site construction. So, if we look at this, when the adjacent subdivision was developed, the City could have required have required construction of sidewalks by that developer for that development. That didn't occur. The opportunity existed during this review and approval process to make that requirement as part of the Preliminary Development Plan, but that did not occur."

Mr. Karnes continued, "So this is really a third bite at the apple. And I'll just point out, the Final Development Plan, as it's required to do, references all of the conditions imposed on the Preliminary Development Plan and it's consistent with the Preliminary Development Plan. The requirement for construction of an off-site sidewalk contradicts the prior approval, it's not supported by a nexus. This project does not give rise to the need for sidewalks on an adjoining property. And it is an unjustified third bite of the apple, attempting to impose yet more construction costs on this project, which, as we know, will be passed on to the residents of the project if this condition is allowed to stand. This is a substantial cost that is being put upon this project at the last minute, after approval of the Preliminary Development Plan and we request that you delete that condition from your consideration tonight. Other than that one item, we appreciate of all staff's...."

Chair Harris said, "Excuse me Mr. Karnes, I want to make sure that.... I've got the conditions of approval open here. Give me the exact reference. Are we talking 1A. Give me the exact reference, excuse me, give the Commission the exact reference."

Mr. Karnes said, "I'm looking at Exhibit A, Final Development Plan Conditions of Approval, at the bottom of page 1 of 3. I don't have the page references in your packet, but it's Condition 2(A)(1), and I'll read it to you, '*The Developer shall design and construct pedestrian improvements from the subject property to connect with the existing sidewalk at the northwest corner of Santa Fe River Road and Calle Don Jose.*' And so I'll just reiterate what the language was in the minutes of the Planning Commission's approval back in June. There was no reference to off-site improvements, rather, the condition was, '*Internal pedestrian/pathways, sidewalks or pedestrian connections to the existing neighborhood to its east.*' The only way that you can read that condition into a condition requiring an off-site improvement is to

stand the word 'internal' on its head and call it its opposite which is 'external.' The condition that was imposed by the Planning Commission, ratified by the City Council, was internal improvements. And so we submit to you that the request for off-site improvements is not warranted in this case. Apart from that, all of the other conditions recommended to you, we stand behind and we're ready to accept."

Mr. Karnes continued, "In conclusion, I would like to say a couple of words. Rick and Rachel aren't going to speak tonight. But as those of you who were here, for the benefit of the Commissioners who were not there, Rick and Rachel ave a long track record here. They are long time Santa Fe residents. They've done the Alameda Lofts project just to the west of this project. The individual who sent the letter I handed out earlier lives in that project, it's been very well received. It's a unique and different type of residential development in this town that is in great demand. They also did the Lena Street Lofts project, again, a very well received project. They care a lot about this community and have decided to take on this project due to the need for the type of affordable, market rate housing that this project provides. And I'll just point out that, as you recognized in recommending approval of the Rezone and the Preliminary Development Plan, this project is infill development that is called for by the General Plan. There is existing infrastructure that will serve this project and avoid sprawl. We need this type of development close to the downtown area and it will provide 6 designated affordable housing units which Mr. Brenner and Ms. Watson have agreed to sell instead of rent. So that was a commitment on their part to address the Council concerns that were raised. So I'll be happy to stand for any questions. Mr. Purvis will walk through a little bit of the planning philosophy behind the Final Development Plan."

Christopher Purvis, 200 West Marcy, Architect for the project, was sworn. Mr. Purvis said, "I'll give a brief overview for those of you who weren't here a few months ago. The concept behind this subdivision is that it's not a standard subdivision that the housing is collected and gathered so the footprint of each unit is 1000 sq. ft feet, and by clustering them around courtyards are more like car parks. But the car parks are kind of informal and they support the adjacent properties, we were able to have much less footprint overall on the land. Our lot coverage is close to 17% which is significantly less than you would find on a typical subdivision at this scale."

Mr. Purvis continued, "So with that in mind, I wanted to try and address a couple of the issues that came up to do with the solar rights and/or how our property affects the properties next door. And Mr. Karnes referenced the solar rights that were put in place by this property owner 'here,' and you can see how it directly faces into our subdivision. So I spent some time looking at those. I got a lot of nice survey information. They gave us their floor heights and where the *[inaudible]* is. And it turns out their finished floor, currently proposed at 2½ feet below the finished floor of these units up 'here.' So that yields something like 'this.' As you can see, solar rights kick in at three o'clock on December twenty-first, so the time when the sun is the lowest and when you need to have the heat on. They have a small terminal over there, and according to way we understand it, there were some discrepancies between our surveyor and their surveyor. They both use different datum, but they talk and we agree that there is a foot and a half difference. So using that interpretation, we could build a 20 foot house in the location we show. We're proposing the peak of the roof at 17 feet, so at one point, it gets within 3 feet. But as it gets closer to the property line it falls away, so you end up not throwing much shadow at all. In fact, I took a more typical survey for October 21st. You can see that we hardly throw any shadow even on their property, never mind our their house at three o'clock in the afternoon."

Mr. Purvis continued, "Using this information, and my own interpretation, I worked further down. There's two lots up at the top. We have two lots where we are actually a little bit higher than those houses, which are typically 10 feet lower than the houses that are immediately adjacent. So the solar rights include your grade and then you add a 10 foot fence. So this kicks in at 15 feet above our finished floor. In fact our *[inaudible]* line, even on these two-story units is 17 feet. So we're only two feet above and ten feet away from the property line. So you can tell we're not going to have an impact on those houses, never mind on their collectors. The collectors typically face down in 'this' direction and we're talking about how I did my calculations based on straight across from 'this' wall to 'this' wall of the house. But it is 'this' wall of the house that has the solar collectors and will face southeast just to get that clear, which is the appropriate place to face the photo collector. Although that one property actually faces slightly southwest and that is the one that faces more toward our property."

