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**PLANNING COMMISSION**

April 7, 2016

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**PLANNING COMMISSION**  
**Thursday, April 7, 2016 - 6:00pm**  
**City Council Chambers**  
**City Hall 1<sup>st</sup> Floor - 200 Lincoln Avenue**

**CALL TO ORDER**

A regular meeting of the City of Santa Fé Planning Commission was called to order by Chair Vince Kadlubek on the above date at approximately 6:00 p.m. in the Council Chambers at City Hall, 200 Lincoln Avenue, Santa Fé, New Mexico.

**A. ROLL CALL**

Roll Call indicated the presence of a quorum for the meeting.

**Members Present**

Commissioner Vince Kadlubek, Chair  
Commissioner Brian Patrick Gutierrez, Vice-Chair  
Commissioner John B. Hiatt, Secretary  
Commissioner Roman Abeyta  
Commissioner Justin Greene  
Commissioner Stephen Hochberg  
Commissioner Piper Kapin  
Commissioner Sarah Cottrell Propst

**Members Absent**

Commissioner Mark Hogan

**OTHERS PRESENT:**

Ms. Lisa Martínez, Land Use Department Director  
Mr. Greg Smith, Current Planning Division Director and Staff Liaison  
Mr. Noah Berke, Current Planning Division, Senior Planner  
Ms. Katherine Mortimer, Current Planning Division, Senior Planner  
Mr. Zach Shandler, Assistant City Attorney  
Mr. Randy Randall, Tourism Santa Fe, Executive Director  
Mr. Carl Boaz, Stenographer

**NOTE: All items in the Committee packet for all agenda items are incorporated herewith by reference. The original Committee packet is on file in the Planning and Land Use Department.**

## **B. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited.

## **C. APPROVAL OF AGENDA**

Chair Kadlubek noted that Item one is postponed and asked for other changes.

Mr. Smith said item #3 has been withdrawn. The application was filed in error and it will be eligible for administrative siting before a variance is requested. Some Commissioners have received emails about this case and he would have included that as part of the minutes.

Chair Kadlubek asked if that same email would be included if it comes back to the Commission.

Mr. Smith said it depends on whether the administrative siting is approved.

**Commissioner Hiatt moved to approve the agenda as amended with the first case postponed and the third case withdrawn. Commissioner Greene seconded the motion and it passed by unanimous voice vote.**

## **D. APPROVAL OF MINUTES AND FINDINGS OF FACT**

### **1. MINUTES:**

#### **a. February 18, 2016**

**Commissioner Kapin moved to approve the minutes of February 18, 2016 as submitted. Commissioner Hiatt seconded the motion and it passed by unanimous voice vote.**

#### **b. March 3, 2016**

Commissioner Hiatt requested the following changes:

On page 3 where "Cindy" should be "Renee Martinez."

On page 6 last paragraph to delete "44."

On page 9 to capitalize Mr. Smith's name.

Commissioner Greene requested a change on page 4 where it should say \$15 million; not \$15.

**Commissioner Hiatt moved to approve the minutes of March 3, 2016 as amended. Commissioner Kapin seconded the motion and it passed by unanimous voice vote.**

## **2. FINDINGS OF FACT & CONCLUSIONS OF LAW**

### **a. Case #2016-02. 3760 Buffalo Grass Preliminary Subdivision Plat.**

A copy of the Findings of Fact and Conclusions of Law for Case #2016-02 is attached to these minutes as Exhibit 1.

**Commissioner Hiatt moved to approve the Findings of Fact and Conclusions of Law for Case #2016-02 as presented. Commissioner Hochberg seconded the motion and it passed by unanimous voice vote.**

### **b. Case #2016-03. Vista Serena, Tract 49, Tierra Contenta, Final Subdivision Plat.**

A copy of the findings of Fact and Conclusions of Law for Case #2016-03 is attached to these minutes as Exhibit 2.

**Commissioner Kapin moved to approve the Findings of Fact and Conclusions of Law for Case #2016-03 as presented. Commissioner Hochberg seconded the motion and it passed by unanimous voice vote.**

### **c. Case #2016-04. Estancias de Las Soleras, Unit 1C, Final Subdivision Plat.**

A copy of the findings of Fact and Conclusions of Law for Case #2016-04 is attached to these minutes as Exhibit 3.

**Commissioner Hochberg moved to approve the Findings of Fact and Conclusions of Law for Case #2016-04 as presented. Commissioner Hiatt seconded the motion and it passed by unanimous voice vote.**

### **d. Case #2016-06. 1503 Cerros Altos Terrain Management Variance.**

A copy of the findings of Fact and Conclusions of Law for Case #2016-06 is attached to these minutes as Exhibit 4.

