

DATE 1-30-08 TIME 2:25 PM
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Agenda

PLANNING COMMISSION **February 21, 2008 – 6:00 P.M.** **CITY COUNCIL CHAMBERS**

- A. ROLL CALL**
- B. PLEDGE OF ALLEGIANCE**
- C. APPROVAL OF AGENDA**
- D. APPROVAL OF MINUTES**
January 17, 2008

- E. OLD BUSINESS**
- F. NEW BUSINESS**

1. An ordinance creating a new Section 14-2.10 SFCC 1987 regarding a Neighborhood Conservation Review Committee; creating a new Section 14-5.10 SFCC 1987 regarding Neighborhood Conservation Overlay Districts; and making such other changes as are necessary. (Councilor Heldmeyer) (Jeanne Price, case manager)
2. **Case #M 2007-35. Plazas at Pecos Trail Variance to the South Central Highway Corridor Overlay District Sign Setback Regulations.** Linda Tigges, agent for William Chapman, requests variances to the South Central Highway Corridor Overlay District setback regulations to allow for two entry signs with walls off Old Pecos Trail at the intersection with Plazuela Vista; and to allow a sign larger than 32 square feet; and to allow more than 32 square feet of sign area. The property is located on the west side of Old Pecos Trail and south of St. Michael's Drive and is zoned R-2 (Residential, two dwelling units per acre). (Lou Baker, case manager) **(POSTPONED FROM JANUARY 17, 2008 AND FEBRUARY 07, 2008)**
3. **Case #S 2007-15. Callejon Tisnado Preliminary Subdivision Plat.** Estevan Trujillo, property owner requests preliminary subdivision plat approval for 3 lots on .286± acres located near the intersection of Camino Del Campo and West San Francisco Street. The application includes a variance to setback requirements to allow for 3 foot setbacks. The property is zoned RM-2 (Residential Multi-Family, 29 dwelling units per acre). (Donna Wynant, case manager)
4. **Case #M 2008-01. PNM I-25 and Galisteo Street Transmission Line Relocation.** Request by Public Service Company of New Mexico for determination of consistency with adopted General Plan for the relocation of existing 46kv and 115kv distribution line due to the Rail Runner Phase 2 Project. (Greg Smith, case manager)

G. BUSINESS FROM THE FLOOR

H. STAFF COMMUNICATIONS

I. MATTERS FROM THE COMMISSION

J. ADJOURNMENT

NOTES:

- 1) Procedures in front of the Planning Commission are governed by Roberts Rules of Order. Postponed cases are postponed 1) to a specific date, or 2) indefinitely until specific conditions have been resolved, or 3) to a specific date with the provisions that specific conditions be resolved prior to that date. Postponed cases can be removed from the postpone by a motion and vote of the Planning Commission
- 2) Due to time constraints not all issues may be heard and may be rescheduled to the next scheduled Planning Commission meeting. This agenda is subject to change at the discretion of the Planning Commission.
- 3) New Mexico law requires the following administrative procedures to be followed by zoning boards conducting “quasi-judicial” hearings. By law, any contact of Planning Commission members by applicants, interested parties or the general public concerning any development review application pending before the Commission, except by public testimony at Planning Commission meetings, is generally prohibited. In “quasi-judicial” hearings before zoning boards, all witnesses must be sworn in, under oath, prior to testimony and be subject to cross examination. Witnesses have the right to have an attorney present at the hearing. The zoning board will, in its discretion, grant or deny requests to postpone hearings.
***An interpreter for the hearing impaired is available through City Clerk’s Office upon 5 days notice. Please call 955-6521**

INDEX OF
CITY OF SANTA FE
PLANNING COMMISSION

February 21, 2008

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F. NEW BUSINESS		
1. An ordinance creating a new Section 14-2.10 SFCC 1987 regarding a Neighborhood Conservation Review Committee; creating a new Section 14-5.10 SFCC 1987 regarding Neighborhood Conservation Overlay Districts; and making such other changes as are necessary.	Approved	2
2. <u>Case #M 2007-35. Plazas at Pecos Trail Variance to the South Central Highway Corridor Overlay District Sign Setback Regulations.</u> Linda Tigges, agent for William Chapman, requests variances to the South Central Highway Corridor Overlay District setback regulations to allow for two entry signs with walls off Old Pecos Trail at the intersection with Plazuela Vista; and to allow a sign larger than 32 square feet; and to allow more than 32 square feet of sign area. The property is located on the west side of Old Pecos Trail and south of St. Michael's Drive and is zoned R-2 (Residential, two dwelling units per acre).	Approved	2-9
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MINUTES OF
CITY OF SANTA FE
PLANNING COMMISSION MEETING