Mr. Purvis continued, "And finally, just because a picture is worth a thousand words, 'this' is the view from our property up to the immediately adjacent neighbors. You see a piece of steel bolted to the wall. It's approximately the third line of their yard. And then all of the yards of the houses slope from their finished floor down to that third line. I believe there is a testimony in front of you or the City Council that one of the members said it's approximately ten feet difference between the finished floor of theirs and the finished floor at 'this' grade. And certainly, by eyeballing it, it seems that's the case. And of course, I only have the final grades on the top property, because they're the only ones who actually gave us the information. And that's all I have."

Chair Harris thanked the Applicant for their presentations.

Speaking to the Request

There was no one speaking to the request.

The Public Testimony Portion of the Public Hearing was closed

Chair Harris said, "Let me start by saying how relieved I am that the homes closest to West Alameda have now become one-story homes. I felt what I had heard previously and actually saw in our packet, however those buildings would be configured, was going to tower over, not only the neighbors, but the rest of River Trail Lofts. Not to mention the issues associated with the man-made fill. I was going to ask about a geotechnical report and those types of things, but it seems like the Applicant anticipated that. And then with the discussion of the solar rights, I thought it was good that that particular individual, I just don't remember their name, pursued that, because it required the Applicant to study further and confirm in their own mind, some of the effect they were going to have on adjacent properties, so I think that was commendable, and helps to resolve my biggest concern."

Chair Harris continued, "Actually, I was concerned enough that, thinking about the property adjacent to West Alameda, I was looking at §14-3.8(D)(1)(c) before the meeting which talks about compatibility and adaptable to buildings abutting the project. It seemed to me like there was a real problem there, but anyway, you've solved it, and that's to your credit."

Chair Harris said, "Before we get into some of the other questions, I would like to hear from either Mr. Shandler, Mr. Smith, Director Martinez, on kind of the question about Preliminary Plan Approval and Final Development Plan approval. I thought it was appropriate to demonstrate, particularly, the intent I believe was the General Plan Amendment, the Rezoning I should say, rezoning from R-5 to R-7, correct me when I stray, Mr. Smith. So that Preliminary Development Plan really did help to make the case about whether or not that rezoning was appropriate. And it was unanimous at this level and I believe it was a vote of 6-2 at the Governing Body."

Chair Harris continued, "So we've heard Mr. Karnes's logic and the case he's making in opposition to the third bite of the apple. It talks about, make sure I'm correct here, and maybe we need to ask Mr. Romero, it's just really a sidewalk. It looks to me like the Applicant is building a sidewalk. It's an 8 foot, paved path up to the easternmost property line, that is the Santa Fe River Road. And so to go to the..., basically, it seems like you're just going to the depth of the lot in the Rio Vista Subdivision, or to connect to the corner of River Trail Road and Calle Don Jose. Is that correct. What kind of distance are we talking about, Mr. Romero. Can you tell us."

John Romero, Director, Traffic Division, said, "I was out there yesterday. I would say it is 100 feet or less, but I don't know exactly."

Chair Harris asked, "Is it basically the depth of that lot."

Mr. Romero said yes.

Chair Harris said, "For a sidewalk that would be a standard profile. Is it 8 feet or does it go down to 5 feet."

Mr. Romero said the City Code in that area would be 5 feet.

Chair Harris said, "I wanted the dimension so we could get an idea of what we're talking about here. So again, Mr. Shandler. How should the Commission consider the conditions that were imposed on the Preliminary Plat for the Development Plan versus this condition that was added to this proposed Final Development Plan. Can you advise us on that."

Mr. Shandler said, "Under Chapter 4-3.8(2)(C), '*If review and approval of the Development Plan by the Planning Commission and the Governing Body is required, in conjunction with a rezoning action, the Applicant may submit a Preliminary Development Plan for consideration* at the time of rezoning. So that's what previously happened. *If the rezoning is approved, a separate application for a Final Development Plan must be approved by the Planning Commission prior to development of the affected property.*' So that's why we're here tonight."

Mr. Shandler continued, "As far as I can tell, the disagreement going back to even that first meeting. Mr. Karnes calls it a new condition. I think staff might say no, that was the condition that they wanted at the preliminary level. And from what I can tell, Mr. Wilson of the MPO had 3 bullet points in the packet at the Preliminary Development Plan level. And the third one was, the project shows no internal

pedestrian pathways or sidewalks, or pedestrian connections to the existing neighborhood to its east. So that's what was in the packet for the Preliminary."

Mr. Shandler continued, "And what I handed out to you are pages 40 and 41 of your discussion back on June 4th [Exhibit "11"]. And Commissioner Villarreal at that point asked specifically about these 3 bullet points, so this on the top of page 40. And Mr. Smith went through bullet points 1 and 2, and then on page 40, about halfway through, Commissioner Villarreal said, '*And on the 3rd point could Mr. Sommer explain the 3rd point specifically if it is to be part of the conditions* [Mr. Sommer is Mr. Karnes' law partner]. It goes on to read that, '*Mr. Sommer said Mr. Brenner met specifically with Keith Wilson at the MPO and they arrived at an understanding about what would be there, noting this was long after Mr. Wilson did his submittal...*' Then there is some discussion about Mr. Brenner testifying about his meeting with Mr. Wilson and then going to the top of page 41 on the back, Mr. Sommer turns to his client, *'Did you concur with his suggestion Rick* [which I think is Rick Brenner] *and Mr. Brenner says yes'."*

Mr. Sommer said, "So it appears from the minutes that Mr. Brenner had a certain understanding of what that 3rd bullet point was. I think Mr. Romero is saying that wasn't Mr. Wilson's understanding. Mr. Wilson was focused on the 2nd bullet point which is the connection to the River Trail, and the 3rd bullet point is the connection to the neighborhood. And I don't know if Mr. Romero can talk a little more, hopefully, an accurate assessment. I think even back then, there may not have been agreement about what condition might have been."