**Commissioner Hochberg moved to approve the Findings of Fact and Conclusions of Law for Case #2016-06 as presented. Commissioner Hiatt seconded the motion and it passed by unanimous voice vote.**

## **F. OLD BUSINESS**

There was no old business.

## **G. NEW BUSINESS**

- 1. An ordinance amending Subsection 14-6.2(H); creating a new Subsection 14-6.2(J) of the Land Use Development Code to establish urban agricultural activities and uses for commercial purposes; and making other such changes as necessary to carry out the purpose of this ordinance. (Mayor Gonzales and Councilor Ives) (John Alejandro)**
  - a. A resolution adopting the City of Santa Fe policies, procedures, and guidelines for Urban Farms. (Mayor Gonzales and Councilor Ives) (John Alejandro)**

For this case, both ordinance and resolution were postponed.

- 2. An ordinance amending Subsection 14-6.2 of the Land Use Development Code to remove certain limitations on Short-term Rental Dwelling Units; amending the fee schedule for a Short-term Rental permit and requiring that permit holders pay all applicable taxes or be subject to certain penalties. (Councilor Maestas, Mayor Gonzales, Councilor Ives) (Lisa Martínez, Randy Randall, Noah Berke)**
  - a. A resolution establishing the number of Short-Term Rental permits the City of Santa Fe Land Use Department may issue. (Councilor Maestas, Mayor Gonzales, Councilor Ives) (Lisa Martínez, Randy Randall, Noah Berke)**

A copy of the proposed ordinance amendment with the FIR is incorporated herewith to these minutes as Exhibit 5. A copy of the proposed resolution is incorporated herewith to these minutes as Exhibit 6.

Mr. Shandler asked if any Commissioners have a short-term rental permit. Commissioner Greene said he does. Mr. Shandler recommended that he recuse from this matter. He also clarified that the Commission's vote is a recommendation to the Governing Body.

Commissioner Greene asked if he could ask questions about the legislation for clarity.

Mr. Shandler said he could only as a member of the public.

Commissioner Greene left the bench to sit in the public.

Ms. Martínez introduced Randy Randall, Tourism Santa Fe Director and said Noah Berke has also worked hard on the proposed changes to this ordinance and resolution. She presented an overview of the change to the Commission.

At the September 30, 2015 Council meeting, Resolution 2015-89 was approved which would analyze the current Land Development Code and make recommendations regarding Short-Term Rentals. The resolution noted an increase in Short-Term Rentals in Santa Fe with many unpermitted STRs being offered on-line. Those units do not contribute Lodgers' Taxes or GRT.

She said the City currently has 350 licenses for STR and estimated approximately 1,000 to 1,200 STRs existing in the City now. The Ordinance and Resolution changes proposed are to increase the number of permits and amend the applicable fee schedule also and require all STR owners to pay all applicable taxes and those without permits would face certain penalties. The penalties are intended to be stringent to bring owners into compliance.

The City has a waiting list now that grew from 30 to about 70 while working on the changes. The proposal also would increase staffing from one presently to three for code enforcement

Staff has worked with public and industry over several months and held two public hearings. The first had 150 attend and the other had 70-80. Staff also worked closely with the Santa Fe Realtors' Association for feedback and support.

In the packet is a list of all proposed changes to the ordinance and the resolution is to help work through the process. Permits would be increased to 1,000 in the resolution and could provide more if more come forward. That is in the resolution so it is easier to change the amount.

### Public Hearing

Chair Kadlubek opened this matter for public comments.

Mr. Kurt Hill, 610 Paseo Corte, said he was representing the Santa Fe Association of Realtors as the Chair of Government Affairs. He read from a written statement which is incorporated herewith to these minutes as Exhibit 7 and included a letter from the Association and a letter from Commissioner Hiatt from 2008 when he was in charge of the Land Use Department.

He said the Association has a desire for transfers of these permits at the sale of the property. They saw no legal harm for the transfer. He read their proposed as: "If an owner of an existing short-term rental permit sells his or her property that currently has a permit, then the new owner may apply for a permit within 30 days of closing. The new owner shall provide a copy of the deed to the City when applying for the new permit. If an inspection has not been done within six months of the application date, then new inspections shall be required in order to obtain the permit." He said as the bottom line here, that "you consider yourself in a position of owner of a rental for years and have to sell the property on short notice and canceling the bookings will be difficult and detrimental and make everyone look bad."