February 21, 2008

A regular meeting of the City of Santa Fe Planning Commission was called to order by Chair Estevan Gonzales at approximately 6:00 p.m. on this date in the City Council Chambers, City Hall, Santa Fe, New Mexico.

A. ROLL CALL

Roll call indicated the presence of a quorum as follows:

MEMBERS PRESENT:

Bonifacio Armijo
Signe Lindell
Shayna Lewis
Matthew O'Reilly
John Salazar
Angela Schackel Bordegaray
Estevan Gonzales, Chair

MEMBERS ABSENT:

Gloria Lopez (excused)
Ken Hughes, Vice Chair (excused)

STAFF PRESENT:

Greg Smith, Director Permit and Development Review
Tamara Baer, Planning Manager
Jeanne Price, Legislative Liaison
Lou Baker, Senior Planner
Donna Wynant, Senior Planner
Nick Schiavo, Energy Specialist
Denise Cox, Stenographer

B. PLEDGE OF ALLEGIANCE

Chair Gonzales asked Commissioner Armijo to lead the pledge of allegiance.

C. APPROVAL OF AGENDA

Commissioner Salazar moved to approve the agenda as presented, Commissioner Lindell seconded the motion which passed by unanimous voice vote.

D. APPROVAL OF MINUTES

January 17, 2008

Mr. Smith stated that Commissioner Hughes noted an error in the index. Case 4 was denied and the index showed it was approved.

Commissioner O'Reilly made the following corrections:

Page 4, paragraph 11, after maximum density he requested the following be added: *is less than a certain minimum number of units.*

Page 19, paragraph 3, line 5, change the word than to of.

Page 19, paragraph 6, change *half the base coarse* to *having the base coarse and adding asphalt.*

Commissioner Bordegaray made the following correction:

Page 13, she clarified that she was asking what the back of the house means, so she wanted to clarify this was the back area.

Commissioner O'Reilly moved to approve the minutes of January 17, 2008 as amended, Commissioner Salazar seconded the motion which passed by unanimous voice vote.

E. OLD BUSINESS – None

F. NEW BUSINESS

1. **An ordinance creating a new Section 14-2.10 SFCC 1987 regarding a Neighborhood Conservation Review Committee; creating a new Section 14-5.10 SFCC 1987 regarding Neighborhood Conservation Overlay Districts; and making such other changes as are necessary. (Councilor Heldmeyer) (Jeanne Price, case manager)**

Memorandum from Jeanne Price, Legislative Liaison, prepared February 11 for February 21, 2008 Planning Commission meeting is incorporated herewith to these minutes as Exhibit "1."

Jeanne Price presented the staff report included in Exhibit "1."

Councilor Heldmeyer thanked the subcommittee for the time and thoughtful effort put into this. She thinks this is a good consensus bill.

Public Hearing

Rick Martinez, 725 Mesilla Road, said he believes this is a good thing for neighborhoods city wide. They can all use this. He thanked the Commission for looking at this.

The public testimony portion of the public hearing was closed.

Questions and comments from the Commission

Commissioner Salazar moved to recommend approval of an ordinance creating a new section 14-5.10 SFCC 1987, Commissioner O'Reilly seconded the motion which passed by unanimous voice vote.

2. **Case #M 2007-35. Plazas at Pecos Trail Variance to the South Central Highway Corridor Overlay District Sign Setback Regulations. Linda Tigges, agent for William Chapman, requests variances to the South Central Highway Corridor Overlay District setback regulations to allow for two entry signs with walls off Old Pecos Trail at the intersection with Plazuela**

Vista; and to allow a sign larger than 32 square feet; and to allow more than 32 square feet of sign area. The property is located on the west side of Old Pecos Trail and south of St. Michael's Drive and is zoned R-2 (Residential, two dwelling units per acre). (Lou Baker, case manager) (POSTPONED FROM JANUARY 17, 2008 AND FEBRUARY 07, 2008)

Memorandum from Lou Baker, Senior Planner, prepared February 13, 2008 for February 21, 2008 Planning Commission meeting is incorporated herewith to these minutes as Exhibit "2."