Mr. Romero said, "The City Attorney's Office represented the minutes correctly, although I think what was represented by Mr. Brenner may have been inadvertently inaccurate. And so there were 3 bullets issued by Mr. Wilson. The second bullet had to do with a trail connection. The 3rd bullet had to with connection to the neighborhood. In talking to Keith Wilson with Mr. Brenner, I believe what they went out there to meet about was about bullet #2, although it is misrepresented in here as bullet #3. So what they went out to the field to talk about had primarily to do with where they are going to connect to the trail. At that time, Mr. Wilson had said you can either connect through the neighborhood or directly from your site.]f you are going to go from your neighborhood, that would be going through Del Rio Road *[inaudible]*, but I don't believe they talked about bullet #3, because when I talked to Mr. Wilson, bullet #3 was a very specific comment that we made, '*The project shows no internal pedestrian pathway, sidewalk or pedestrian connections to the east neighborhood.*' It has nothing to do with the trail."

Mr. Romero continued, "So when Mr. Karnes states that was sprung on him in the third bite of the apple, I have two comments with that. One is this a third bite of the apple, that's why we're here. It's a Final Development Plan approval, and Preliminary Development Plan, at least my staff, we try to catch as much as we can. But we take the context of the Preliminary Development Plan more for whether we should rezone or not. We're not getting into the nitty gritty and the door schedules and window schedules and everything that has to happen as part of the Development Plan. We try to give as much information as we can, but we do consider this a second opportunity to come at this. That being said, it was a condition in here. It was a comment made by Mr. Wilson and it was included in the motion. And the motion did say to include an internal, it did say internal, pedestrian pathway, or pedestrian connection to the existing neighborhood to the east."

Mr. Romero continued, "Our interpretation of that is to connect to San Jose, because without the sidewalk going to that point, there would not be a connection. It would just be a connection to that property line. There would not be a formal pedestrian connection. So that's what the supplemental memo was for, was just to clarify why we put that condition. It was based off a condition that was implemented and our interpretation of that. So what we're asking you guys is, did we correctly interpret it. If so, then that would be the condition. If not, then it would be what Mr. Brenner is requesting. But again, what Mr. Brenner is requesting is a sidewalk that ends at his property line with no physical connection to the sidewalk that connects to the internal pedestrian circulation of the adjoining development."

Chair Harris thanked Mr. Romero.

Mr. Smith said, "If I might just briefly, just point for the record, your question about the approval process. I think the record might also include 14-3.8(C)(3)(b) *The Commission must make a determination that your action to approve the Final Development Plan complies with all the applicable provisions of the Preliminary Plan.* Final Plan approval includes a finding that it complies with the Preliminary Plan Approval."

Chair Harris said it is compliant but not necessarily verbatim.

Mr. Smith said, "Staff would agree with Mr. Romero's interpretation that there is room for a more detailed interpretation and application of the Codes and the conditions of approval at the final review."

Chair Harris said that is his opinion as well.

Commissioner Abeyta he said, "So what staff is requesting of the Applicant is to purchase an easement through the adjoining property to make the connection at Calle Don Jose and the Santa Fe River Road. So it's not just a matter of going and putting in a sidewalk. They probably have to purchase an easement, right, to put that sidewalk there."

Mr. Romero said, "We couldn't condition that on them, and I believe there is enough existing right-of-way for them to construct the sidewalk. There's a road stub out there that just does not have sidewalks, so there is roadway right of way that connects to their property with an actual paved road, curb and gutter, there's just no sidewalk along that."

Commissioner Abeyta asked who owns the right-of-way.

Mr. Romero said it is a City owned right-of-way, a City dedicated right-of-way.

Commissioner Abeyta said, "When the condition at preliminary was put on, well at least the minutes doesn't clearly state through, and it doesn't state the two roads to make that connection. It says, 'Connection to existing neighborhood to the east.' I read that as just to my property line, because my neighbor to the east is on the other side of my boundary. It doesn't say to include internal pedestrian pathways, sidewalks or pedestrian connections. There I would put, 'through the existing neighborhood and connect to Calle Don Jose and Santa Fe River Road.' That could have been said at Preliminary if that's

what the intent was. But the way I read this is to the neighborhood, that's my property boundary. It didn't say through it, unless these minutes aren't correct. And if that was the intent, it's interesting that Commissioner Kadlubek specifically points that out, but he doesn't include the language in there going through the neighborhood through the neighborhood. He just says to the existing neighborhood to the east. I would have said through the neighborhood. I'm having a hard time interpreting that it means putting the sidewalk through, because it doesn't say through it. It just says, internal to the neighborhood. That's just my opinion."

Commissioner Gutierrez said he would like to see a photo of what we are talking about.

Mr. Romero, "So, the asphalt goes from 'here' to the property line, and there's the gate right 'there.' Right now what the Developer is proposing to build is a sidewalk up to his property line, and then it would be discontinued from 'this' point to 'this' point. So Commissioner Abeyta's interpretation of that condition, I can pretty well understand that that interpretation. It definitely can be interpreted like that. So that's why we're asking exactly what it is you guys want. My sense is that either you hold to the interpretation, or if you guys all interpret it the same way as Commissioner Abeyta, I believe you can impose an additional condition. If you impose an additional condition to extend that sidewalk, that still doesn't contradict the condition that was imposed at Preliminary Development Plan. They're still doing it to the property line. And if that doesn't happen, then basically we have a sidewalk that's discontinued. So we'll have to get on the road and then get back on the sidewalk. That would be the result."