Mr. Justin Greene, 611 Quintana Place, owns a vacation rental and thought this is great legislation but had a couple of questions on issues that might come up.

For the realtors, he didn't know if this should be passed out with every home sale. That might be excessive and the Commission might consider deleting that requirement.

In the fee structure, it shows that it is more expensive for a second unit in a compound. He recommended that the fee on page 11 of the ordinance be a fee of \$325 for first unit and \$300 or \$250 for the second.

On page 12, the paragraph of line four through twelve will create a bureaucracy to refund money and didn't think that would be necessary. And on page 12, paragraph x noted there will be a finance position just to provide refunds.

On page 8 at the top in paragraph xiii, it requires insurance but it should specify what kind of insurance, whether it is general liability, renter's insurance, contents insurance or whatever pertains there.

On page 7, paragraph vi, where it says short-term rentals can't be used for non-residential purposes, the film industry might want to use a short-term rental unit for a commercial production.

Lastly, and the most tricky, is on page 6, paragraph ii. He asked how the City could enforce two people on the same street who have rentals. One of them might become unallowable and that means it is neighbor against neighbor.

Ms. Colleen Green, 3928 Fairly Road, said she is also a realtor and in unique position to see the potential difficulties in the ordinance. Most of the changes are great. One thing Kurt Hill didn't mention that might have been overlooked is the logistical nightmare of trying to maintain only one rental unit per block. Santa Fe is not a grid city. She asked how they would define what is across the street or cattycorner.

Secondly, with an existing homeowner, realtors have been told there is no problem for people who have a permit, selling the property and the next owner being able to get a permit because there would be plenty of permits. What if a person pays all taxes and the new owner applies and a new owner nearby got a permit in close proximity to the short-term rental? She thought this was unintended. But if the City doesn't allow an easy transfer, it could end up with someone buying property with a permit before and not being able to get one.

There were no other speakers from the public and the public hearing was closed.

Mr. Randall responded to the public comments. He pointed out that the density issue is in any residential neighborhood. The commercial rentals don't need permits but would have to register and operate within the commercial zoning. The idea of not having more than two rentals adjacent (not 3 in a row or an entire street of rentals) seemed to make sense to the Council and the public at the hearings. The ordinance allows anyone currently in the business, even illegally, within first 90 days, to apply even if that would be three in a row. So the first to sell likely would not get a permit. He didn't think having a short-term rental is a right in residential ownership.

Ms. Martínez added that the concern was raised by public with too many in the neighborhood. The enforcement will be a challenge but somehow that has to be balanced with not creating neighborhoods that are solely short-term rental neighborhoods. So Staff will keep working on enforcement solutions.

Mr. Randall agreed. The whole ordinance for the City was a challenge in 2008 and it got ahead of one enforcement officer and 350 permits that caused these changes.

Regarding the second issue of permits becoming a commodity, if you want to sell liquor, the license is sold to the highest bidder. There is a finite number of permits and no transfer would allow it to keep its value. If the demand gets ahead of permits is why Staff made that part a separate resolution so we don't have to change the ordinance for number of permits. It allows the ordinance to stand on its own and Council can change the number of permits as needed. Staff will review that in 18 months with Council and if it is found there are not sufficient permits and allowing the transfer with the sale, it can be considered at that time.

As to non-repurposing of a residential unit, it is not to preclude a film being shot in the house but to prevent a wedding receptions with 200-300 in attendance or a series of fraternity parties, etc. With these on a short-term basis, events can happen and life moves on but the purpose should be for a residence and parties should be located where parties are more appropriate.

Commissioner Kapin pointed out that most resort cities deal with this issue and she could see both sides. She sympathized with the realtors. Dealing with what is adjacent is problematic. If a person gets the permit and holds on to it forever, it is not fair to the neighbors.

Mr. Randall suggested that being able to rent your home in a neighborhood is not a right. The purpose is to prevent a virtual motel street. Other cities have put in far more density restrictions. This is far more liberal than most others.

Commissioner Kapin agreed that model makes more sense to pick areas instead of house by house. Santa Fe is not a grid. The analogy with alcohol is interesting. There are full licenses and restaurant licenses. They are not transferable. If you pass the application, you are in.

She asked, if they already have a thousand identified units, why the City is approving just 1000 now.

Mr. Randall said they are not identified. It is an abstract number. And if the ordinance is approved, we can deal with that. Or we could mistakenly eliminate a whole lot of those already in business. We don't intend to eliminate anyone in the first 90 days. So there is a sense of urgency to get them registered. There are at least a couple hundred in the residential areas. If we had an unlimited number, there would not be any sense of urgency. But if more are needed, it can be done.