Addendum to staff report prepared by Lou Baker, Senior Planner, dated February 21, 2008 is incorporated herewith to these minutes as Exhibit "2(A)."

Explanation of variances prepared by the applicant is incorporated herewith to these minutes as Exhibit "2(B)."

Lou Baker presented the staff report included in Exhibit "2."

Staff recommendation:

In order to be consistent with the purpose and intent to *"establish a clear sense of visual openness"* of the South Central Highway Corridor Protection District (Section 14-5.5(A)(1) SFCC 2001) staff cannot support the application request for variances.

If the Planning Commission determines the merits of variance application M-2007-35 warrant approval, PUD variance findings are required (Section 14-2.3(C) SFCC 2001):

1. Are the requested variances appropriate in relation to the overall development of the Plazas at Pecos Trail Planned Unit Development and its purposes; and
2. Will the requested variances have unacceptable impacts on surrounding properties; and
3. Are the requested variances consistent with the purpose and intent of the South Central Highway Corridor Protection District (Section 14-5.5(A)(1) SFCC 2001).

Public Hearing

Bill Chapman, 1639 Villa Boesque, was sworn. He said they developed this project over a period of two years with neighborhood meetings and public hearings. He said with the original designs they tried to do the housing layout on the usable piece of the property which is 9 acres and they left 10 acres of open space. This exceeds the required open space. He said the neighbors wanted an entrance to the City that was as open as possible. He pointed out the open space. There are no two lots the same; they are all angular and different. There is creativity in the layout and design which intersperses the trail system. The intent was a compound look for empty nesters. The entry walls create a feeling of security along with the narrowed entrance. Safety and security has been a concern for residents. He said they do not need the variance to the size of the signs, but it is needed for the number of signs. He said they would rather not go for that variance, but that is up to staff and the Commission. He explained that the code allows two signs with one at each entry. The second entry is an emergency access entry that they wanted to downplay. It has a simple ranch gate and trees to hide it. This was never intended to be a second entrance. There is traffic going in both directions fairly rapidly so they need two signs. He reviewed the third page of Exhibit "2(B)" which refers to the PUD ordinance. The only areas landscaped are the entrances and the other open spaces were left natural. He said they have 10 acres of open space so they believe the intent is met exceedingly. He commented that the natural pinyons and grasses were left undisturbed, so he disagrees with staff. The entry walls are stuccoed with rocks, they are very low and it ebbs up out of the ground and ebbs back

down. This blends quite well. He said they wanted to target the empty nesters who wanted low maintenance and that has been achieved. The homeowners association will maintain the landscaping and trails.

Mr. Bill Chapman showed how the open space would be affected if they were forced to move the sign back. He pointed out that the PUD ordinance allows for creativity. There is a landscaping buffer and a small area close to the entrance road with the entry walls as close to the entrance as possible. This design disturbed the least amount of land. He said the intent of the Highway Corridor Ordinance was to keep land undisturbed. He said if they move the walls back they will disturb more land. He pointed out that there are many other violations to this ordinance in the corridor that do not meet the intent at all. PUD variances are not as harsh as other variances. He believes they do meet the intent and variances are encouraged in PUD areas. He commented that all the front yards are maintained by the homeowners association, so they have done everything possible to create an environment that will maintain itself.

Michael Chapman, 1842 Forest Circle, President of Chapman Homes, was sworn. He explained that in the design of the project and the entrance they looked closely at what was normal up and down the corridor such as Quail Run and Rainbow Vision. He believes this was an intelligent design preserving open space and keeps with the norm of what has been happening in this corridor for 20 some years.

Sally Meek, 316 Plaza Bosque, was sworn. She said she moved to Plaza at Pecos Trail 7 months ago choosing the location due to the design and safe entry. Recently her husband suffered a heart attack and the ambulance passed the entrance several times due to the speed and visibility of the signs. There was a 10-15 minute delay in getting there. She said the priority should be on the safety of residents rather than the code and ordinances. She fears that another emergency could result in the same problem or worse.