Chair Harris asked if there is a continuous sidewalk on, call it the west side of Calle Don Jose. So, in other words... Is there a sidewalk in front of those homes."

Mr. Romero said, "Yes, there's a sidewalk along these homes. It's hard to see, but there is."

Chair Harris asked the engineer's estimate for the cost of the approximately 100 feet of 5-feet wide sidewalk.

Mr. Romero said he doesn't have that information.

Commissioner Abeyta asked, "Is the access going to continue through there. So, is the neighbor going to drive out that way and down that road."

Mr. Romero said, "No. There is going to be an emergency access gate, so vehicular access will not be allowed."

Commissioner Abeyta said, "They have a big sidewalk actually."

Mr. Romero said, "Well they do, but then the thing is where they have to enter the sidewalk over here, they would be in an intersection, they would be in the road. Again, if you guys are comfortable with that. Again, that was the intent of the additional memo, that was my interpretation and what I think would be adequate."

Commissioner Abeyta said if the road went through, then the sidewalk makes sense, but since the road dead-ends there, he doesn't see how adding a sidewalk on top it will make a big difference. He said traffic isn't going to be going through there which would necessitate a sidewalk.

Chair Harris said, "Assuming there is ADA compliance consistent with that. You're going to ask people to jump a curb."

Commissioner Abeyta said, "We're imposing something that is off-site to this Developer. And where do you draw the line. Because it's only 100 feet, it's appropriate. What if it was 200 feet, 300 feet, 400 feet. That's my concern. Once you start getting into off site requirements, where do we decide okay, well 100 feet is appropriate, and maybe 150 isn't because it's too far away. Just because we're dealing with an off site issue."

Commissioner Greene said he has process questions for Mr. Shandler. He asked if the Preliminary Plan presented at the ENN on top of the zoning request change.

Mr. Shandler asked Ms. Wynant if she remembers that answer from her presentation two months ago.

Ms. Wynant said she believes it was part of the ENN, but she will have to look through the packet, commenting she may have to defer to the applicant on that. She said, "I believe a site plan was shown at the ENN, that's pretty basic to an ENN, to show the layout of what they had in mind. I'd have to look at my ENN notes and I have mine right here."

Commissioner Greene said it is okay with taking the word of the Applicant and asked the Applicant if they had a site plan at the time of the ENN.

Rachel Watson, Applicant was sworn. Ms. Watson, pointing to a map on the overhead said, "Right where my finger is, where their road ends, they can get on the River Trail that was built by the City. So right where that pavement is, is where the River Trail is, it's like 5 feet wide, and they're wanting us to put the sidewalk 'here,' but anyway, it just seems strange because there is a sidewalk for that neighborhood to get on the River Trail right in their own community."

Commissioner Greene said his quick calculation for 500 sq. ft. of concrete is estimated to be between $2,000 and $3,000.

Commissioner Greene asked if there a trail to get from the sidewalk at the southernmost part that connects with the River Trail that connects somewhere between Units 29, 28 and 27, and where is that 5-foot sidewalk that isn't currently on this Development Plan.

Mr. Karnes said, "In your packet, the trail which goes right along 'this' area is not shown. So what we're presenting tonight is consistent. It's a condition that we provide a trail through the project site all the way down to the River Trail. That's shown right 'here' between Units 25, 29 and 32. So that is the proposed trail.

Commissioner Greene asked if that disrupts the private open space for those units that would then conflict with some of the open space requirements.

Mr. Karnes said, "We don't believe so."

Commissioner Greene asked Mr. Smith it is a requirement of this plan.... the 20 foot dimension between Unit 29 and 32, looks like it's dimensioned for an effort as trying to qualify as private open space, or some required open space.

Mr. Smith said, "The applicant has sufficient flexibility under the Code to provide common open in another location, even if it was the case that the trail would disrupt the private open space on some of those units."

Commissioner Greene said, "So this a condition that isn't on the plan right now, but this is something that you have revised a plan that is in the hands of DRT."

Mr. Karnes said, "We have revised the plan in response to the condition that was imposed by the City Council on the Preliminary Development Plan."

Commissioner Greene said, "But not in our packet."

Mr. Karnes said that is correct.

Commissioner Greene said, "So maybe it's too late and I'm getting here sort of after a Preliminary Plan and after this rezoning and so on, but just as a matter of interpreting the General Plan and Chapter 14. Chapter 14 says that we should connect to River Road to the east, and it says we should offer at least a stub-out to the west, to the neighbor to the west, and either to their driveway or to their property, but maybe it's too late. Maybe the interpretations earlier missed that opportunity. But it seems like whether it is in the General Plan, where it is specifically spelled out that we should have a variety of access points, and a method for getting through neighborhoods. As well as in Chapter 14-1.3(B), *providing for the appropriate distribution of population and traffic.* As well as in 14-9-2, *local streets shall be constructed, extended and widened in accordance with the General Plan to accommodate an orderly development of types and intensities of the development shown for the Future Land Map and to provide for the continuation or appropriate projection of existing streets in the surrounding areas.* There is a stub-out and a dead end that dives right into this property. And it seems, in this case, we're going like 'this' but we're putting a fence between the two and allowing the Applicant to have a private road, and no sidewalk connecting because they don't want it, and no road that connects. And there is concern that should happen in the interpretation of Chapter 14. There's caveats that say that this is impractical, but it seems like it's completely practical. It seems like it's made for a connection."

Mr. Smith said, "If that is a question to the staff, I think staff's response on that question is that it certainly is a valid concern that was addressed in some detail at the Planning Commission and City Council. It was in connection with the Preliminary Development Plan and the Rezoning, and staff believes

it's appropriate for the Commission to rely upon the Preliminary Plan determination with regard to that issue."