Commissioner Propst referred to page 7, paragraph vi, regarding outdoor events, and asked whose discretion it was to determine "and the like." She felt that needs more detail there.

Ms. Martínez explained that the idea behind Short-Term Rental is for residential purposes. In a city like Santa Fé where people like to come visit, some homes have been rented out for big weddings and large parties and parking over a weekend and neighbors have complained about that. So the City is trying to limit those large activities. She agreed that “and the like” is very general. Maybe someone has suggested language.

Commissioner Propst said they are trying to address the number of people and maybe it should be based on space in the house without trying to list every kind of event.

Mr. Randall said they will develop a series of policies and procedures in the enforcement side that are easier to change. If your next door neighbors have a wedding, there will probably be the whole neighborhood invited. But in a rental, it is whole different situation.

Commissioner Propst acknowledged that makes sense.

Ms. Martínez said they also have talked about the number of individuals who could stay in the house but that is impossible to enforce.

Commissioner Propst went to page 8 regarding insurance and asked if what is adequate property insurance coverage will be spelled out in the policies.

Ms. Martínez agreed. Staff will provide information on type and amount of what is most appropriate. That needs some research and it will be included in administrative policies.

Mr. Randall said liability is the biggest concern. He asked if it should be \$1 million or \$2 million.

Chair Kadlubek said his next door neighbor has parties regularly with cars parked on down the street. He asked if there are proper steps to take. If it is loud, there is a noise ordinance. What he feared is that like Commissioner Greene said, a filming where the City could cite them for nonresidential use but without the impact. He thought there were existing ordinances.

Ms. Martínez agreed there are ordinances for some of those matters. There are also a lot of Home Owner Associations around the City that have such policies in place. Maybe a homeowner has teen kids and lots of parties and the HOA can address it internally. So there are mechanisms in place and they would also apply to short-term rentals.

Chair Kadlubek asked then why they would add other language to address the impacts that can already be addressed. If it is worry about noise and traffic only, maybe the current code can handle it.

Mr. Randall said this sets the rules for the owners to convey to their guests. The enforcement of what is on the books requires notice. So they need to know there are certain un-allowed activities. The City will intend to be reasonable in enforcement.

Chair Kadlubek understood. He asked the realtor is it would be hard to sell a house with a lot of rentals on the street.

Mr. Hill said in the downtown, you could expect more inner city activity. He lives behind a B & B and expected a little more traffic. He has managed a few associations. In a condo association there a house that became a short-term rental and he heard many complaints. Weddings was the biggest issue. On had a big tent. But he didn't think this ordinance has anything to do with that.

Chair Kadlubek said the ramification is a neighborhood filling up with short-term rentals and the current residents living there for many years don't want to have to deal with it. The concern is about trying to preserve the character of a neighborhood.

Commissioner Abeyta said Section vi is confusing. He wondered if it would be better to say outdoor events are prohibited.

Commissioner Propst agreed.

Commissioner Abeyta said it should just say they are prohibited.

Ms. Martinez agreed. It should not be a double negative.

Commissioner Kapin mentioned the impact on long term rentals which already has a shortage. She asked if there is anything creative being done to incentivize those neighbors to creatively use their properties for affordable long-term rentals. Maybe they could come up with a way to do that.

Mr. Randall agreed. There are many cities waiting to see what Santa Fe is going to do. Some have just prohibited short-term rentals. The business has gotten far too big for that to happen. It was probably more appropriate in 2008. The purpose is better management of them now. That is part of revisit in 18 months.

Commissioner Kapin thought this is the perfect time to deal with that. A lot of renters here are struggling with it. We just need to be really careful with it. We should not wait too long. We already have the numbers and could come up with something.

Mr. Randall agreed and they will be thinking about that during the 18 months.

Ms. Martinez added that it is a great idea to think about that issue and how we can mesh them together. She gave Mr. Berke a lot of credit for his nationwide research. A lot of people will be watching us to see what we are doing. So she asked Commissioners to please pass their ideas along to Staff. We are open to those considerations.

Chair Kadlubek said it does seem there is lots of forethought to protect existing homeowners and neighborhoods and for new renters, Staff is saying we will do that later. There is a culture of how we treat development, neighborhoods and who gets their language in ordinances and others get ignored. Those

renters need to be considered. He would really like to see how we are compensating. It also doesn't say where the revenue goes. Supply and demand will raise the cost of living here. So it is important to do more than just talk about it in the future.