The public testimony portion of the public hearing was closed.

Questions and comments from the Commission

Commissioner Armijo asked if the signs are existing already.

Ms. Baker replied yes.

Commissioner Armijo asked why it is that City staff did not look at this previously.

Ms. Baker explained that the approved development plan did not show the location of signage. She added that the applicant made comments about the additional signs.

Commissioner Armijo asked how the other signs got placed without a permit.

Ms. Baker stated that in her research there were 67 sign permit applications reviewed which does not mean they were approved. She showed where some permits were issued in error. She said the legal department is currently reviewing the file. She believes one of the signs in that file is the one at the synagogue. Her understanding is that the signs at the hospital have been red tagged. She said there are signs that are not in accordance with the sign standards or the highway corridor standards.

Commissioner Armijo asked where it calls out what the setback actually is.

Mr. Bill Chapman explained that there can be some ambiguity with the ordinance, but they have tried to read it as no structures in the first 25 feet and no buildings until 50 feet. He said the rock is right at 0 and the sign is 3-4 feet back. He said there was some discussion with staff regarding whether entry landscaping is considered a structure. He said if rocks are not allowed, then the definition of what a structure is would be unclear.

Commissioner Armijo asked if it was the neighborhood that did not want the sign at the other entrance.

Mr. Bill Chapman stated that Sol y Lomas wanted the access road to be kept to minimal disturbance. The fence is a barb wire fence that the Highway Department put up. He showed where the only disturbance was which was where the deceleration lane was built. There was a simple ranch gate put up because they did not want to confuse people.

Commissioner Armijo agreed that less damage is the best effect in his opinion. Sometimes not meeting the code is better in terms of not disturbing the trees and emergency vehicles being able to access.

Commissioner Bordegaray asked when the highway corridor ordinance was passed.

Ms. Baker stated that it was adopted in 1986 and since then amendments have been adopted and these are listed in the staff report.

Commissioner Bordegaray asked if the amendments could account for some of the signs that are non-conforming.

Ms. Baker said the list of permit applications being reviewed is included in Exhibit "2(A)." She said as a result of the overlay there would have been non-conformities and she tried to determine which non-conformities resulted from the ordinance.

Mr. Smith said they have been discussing this and do not have a specific answer. He noted that Quail Run was built almost the same year as the adoption of the Highway Corridor. He said some of the commissioners may have recalled approving the variance to the shopping center at St. Francis and Zia, but besides that he does not recall the issuance of any variances to signage in the highway corridor. He knows at least one sign permit was issued in error.

Commissioner Bordegaray commented that they will not see any more entrances like this because she understands there are no more gated communities allowed.

Mr. Smith explained that the Council and Planning Commission have adopted an informal policy that they will not approve gated communities, but it is not flat out prohibited.

Commissioner Bordegaray questioned that the code calls for one sign and there are two signs. She said the precedent the applicant referred to is not what her experience is because Sol Y Lomas has one board sign and DeVargas Heights does not have a sign. She said her point is that she understands the necessity for signage for safety reasons.

and identification, but in her opinion that is why they have street signs. She asked if the second access is a safety feature and if the neighborhood did not want that to be an entrance. She does not see the reason for two signs.

Mr. Chapman shook his head in the affirmative that the neighborhood did not want the other entrance to be an access.

Commissioner Lindell asked if anyone applied for a permit for these signs.

Ms. Baker replied no.

Commissioner Lindell asked why they are seeing a variance on signs already built. She did not understand how this could have happened.

Mr. Smith explained that the inspection staff in the field is not the staff from the section that issues the permit, so they are not as familiar with the sign regulations. He said from staff perspective they saw no signs on the plans approved. He added that the building staff is not in the field. He does not know why the applicant did not apply for signs.

Commissioner Lindell asked Mr. Chapman why there was no sign permit filed for.

Mr. Michael Chapman explained that the signs were in the package from day one and they understood that the engineer had included them. He said as the subdivision was approved, they thought the signs were approved. He said it was not intentional, but when the question arose they immediately pulled out the plans and discovered the signs were not there. He said they are guilty as it was their understanding that it was in the information being approved and it was not.