Commissioner Greene said, "Additionally, it says *cul de sacs and dead end streets, both public and private may be only constructed if topography, lot configuration, previous development patterns or other natural or built features prevent continuation of the street.* None of those conditions were met."

Mr. Smith said, "Commissioner Greene, I understand your concerns *[inaudible]*, but staff reviewed this project as being served by a private driveway, rather than by a private road or a public road. Certainly not diminishing your concern with that, but again, there was some discussion, some consideration at the rezoning case, and with regard to the Code requirement, because this was treated as a driveway rather than as a street. That would explain why the cul de sac is acceptable under the Code in staff's judgment."

Commissioner Greene asked what is the cut-off for that. How many units is a driveway or a private street or a public street. Where does that threshold hit, so in the future when somebody comes with a Preliminary Plan and we disagree....

Mr. Smith said, "So there are situations that might be considered gray areas. In general that is a road or street if it serves multiple lots. It is treated as a driveway if it is completely internal to one lot of record. That's a slightly oversimplified version of that standard, but the short answer on how we've applied it and interpreted it.

Commissioner Greene said, "I'm coming to this late. I'm dealing with the Final Development Plan, so I don't know if I'm going to push that too much further, but in general it seems to me like there was a missed opportunity to fulfill the guidelines of Chapter 14, as well as the General Plan and included in the late memo that we got from the neighbor to the west about fire safety concerns and that where Unit 24 is, it looks like it has a great opportunity to connect through to the, at least even as a fire access gate, to connect through to their driveway and allow future development of that property and as well as a healthy road network."

Mr. Smith said, "Staff doesn't disagree with much of your analysis, but again, the more appropriate time to address that issue was with the Preliminary Plan and the zoning application that were before the Commission and the Council previously."

Commissioner Gutierrez said, "Just to follow up on Commissioner Greene reading from the minutes of the Governing Body, '*Councilor Rivera asked Mr. Sommer if the developer could consider the configuration suggested.*' I'm on page 37 of the minutes. 'Mr. Sommer responds and says we'll have to come back with a Final Development Plan to the Planning Commission and we'll address that issue. All too often we hear they will be back with a Final Development Plan where the issue is going to be addressed. And now we're hearing it's something that should have been talked out at preliminary, so I don't agree that it's can't be talked about now. I think that we hear this quite a bit. And you're not coming late. The only person who was at this meeting is the Chairman. I don't think any of us were here at this meeting besides Commissioner Kadlubek."

Commissioner Greene asked, "By the way, why was he at that meeting and not at this meeting. What changed in his position to make him not recuse himself earlier. That's something else, but anyway, that's not..."

Commissioner Gutierrez said, "Let me finish if I could. The other thing on this sidewalk. I see your point. I believe that a sidewalk is needed. I'm skimming through here and I want to know more about the gate and I think the reason for it is because the Fire Marshal agreed to put in that gate instead of making connectivity. You can answer that in a minute. Mr. Abeyta, I agree with you that if we're going onto another piece of property that it becomes cumbersome on the Applicant. However, if they are going to be doing this gate and the improvements for the Fire Department anyway, it might be warranted. Thank you."

Chair Harris said, "There is a better representation than the Development Plan for the existing conditions and what's being proposed. Can you put C-1 up. If I could ask Commissioners to turn to C-1 in the submittal. What this says to me is that Santa Fé River Road stops short of the property line. I think that High Desert Surveying's document states it the same way. Correct. Santa Fe River Road is not paid. It also states here it's a 50 foot right of way, so there would be room for a sidewalk behind the curb. But this show a 5 foot paved pathway connecting to Santa Fe River Road within the City right-of-way. Correct."

Mr. Romero said, "Correct."

Chair Harris said, "When I looked at the development plan, I assumed the paving went right up to the property line. And actually, the Development Plan shows an 8 foot wide paved pathway in that section for whatever reason, I don't know. But that's what the Development Plan shows. Again, if this is an accurate representation of existing conditions on Santa Fé River Road and how they propose to connect within the City right-of-way to that existing street. This could probably work and have an accessible pathway. I think, for me, that's the issue is continuous accessibility from one group of neighbors to another. And so, I have a hard time seeing what the problem would be. I think there needs to be a good clean connection. I think what I see on C-1 represents what could be, if done properly, a good clean connection.

Mr. Romero said, "You are correct. Here's a picture that shows the asphalt and you can see the two tracks just before the gate with the weeds in between. So you can see the grass there in between the two tracks, so you can see where the asphalt ends. Another thing I would like to show you, that I showed before is condition of the asphalt. There's some major cracking in that asphalt in that area. So if you would want to make that somewhat of a pedestrian path, that would have to be fixed. I did do a quick calculation for 100 feet of sidewalk, 5 feet wide, 4 inches thick, a little over 6 cubic yards. Assuming $200 a cubic yard and double that for the cost of installation, you're right around $2,500."

Mr. Smith, "I would note for the record that my comments in response to Commissioner Greene's questions had to do with vehicular access and not with any questions about the Commission's authority on pedestrian access."

Commissioner Abeyta said, "That's a good point. When you direct it to these plans, the plans represent a sidewalk that goes off site, off the property. I'm looking at EC-1 and EC-1 shows a path all the way to Santa Fé River Road. C–2 has it. It's showing a path clearly off the property that comes from your

development. And that's the area we're talking about that the staff wants them to do, right.":

Commissioner Abeyta asked if that is existing right now, and the reason it was on the plans.

Mr. Karnes said, "There is no existing sidewalk there."

Commissioner Abeyta said, but your engineer showed it on the plans. It's proposed.