Commissioner Hochberg agreed. This is a situation with several hundred people with permits and more waiting in line for permits and a substantial amount unregistered and unregulated. He agreed with all the concerns for maintaining affordable long-term rental. But we are a tourist city.

The Staff has done a great job with the public and it is not a closed book. He thought the language on insurance and outdoor events can be easily fixed and the selling of short-term rental property. The buyer should not be pushed out but grandfathered in.

Chair Kadlubek pointed out that the Commission's job is to make recommendations before the final vote. So we do some vetting first.

Commissioner Kapin observed on the FIR that this will make some money. Sometimes having an intent with these taxes will affect long-term affordable housing. She asked if there is a way to put some of the income toward that purpose.

Ms. Martinez clarified that it is not a revenue-generating venture. The funds collected from fees and registration will come to Land Use but it is specifically for enforcement purposes with two added staff and management of the program and media outreach. Mr. Randall will be able to collect Lodgers Tax and can explain its use. But the fees go to management.

Mr. Randall said the \$500,000 in GRT revenue is determined by Council and \$650,000 in Lodgers Tax will be in accord with the Lodgers' Tax Ordinance - generally to market our city effectively. These unregistered short-term rentals are getting a free ride right now. By statute, none of this can be used for affordable housing. Hopefully some could be used for Economic Development.

Commissioner Kapin asked if the City could have another tax.

Mr. Randall explained that taxes can only be established by the State.

Mr. Smith recalled the initial version of the Short-Term Rental ordinance did include a revenue generating part but that was struck down by the courts.

Mr. Randall recalled it originally had a thousand-dollar fee and the court struck that down. You can only collect a fee to cover the expenses associated.

Commissioner Kapin observed this is very different than with hotels and lodgers. It is going out to residential areas and thought should be given to how it benefits the whole community, not just marketing for tourists.

Chair Kadlubek said the impact on the rental market is the issue. The City should be collecting GRT and Lodgers Tax from these rentals. No one disputes that. But he asked how it compensates for the impacts in the neighborhoods - on home owners and the long-range rental market. He asked if GRT revenue is also restricted.

Mr. Randall explained that the use of the GRT is not from an additional percentage but just the standard GRT charged against everything. It cannot be specified other than how it is already defined.

Commissioner Propst said the concern of impact on the long-term rental market is already flagged in the minutes. She also wondered if Staff have looked into whether short-term rentals are really eliminating long-term rentals. Some might use the house for a portion of the year so they would never consider long-term rentals. She asked if that is part of the study by Staff.

Mr. Randall said it is to some extent. There are concerns among realtors about not being allowed to use it as it has been. The difference of short-term versus long-term rental is really an economic concern by the owner.

Ms. Martínez said they don't have enough research on that and are just trying to address the issue in before the Commission.

Mr. Berke reported that in his research, the displacement is happening where landlords are seeing a chance to make more money with short-term rentals. It tends to be a better process for benefit of the landlords. They can maintain them regularly. Airbnb has shown us that having one-bedroom rentals instead of a roommate is more rewarding. It helps supplement the mortgage. It is a very big concern in hundreds of cities around the country. But it is hard to directly correlate them.

**Commissioner Hiatt moved to recommend approval to the Governing Body of the short-term rental ordinance amending Section 14-6.12 of the Land Development Code without amendment. Commissioner Abeyta seconded the motion.**

Chair Kadlubek asked what the length of short-term is.

Mr. Randall said short-term means under 30 days.

Chair Kadlubek wanted to make sure all the public comments are addressed. He asked about the \$25 more for a second unit.

Mr. Randall said that is incorrect. The fee of the second unit is the same as the first and the overall price was reduced \$25, with the thought that with the larger number of permits being issued, there would be sufficient funds at the \$325 level to cover the costs. He thought that might have been left over from the original and he would make sure that is clear in the proposed ordinance. The other suggestions on nonresidential use and insurance, he will incorporate when it goes to Council.

Commissioner Kapin said there is also the question about the transfers. She asked that it also be addressed.

Mr. Randall said he would. From his perspective, he preferred to deal with control on number of permits being adequate.

Chair Kadlubek asked about the adjacent language, other than just to see how it goes and hoped the permits would be used rather than sitting on them to protect the neighborhood.

Chair Kadlubek asked that it be amended to include at page 7, paragraph vi to fix the wording to communicate the intent and a term other than "and the like."

Commissioner Hiatt accepted as a friendly amendment Commissioner Abeyta's language – "that outdoor events such as weddings and large parties be prohibited."

Chair Kadlubek asked that it also include that Council look at specific types of insurance.