Commissioner Lindell said the ordinance seems clear that there is one sign for the permanent identification of the development. Since they could not have a second sign at the second entrance it seems they just decided to put another one at the main entrance.

Mr. Michael Chapman stated that the reason for the second sign was for identification and visibility. He said the intent was to keep the entrance as small as possible and disturb less open space while making the signs visible. He said the median would have had to get larger if they did only one sign and they would have disturbed more open space.

Commissioner Lindell agreed street signs would have been sufficient. She said monument signs are sizable. She said it seems there should be one sign. Regarding the oversight on the size, she said they built it so it does not need a variance on size. She asked Mr. Smith if staff agrees.

Mr. Smith said the language in the code is on the last page of the staff report. He said the sign area is based on the net geometric area of the sign and traditional procedure is to multiply the height times the width. He said they do not have enough data to measure precisely. He said if the height and width measurements are correct then there is no variance required.

Commissioner Lindell asked for clarification that the required setback is 25 feet.

Ms. Baker said there is nothing allowed in the setback of 25 feet from the property line.

Commissioner Lindell asked what the setback on these signs is.

Mr. Michael Chapman stated that it depends on where you measure. From the sign it is 5 feet, but from the rocks it would be a 0 lot line. He pointed out that the ordinance refers not just to signs, but fences and structures.

Commissioner O'Reilly recalled this was a controversial project that the applicant worked very hard on. He agrees they did a good job in preserving open space. He has a problem given the amount of work put into this and their long expertise. He thought it was hard to imagine they would not know they had to apply for a sign permit and would not have had it on the plans as part of the development plan. He said this stretches belief in his mind. He stated that it is beautifully done and with or without the sign the applicant has created an entry statement that looks completely different than anything else along the street. He agreed there are many subdivisions that do not have these entry monuments, but many do. He said if safety and identification is an issue then it would be important to have the name of the street on the sign rather than the name of the subdivision. He also agreed the purpose of the PUD is for creative designs and clearly the sign was meant to be an integral part of this so then it should have been part of the development plan. He asked staff if this could be looked at a different way and if this could be an amendment to the development plan as opposed to variances.

Mr. Smith pointed out that there are different standards for approving variances within the overlay district and this could be a valid rationale for approving the variance. He said if the planning and development regulations are consistent through the implementation of this variance rather than by observing the specific standards, the variance should be approved. He said it is more consistent to allow the variance so this is more consistent with the highway corridor overlay district to preserve the openness and natural vegetation that would be disturbed by strict compliance.

Commissioner O'Reilly said it seems under a PUD there are things allowed that could have been part of the development plan. He thought this would have been better handled by applying for an amendment to the development plan. He wondered if this was minor enough to be done administratively. He expressed concern that they are being asked to approve variances for something never permitted and already constructed when they normally would have looked at it with the entire development approval. He would have preferred that rather than asking for three variances.

Mr. Smith clarified that this could have been handled as part of the original application. Staff authority does not extend to variances that are not approved by the Planning Commission. He explained that tonight there are the same criteria that would have used to vote on this when the entire project was before the Planning Commission.

Commissioner Salazar commented that he is disturbed by the story about the ambulance passing the subdivision although there are street signs. He believed it is common to refer to the entrance rather than the street sign. He said they are talking about moving signs back, but they are forgetting about public safety. He questioned moving the signs back at the hospital. He pointed out that this was part of the design because they wanted to create a safe neighborhood for empty nesters. The rest of the development has 10 acres of open space. He said this probably would have been in

front of the Commission if it was part of the original application. In his opinion this was tastefully done. He asked if staff has made measurements of the signs.

Mr. Smith stated that staff has not measured the signs. He did not dispute the applicants are correct. He commented that the City of Santa Fe emergency response is dispatched from a computer operated GIS map linked with the city streets. He said if they did not have specific directions then he suspects it may have been in a delay in updating the database. He said with or without monument signage they need to do better in getting that information timely. He pointed out that to the extent that the Commissioners are concerned about emergency access, the monument sign on far side of the street is visible at that location.

Commissioner Salazar stressed that this is a PUD, not an easing of Chapter 14. This fits in with overall development of a PUD.

Commissioner Lindell asked if the signs are lit.