Mr. Purvis said, "I'm not dead sure of this, but if I understood it correctly, the engineer was proposing it because he saw the paving coming down to that point, and so he connected it to the paving. And I would add one little thing about vehicular access. If you were here at the earlier meetings, we had 50 people saying don't connect to vehicles. That's kind of where most of that came from."

Mr. Karnes said, "I just have one follow up. I would appreciate it if someone, if the inclination of the Commission is to require this connection out to the Calle Don Jose, will specifically address the wording, not just in this Planning Commission's motion, but in the MPO Memo of September 8, 2015, which says, '*Include internal pedestrian pathways, sidewalks or pedestrian connections to the existing neighborhood to the east.*' The word 'internal,' needs to be addressed. It can't simply be read out of the condition or the recommendation of the MPO. It's an internal connection. That needs to be addressed. I would appreciate that, thank you."

Commissioner Propst, referring to the minutes that were handed out from the previous meeting, asked, "Is there is a comma between pathways and sidewalks. It looks like somebody hand-wrote something into these and I'm trying to figure out to the point about what does internal apply to. Is it internal pedestrian pathways/sidewalks. Because one reading of this could be that internal doesn't apply to the second clause, pedestrian connections to the existing neighborhoods."

Mr. Shandler said, "I think the original MPO condition was just a slash, not a slash and a comma. I think the comma is a typo."

Commissioner Propst said, "Connectivity is desirable as much as this Applicant has done a great job of working with the neighborhood and addressing all the other outstanding things and the last thing we're hung up on. And they've done everything in really good faith it sounds like, but a sidewalk is desirable here."

Commissioner Greene said, "I agree with Commissioner Propst. I'm a big sidewalk fan as well and connecting to the east is desirable. I would hope there is a drawing or a commitment to connecting to the River Trail from the road, and even though it doesn't show on the plans, you have something that shows on the plans but you're not supporting. And then you have something that doesn't show on the plan that you are supporting. So that inconsistency on those two issues needs to be clarified for us today to fulfill our mission and mandate."

Mr. Shandler said, "If it's going a certain way, I just want to establish a record that in his interpretation, when Mr. Romero talked about how Mr. Wilson kind of had a different interpretation of the conversation, that's one point. The second point is about how the Final Development Plan can have some changes. And finally, maybe a legal counter-argument to Mr. Karnes is that it says, '*No internal pedestrian pathways/sidewalks or pedestrian connections to the existing neighborhood to its east.*' So maybe the internal is only modifying that first phrase, pedestrian pathways/sidewalks, and Mr. Wilson then an and/or pedestrian connections to the existing neighborhood to the east."

Commissioner Propst said, "Mr. Shandler just said better what I was trying to say a minute ago."

Chair Harris said, "I want to make sure I understand which of the solutions for connectivity this Commission feels would be appropriate. We heard discussion and I think we understand what Mr. Romero has defended in terms of a sidewalk, kind of a traditional, behind the curb, the depth of that lot and we say approximately 100 feet or somewhat less. Again, the Development Plan shows an 8-foot wide paved pathway pretty much the depth of the first home, or the most adjacent home on the River Trail lots. However, all of your civil drawings seem to indicate a 5-foot wide, paved pathway that goes over the property line and connects a certain distance to River Trail Road. So again, if you're speaking to connectivity, which solution are you thinking of when you say that. I think I know what you feel Commissioner Abeyta, but please confirm."

Commissioner Abeyta said, "I think that a connection is appropriate but I think it could stop right where it's shown on the plan, because it's paved from that point on. And there's not going to be any car traffic going through there, because the neighbors don't want it. So I'm in favor of what is shown on the Plan and not any more."

Chair Harris said, "C-1. If I could just ask you to state it as C-1."

Commissioner Abeyta said, "C-1. That would be my preference, C-1, Mr. Chair."

Chair Harris asked the other members their preference.

Commissioner Propst said she agrees with Commissioner Abeyta.

Commissioner Gutierrez said C-1 is fine.

Commissioner Greene said, "I'm sort of slightly extending it to make sure there is at least a 5 foot connection that is ADA accessible to the closest sidewalk, and that a sidewalk survey is performed, and whatever solution allows for a 5 foot wide sidewalk, whether it's repaving Santa Fe River Road, or paving it with a little concrete strip to allow it to get from ADA sidewalk to ADA sidewalk."

Chair Harris said it would be hard to make them improve the road, quite frankly.

Mr. Karnes said, "The Applicants are prepared to move forward and accept the C-1 solution as Commissioner Abeyta proposed it. The C-1 solution."

Mr. Smith said, "If I may, for the record, since we have different versions and different exhibits, is it the intention of the Commission to require both the sidewalk to extend to the road dead end, and also the pathway between the buildings. Or are we talking about the C-1 that has one but not the other."

Chair Harris said he is unsure what Mr. Smith wants the Commission to clarify. He said, "I think you are confused. I think what we've been talking about.... all the other conditions, we heard the Applicant say that all the other conditions have been agreed to. We're only talking about the condition specific to the reference here. Correct."

Mr. Karnes said that is correct.

Commissioner Greene said, "Sort of. There was the other one that connected between units."

Chair Harris said, "Any other connections stated appropriately in staff conditions of approval.

. Commissioner Greene said, "There was one to connect to the River Trail from West Alameda through to the River Trail."

Chair Harris asked, "But isn't that stated in the conditions."

Commissioner Greene said, "It is, but it's not shown on the drawings."

Mr. Karnes said, "That's correct. It's not shown on the drawings that were submitted to you and/or as part of the packet. What we presented tonight was a plan that had two changes as I described from the start, and we would appreciate it if those were added as conditions of approval. The first has to do with making the two units, closest to West Alameda Street, one-story instead of two. I think the cleanest way, and I spoke with Mr. Shandler and Mr. Smith this morning, and that would be the cleanest way to achieve that simple change as a condition that's imposed tonight. And as far as the connection to the River Trail, it is shown on the plan we are presenting tonight. We acknowledge that it is not in your packet. The plan that we're presenting tonight shows the trail that was required as a condition by the City Council."