Commissioner Hiatt said that will be in the rules and regulations.

Commissioner Hochberg said it should not be just types but also amounts in the rules and regulations.

Chair Kadlubek added that the fee is the same for the second unit.

**The motion to approve passed unanimously by roll call vote with Commissioner Kapin, Commissioner Kadlubek, Commissioner Gutierrez, Commissioner Propst, Commissioner Abeyta, Commissioner Hiatt and Commissioner Hochberg voting in the affirmative; none voting against. Commissioner Greene was recused and did not vote.**

**Commissioner Hiatt moved to recommend approve the short-term resolution to the Governing Body. Commissioner Hochberg seconded the motion and it passed by unanimous voice vote except Commissioner Greene was recused and did not vote on the motion.**

Commissioner Greene returned to the bench after the vote.

- 3. Case #2016-13. 451 Circle Drive Escarpment Variance.** Buena Vistas Designs, agent for Catherine and Don Lucas, request approval of a variance to allow an addition to a house within the Ridgetop Subdistrict of the Escarpment Overlay district. The 2.05 acre property is zoned R-1 (Residential - 1 unit per acre). (Katherine Mortimer, Case Manager)

This case was withdrawn by the applicant.

4. **Case #2016-17. 195 Brownell Howland Road Escarpment Variance.** Thomas Lechner, agent for Anne Thompson Davenport, requests approval of a variance to allow an addition to an attached garage within the Ridgetop Subdistrict of the Escarpment Overlay District. The 5.08 acre property is zoned R-1 (Residential - 1 unit per acre). (Katherine Mortimer, Case Manager)

Ms. Mortimer presented the staff report for this case. The report is incorporated herewith as Exhibit 8. Please refer to Exhibit 8 for details concerning this staff report.

Ms. Mortimer reviewed the escarpment ordinance for the Commission. She said the Ridgetop was mapped with unsophisticated techniques of driving around and pointing. So some are not all that visible. Staff consider them on a case-by-case basis and look at the intent of the ordinance to determine whether it would have an impact or not. There are other restrictions such as regulation of colors, heights, styles, grading, vegetation, siting, etc. She explained that the overlay is not to protect views from private property but to protect public views from public rights of way and public spaces. This is the first of two cases.

Ms. Mortimer explained that this lot was split in 2009 which made it subject to a code amendment from 2005 that effectively prohibits development in the Ridgetop. Thus, the variance is requested to have an addition to the guest house. It is limited to 300 square feet. There is room for it on north without a variance but it would have to be a new building of 650 square feet and is on the far side of the driveway. It is only visible from the road nearby and would not be counter to the escarpment overlay intent. While it would not need a variance, it would create a greater disturbance. The proposed conditions are in Exhibit A of the Staff report.

#### Applicant's Presentation

Mr. Thomas Lechner, 24 Vista de Loma Drive, was sworn. He noted, as Staff reported, that this is a small addition. At one point, this structure was a one-car garage. The house was built in 1958 and is a John Gaw Meem house and it will maintain the same characteristics and it will meet all restrictions including fire, terrain management and is roughly just keeping everything tight to the site and not disturbing more area than needed.

#### Public Hearing.

There were no speakers from the public regarding this case.

#### Commission Questions:

Commissioner Propst asked if Mr. Lechner was okay with staff conditions.

Mr. Lechner agreed.

Commissioner Greene pointed out that the intent of the escarpment language is to protect views from major thoroughfares and not every public right of way, so it is to protect the view sheds. He asked how far this is from those major roads and whether it is visible from Bishop's Lodge or Hyde Park Roads.

Ms. Mortimer said it is not visible from any of those roads.

Commissioner Greene asked for Staff to provide some documentation for enforcement by taking pictures or pointing out the location from the closest preserved viewscapes.

Ms. Mortimer said Staff can do that but in this case it is completely invisible. It would be difficult without GPS, to show its exact location.

Mr. Smith said if that is the consensus of the Commission, Staff will provide that information from here on out.

Commissioner Greene thanked him. A picture is worth a thousand words.

Commissioner Kapin noted there was not any map of the area with houses and asked how far away the neighbors are.

Ms. Mortimer said there are neighbors on that road and it is a very curvy road. There are no neighbors across the street.

Mr. Lechner added that this property is at the end of Brownell Howland; to the east is Shirley McClain's property. It is not visible from any houses down the roads and it is in the trees so it is not visible from any residences.

**Commissioner Abeyta moved for approval of Case #2016-17 - 195 Brownell Howland Road Escarpment Variance with all staff conditions. Commissioner Hochberg seconded the motion and it passed by unanimous voice vote.**

5. **Case #2016-18. 165 Brownell Howland Road Escarpment Variance.** JenkinsGavin Design and Development, agent for B & L Land, LLC., requests approval of a variance to allow an addition to an accessory structure within the Ridgetop Subdistrict of the Escarpment Overlay District. The 5.46 acre property is zoned R-1 (Residential - 1 unit per acre). (Katherine Mortimer, Case Manager)

Commissioner Hochberg recused himself and left the meeting.

Ms. Mortimer presented the staff report for this case. The report is incorporated herewith as Exhibit 9. Please refer to Exhibit 9 for details of the staff report.

Ms. Mortimer explained that the lot split was approved this morning at the Summary Committee, making it subject to the prohibition of development within the Ridgetop Subdistrict. All the area outside of the escarpment district has extremely steep slopes and not developable. The barn will be removed and the stable expanded. It is a net decrease in developed area and height and the project is only visible from Brownell Howland Road at the driveway entrance. So even neighbors across the street cannot see it. A letter from that neighbor in support of this project is in the packet.

A copy of the support letter from Merrilee Caldwell and Marcus Randolph is incorporated herewith to these minutes as Exhibit 10.

So the proposed change of use and configuration of the structure is not contrary to the purpose or intent of the escarpment overlay district. She said if the Commission determines that it meets the variance criteria, the Commission may approve the variance, subject to the conditions in Exhibit A of the report.

#### Applicant's Presentation

Ms. Jennifer Jenkins, 130 Grant Avenue, Suite 101 was sworn.

Ms. Jenkins explained that the only developable area is in the Ridgetop Subdistrict and the rest is outside the escarpment overlay but it is too steep for any development. The key component is reducing the square footage so they are reducing the nonconformity by reducing height and square footage.

This property is 1/3 mile from Bishop's Lodge Road and it can't be seen from any major thoroughfare.

Ms. Jenkins provided two renderings and a site plan drawing. A copy of these submittals is incorporated herewith to these minutes as Exhibit 11. She pointed out the portion of the stable to be demolished and the dimensions for the four car garage and conceptual design of the garage and a comparison with existing stables as a before and after shot.

#### Public Hearing

There were no speakers from the public regarding this case and the public hearing portion was closed.

#### Commission Discussion

Commissioner Greene asked if the property has city water.

Ms. Jenkins agreed. It has a septic tank but city water.

Commissioner Greene asked how it qualifies for this addition.

Mr. Smith clarified in the code that the density is a minimum 2.5 acres with no utilities and if either water or sewer is provided it is one-acre minimum. This has two principal units on it and is why the lot split was allowed.

Also for the Commission's information, Staff has the plat for the subject property and asked that the Summary Committee members sign it after the meeting tonight.

Commissioner Greene asked if there is a well on the property now.

Ms. Jenkins agreed. The well is shared. It was an old family compound and the well is just used for irrigation. She didn't know what the usage is.

Commissioner Greene said once somebody has city water, it can be measured. So he would require metering and reporting because the City can work toward decommissioning the well.

Ms. Jenkins explained that the well is metered. She just didn't come with that information this evening.

Chair Kadlubek asked if she would be open to letting him know that information.

Ms. Jenkins agreed.

Commissioner Propst asked what that has to do with a garage.

Commissioner Greene clarified that it is a variance so it can be an impact.

**Commissioner Hiatt moved to approve Case #2016-18 - 165 Brownell Howland Road Escarpment Variance subject to staff conditions. Commissioner Greene seconded the motion and it passed by unanimous voice vote.**

Mr. Smith announced that the Findings of Fact and Conclusions of Law for this case will be presented at the April 21 meeting, rather than the May meeting.

## **G. STAFF COMMUNICATIONS**

Mr. Smith said the meeting is scheduled for April 21 with a development review for two properties including one at the Railyard with significant public comment and testimony. He will release the meeting schedule for the second half of 2016. In September and December, rather than 1<sup>st</sup> and 3<sup>rd</sup> Thursdays, the meetings will be on the 2<sup>nd</sup> and 4<sup>th</sup> Thursdays and better coordinate with Council for September and December.

Mr. Shandler announced an improper email was sent and advised Commissioners not to open or read it and notify staff whenever that occurs. There might be ways to cure that.

## H. MATTERS FROM THE COMMISSION

Commissioner Greene said for the public record that we have been part of the West River Planning Area and will have an open house next Tuesday at 5-7 pm at Frenchy's Field and on the Wednesday on the 20<sup>th</sup> as well. It is expected to come to the Planning Commission as early as the second meeting in May. There has been lots of progress and individual owners are requesting changes in zoning voluntarily. It is a good mix.