Commissioner Greene asked where is that on the plan.

Mr. Karnes said, pointing to the map on the overhead, "That's right 'here.' Sorry. The straight line that goes in between Units 25, 29 and Unit 32 from the driveway out to the River Trail, that responds to the City Council's condition."

Mr. Karnes continued, "And if I may, Mr. Brenner asked me to present another option for the connection to the subdivision to the east, which is we heard Mr. Romero speak of a construction on the order of $2,500. Mr. Brenner is willing to put up, to contribute $3,000 to have that sidewalk connected all the way out to Calle Don Jose by the City. And I'm putting that on the table as an option, separate and apart from the C-1 solution."

Chair Harris said, "Well, I think that is a fine proposal. I think, in my experience, I believe as long as the crew is not just mobilizing to come on site to build 100 feet of 5-foot sidewalk. If they're there for everything else, they can get it done for $3,000. The mechanics of it, I'm not sure what you're suggesting though, Mr. Karnes. Is it $3,000 to have the City do it, I thought is what I heard."

Mr. Karnes said, "Yes."

Mr. Romero said, "I agree it would be pretty arduous for us to spend $3,000. We would have to get quotes, pay mobilization. Maybe a way to do it is that he would construct up to $3,000 of sidewalk, get it to where it gets, and that would be determined probably by the Subdivision Engineer as part of the cost estimate and the financial guaranties that she helps develop. And they do it, but up to the amount of $3,000. I wanted to clarify there is already curb and gutter there, so it's only sidewalk."

Chair Harris said there are some mechanics associated with that, but it's relatively straightforward. It can be worked out I think, if there's a commitment from the applicant for $3,000 toward the sidewalk. Mr. Brenner if you want to speak to it, by all means."

Rick Brenner, owner, was sworn. Mr. Brenner said, "There is one other huge issue, which is that at this point, there is not one neighbor here. The neighbors have been, from the ENN through the City Council meeting, extremely adamant about their opposition to this project, and specifically to any construction happening right where we're talking. They made it very clear that they did not want that road to connect. So we proposed a multi-family project not a subdivision, like any other apartments. It doesn't have any real road going to it, and the City agreed that that would be a solution. It's not a road, it's a driveway, and that we would stay off of their property. They have been calling, taking up Lisa Martinez's time, other staff's time, because there is a contractor going through that gate to do City work to improve the River Trail. They don't want us there. And I don't want to be out there getting rocks thrown at me or my crews because we're doing something on what they feel is their property. So there's a whole social, political part of it. It's not just looking at the Code and believing good planning says connect and make the developer connect. And I think it's completely inappropriate for you to make a requirement, especially since there isn't one neighbor here any more that is going to require that, unless you're willing to come out and do the work. Are you willing to come out and calm them down, and I promise you they will start yelling and screaming."

Chair Harris said, "So noted. It's a City right-of-way, and perhaps they need a lesson in what that means. But I think those lessons are valuable for all the citizens, and perhaps all sides will settle down a little bit too. I think we had the easiest solution represented by C-1, and why we would complicate it with the $3,000 is up to the Commission to consider before we move way past this. We've talking about it enough. Commissioner, do you mind if I change gears to another issue that potentially is more serious, okay."

Chair Harris continued, "This has to do with a letter we received from, I guess this is from Nury Khozien. And the question I had is, is there a drainage easement that runs.... so we've got the culvert under the street. Ah, Ms. Zaxus, thank you. It seems like it has been a problem, and I can't tell from High Desert Survey documents, if in fact there is a drainage easement on the west side of the property."

Risana B. Zaxus, Acting Director, Technical Review Division, said, "There is a drainage there. It is what is called a water course easement on the west side of the property and it is shown on the Lot Consolidation Plat. It shows on sheet S-2. On the west side of the property, first there is a 25 foot access and utility easement, and just east of that there is a 15 foot water course easement identified. And I presume that is where the water is now flowing and will continue to flow."

Chair Harris said, "So this is a 15 foot wide water course easement."

Ms. Zaxus said that is correct.

Chair Harris asked how that is administered.

Ms. Zaxus said, "There is a required note of agreement which shows up on the Development Plan sheet D-1, it's called the Stormwater Agreement. It's down at the bottom of the page on D-1, and they don't have lines for this to be signed and notarized, but it will be signed and notarized by the owner. It basically says that all stormwater facilities on properties which would include this easement, will be maintained by the property owner or the HOA, however that turns out. And if it is not, the City can go in there, do the work and place a lien on the property for the cost of that work. So that's our assurance that the situation would be taken care of."

Chair Harris asked if the City is on site now.

Ms. Zaxus said she doesn't know.

Chair Harris asked Mr. Brenner to speak to this.

Mr. Brenner said, "Michelle Martinez and Leroy Pacheco are supervising the project currently at the very end of this water course where it exits, where it transitions from on our property all the time. But from our property onto an easement the City bought for the River Trail, they are putting in a big catchment basin. They put in a culvert that will take the water to the River and a limestone rundown, and then they put a concrete back on the River Trail. So they are addressing just a portion of the problem, which is when this water comes from way upstream from Calle Nopal. And when it rains, it brings water and debris that has been creating a nuisance on the River Trail. So the City has this big project going on that's being performed by HO Construction. Part of the arrangements that we made with HO Construction is that they could use in a very limited way, the portion of our property they needed to stage this project without having to obstruct more of the actual River Trail that is in place, in return for dredging the easement, or watercourse, from that drop inlet all the way up to Alameda."