Commissioner Gutierrez updated the Summary Committee meeting earlier in the day with one case on the agenda that was approved.

Regarding Long Range Planning, Commissioner Greene said they are trying to make progress. They had a presentation from the Santa Fe MPO. It was a great presentation to understand how the MPO does their long range planning on transportation for 25 years out. It goes along with the CIP stuff at the last Commission meeting. He wondered if the final version of the CIP budget would be heard at next Planning Commission meeting.

At the next meeting, the LRP will discuss Agua Fria and the General Plan amendments and how to move forward. They are now meeting for two hours and he is encouraging two meetings per month in order to catch up on deferred planning. The Committee needs to know the topics the Commission wants studied. It is a place where we can percolate up ideas such as affordable housing and short-term rentals.

Commissioner Kapin added that in the conversation about long-range planners, they have put together a preliminary update on the General Plan and we keep bumping into the need for it. So LRP will be discussing that and bringing a plan to the Commission soon.

Commissioner Propst asked if the green building code update is part of that.

Commissioner Greene said it is not specifically part of it. Under Sustainable Santa Fe we are working on land use and construction industries. Ms. Mortimer is chairing much of that and ordinance changes will be coming.

Ms. Martínez said Staff does have some big changes on the green code and that is working its way through committees and looking forward to getting them approved.

Chair Kadlubek would like to better understand the purpose of the Long Range Planning Committee and the mechanism for achieving that purpose. If the purpose of it is only for educational study sessions, he didn't have an interest in serving on it much longer. But if it is for other purposes that actually serve needs, he would consider staying on it. He liked the MPO presentation but didn't have time for 90-minute educational presentations twice a month.

Ms. Martínez said she sat in on one a couple of weeks ago. She had a light bulb go off and ideas of a very useful purpose for that committee. It is not under her department and she is having preliminary conversations with the City Manager and with Kate Noble to help the Commission with the long term - not just focused on the ideas in front of the Commission but the bigger picture overall for the City.

Commissioner Kapin was happy to hear that. She felt the same way as Chair Kadlubek. she wanted it to be productive and bring information to the Planning Commission. Some of the study sessions are relevant. But she is really looking forward to that change - it is necessary.

Commissioner Hiatt reminded them that it is on our list to make sure LRP comes back to Ms. Martinez.

Chair Kadlubek agreed and also to have appropriate minutes of those meetings. We need proper minutes from those meetings.

Commissioner Greene had informal conversations on that with the new appointee and he thought they can vet some early initiatives for affordable housing - how to cut energy use or water saving projects long range. The Commission should be talking about these things.

Chair Kadlubek said we can adopt this committee to see it do things we think need to happen or to review some LRP.

Commissioner Kapin said obviously the work for the West River Corridor popped up and the question of why LRP staff are handling that. They are spending a ton of time like three a week for six weeks - 18 meetings. But she questioned why it landed there. The subcommittee is not doing much planning.

Ms. Martínez commented that several months ago ordinances were passed by Council to look at West River Corridor and Old Pecos Trail and the FIRs regarding the load on the Land Use Staff's plates and a request for a facilitator to do it. Ultimately the consultant was struck from the budget and put on the Staff. So Land Use took Old Pecos Trail Corridor and LRP took the West River Corridor to balance the work load.

Commissioner Kapin thought a lot of it had to do with annexation and the issues around it. There is a phase 3 hanging out there and the Commission should dig into that and plan for it.

Ms. Martínez recalled what prompted the ordinances came out of the controversy over Morningstar. So all these people are requesting changes in their zoning and need to have an overlay that will work.

Mr. Smith added that the Current Planning Division is working as closely as possible with LRP in weekly staff meetings. The River Corridor will involve changes in the General Plan and perhaps writing of overlay rules. The topics in the LRP has a paragraph in the code which he read.

Commissioner Hiatt gave kudos for the Chair. For the last few weeks he has been through a lot and done a lot for the City.

Chair Kadlubek thanked him and said he felt most unprepared for this meeting because he has been really busy.

**I. ADJOURNMENT**

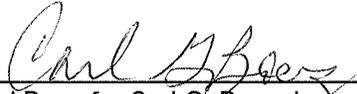
Having completed the agenda and no other business to come before them, the Planning Commission meeting was adjourned at 8:02 p.m.

Approved by:

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Vince Kadlubek, Chair

Submitted by:



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Carl Boaz for Carl G. Boaz, Inc