Mr. Brenner continued, "They have not been performing very well on their contract. I don't know what's going on. They've got piles of rock. It's been 2-3 months later than they promised even in their contract with me, but we are assured that they will.... they have a contractual obligation to do that work on our property. That will provide a huge benefit because the neighbor to the west, Nury, it's actually Terrell's property, could suffer consequences on a major storm, minuscule consequences relative to what's happening to the property that we're going to be developing. It is jumping the banks of the water course

now and tends to flood through the property. So, not only will there be a legal requirement on the Development Plan, or grading plan but there will be a requirement that we maintain that so we don't create a situation where our own units are being flooded out."

Commissioner Greene asked, regarding that flooding and flood control, if the designs are anywhere similar to the conditions that might have caused the tragedy over in your lofts on Lena Street that they discovered this week.

Mr. Brenner said, "Those two are so completely different, that I can't answer that.

Commissioner Greene asked if it is the engineering solution that has the same risk...

Mr. Brenner said, "Sir, you're speaking from a point of ignorance on a very emotional issue, and I will not answer that."

Chair Harris said, "I think we should entertain a motion."

MOTION: Commissioner Abeyta moved, seconded by Commissioner Gutierrez for purposes of discussion, to approve Case #2015-82, River Trail Lofts Final Development Plan, with all staff conditions as set out in the Staff Report [Exhibit "7"], "with the following amendments to staff conditions: "Add a condition regarding the one-story instead of the two-story building if that could work, I think they know what I'm talking about; there needs to be a connection to the River Trail as shown on the Plan that was presented tonight, but not in our packet; and with regard to the connection, my condition would be that the Developer build the 5-foot pavement pathway as shown on the plans C-1."

VOTE: The motion was approved on the following Roll Call Vote [5-0-1]:

For: Commissioner Abeyta, Commissioner Greene, Commissioner Gutierrez, Commissioner Propst and Chair Harris.

Against: None.

Recused: Commissioner Kadlubek.

Commissioner Kadlubek returned to the meeting

G. STAFF COMMUNICATIONS

Mr. Smith said the Hospital Master Plan approval case and appeal of the Commission's decision on the Hospital Use Permit are scheduled at the City Council meeting on October 28, 2015.

Mr. Smith said Land Use staff anticipates working with Long Range Planning staff to set up a study session on November 19, 2015, with a likely focus on the prioritization of the themes from the 1999 General Plan, and prioritization of geographic areas for sector plans.

Chair Harris asked, "Backtracking a little, is it appropriate to just mention the grounds of appeal, Mr. Shandler, for the Hospital case, the Master Plan."

Mr. Shandler said, "It has been appealed by one individual citizen, Bob Walsh, and just lack of compatibility is his general issue."

Chair Harris said then it came from the individual and not from the Association with the acronym SMASH.

Mr. Shandler said that is correct.

Mr. Smith noted one further procedure. He said it is possible that Mr. Walsh or the Association will also appeal the Commission's decision on the Development Plan. That appeal period does not close until Monday.

H. MATTERS FROM THE COMMISSION

Summary Committee Report - Commissioner Gutierrez said the Committee met this morning and approved one case on Cerrillos Road at Smith's Food Store, where the old Chinese restaurant was. He said it is probably due for demolition and something nice coming in.

Chair Harris said Long Range Planning had a long discussion and asked if there is anything to add

Commissioner Greene said the Committee didn't meet this week but he met with Richard MacPherson at his office. He said, "They are beginning to do parcel by parcel analysis, to bring all of the different land owners and identify what is under-developed, what is fully developed, what is zoned, what is to be redeveloped, and what is sort of under-zoned. They are doing some analysis that would help the proposed Resolution and master planning for the River Trail Corridor, or they would come to us for some sort of report I think.

Chair Harris said they are working specific to that Resolution, noting the Resolution broke it down, but just the first phase of it.

Commissioner Greene said the first phase is Agua to the River from La Joya to Siler, more or less, noting it is a little extended from the areas that were part of Zone 1 of the Annexation, but it takes care of a lot of that.

Chair Harris asked if the Tuesday meeting happened that was scheduled. He said as he looked through the notes, Mr. Sobiens, Mr. Rivera, Ms. Lopez and others said they would attend. He asked what happened at that meeting.

Commissioner Greene he attended and the meeting was chaired by Commissioner Bushee. He said staff from Current Planning, Long Range Planning and Kate Noble were in attendance. He said also attending were Mr. Sobiens, Mr. Romero, Mr. Rivera and good number of residents from the La Joya neighborhood. He said former Planning Commissioner Villarreal attended the meeting. He said Councilor Bushee said the goal was to do the things required under the Resolution at no cost. He said at the time she was talking about doing everything with as little financial impact as possible. The idea was to bring in mostly residents and not property owners or business owners. This is one of his concerns and the reason it came up today, because it is a topic he thinks should be addressed. He said the meeting was just an information session.

Chair Harris asked how the statement from Simon Brackley was circulated.

Ms. Martínez said she received the email late this afternoon, after 3:00 p.m., and she wanted to make sure the Commissioners had copies, noting it was too late to email it. She did forward it to some of the Long Range Planning staff and some internal Planning staff so they could look at it. She said at that late hour, there wasn't a lot they could do about it. She understands Kate Noble contacted Mr. Brackley, but she didn't tell her specifically what she said or if there were any additional comments from that conversation.

Commissioner Greene said his comment for Mr. Brackley is what would be his alternative, and what process he would want to see in that area – what process would he prefer.

I. ADJOURNMENT

There was no further business to come before the Commission, and the meeting was adjourned at approximately 9:10 p.m.

Approved by:

Michael Harris, Chair

Melessia Helberg, Stenographer