Mr. Michael Chapman replied marginally. They are down lit in the entrances, but there is nothing that shines up due to the night sky ordinance. He wanted to take full responsibility for the error. He did not want the Commission to think they are trying to blame somebody else because they did not follow through on the permitting process.

Commissioner Bordegaray commended the design because this is a difficult site in town particularly due to the residents in the area. She asked if they ever contemplated having two entrances.

Mr. Bill Chapman said that was in the original design, but they moved the entrance as the neighborhood was outraged. There was no visibility so the Fire Department moved the sign location again.

Commissioner Bordegaray did think it was a nice entrance that meets the intent of the corridor protection district. In terms of the existing vegetation, this uniformly protects it and that is not always the case. She did not believe the sign impedes bicycle access. She said while it does not conform they are protecting the vegetation.

Chair Gonzales stated that he was on the Commission when this was approved. He is certain that had these been included they would have been approved. The Commission was impressed with the amount of time spent with the neighborhood and the compromise as well as the number of units they could have had on the property. He said today is a different day and a different Commission. He sympathizes with the lady and the emergency issues as he knows the need for emergency care and the timeliness is important. The two signs are needed for the health, safety and welfare and the signs are environmentally friendly. He thought it would be easy to pass and not see where the entrance is due to the curvature in the road. He likes the monuments as they are beautiful. He thought they could move the street sign closer to the street. He took the applicant's word that they have measured the sign, so it appears the applicant does not need the third variance that the City is requiring. He supports the applicant's request and feels it was a painful lesson learned.

Commissioner Salazar moved to approve Case M-2007-35 with the findings that the request for variances are appropriate in relation to the overall development the

Plazas at Pecos Trail. Without the variance they would have an unacceptable impact on the property if the sign came back and the variances are consistent with the intent and purpose of the highway corridor. This calls for the least disturbance possible. Commissioner Armijo seconded the motion.

Mr. Smith said they can approve all the variances or one in the motion.

Chair Gonzales asked Commissioner Salazar if his intent was to keep variance 3.

Commissioner Salazar said based upon the applicant's testimony this falls within the standards and the variance 3 is not needed.

Chair Gonzales asked Commissioner Salazar to include in the findings that this sign as designed improves the health, safety and welfare. Commissioners Salazar and Armijo accepted this as part of the motion.

Commissioner Armijo asked if there is a penalty or fine for not applying for the permit.

Mr. Smith said typically the permit fee is doubled.

Commissioner O'Reilly asked Commissioner Salazar to accept a friendly amendment to require the applicant to submit a permit so they can be charged the penalty.

Mr. Smith said this goes without saying, but there is no harm in adding it.

Commissioners Salazar and Armijo accepted the amendment.

Mr. Smith stated that it still requires a permit application be filed and approved whether or not that is included.

The motion passed by majority voice vote of 5 to 1. Commissioner Lindell voted against the motion.

- 3. Case #S 2007-15. Callejon Tisnado Preliminary Subdivision Plat. Estevan Trujillo, property owner requests preliminary subdivision plat approval for 3 lots on .286± acres located near the intersection of Camino Del Campo and West San Francisco Street. The application includes a variance to setback requirements to allow for 3 foot setbacks. The property is zoned RM-2 (Residential Multi-Family, 29 dwelling units per acre). (Donna Wynant, case manager)**

Memorandum from Donna Wynant, Senior Planner, prepared February 13, 2008 for February 21, 2008 Planning Commission meeting is incorporated herewith to these minutes as Exhibit "3."

Donna Wynant presented the staff report included in Exhibit "3."

Staff recommendation:

If the Planning Commission determines that the proposed preliminary Subdivision Plat is appropriate and approves the variances as requested, it should recommend approval to the City Council, subject to

conditions stated by the following departments:

- Engineering Division Review memo (Exhibit G)
Note: At the request of the City Engineer, " approval of this subdivision is contingent on construction of new ponds on Lot 1 and construction of new ponding volume for Lot 3, all in accordance with calculated volumes."
- Engineering Division Landscape Review Memo (Exhibit H)
- Engineering Division Traffic Review Memo (Exhibit I)
- Wastewater Management Division Review Memo (Exhibit J)
Note: At the request of the Wastewater Management Division; "Do not allow a subdivision to be created without final approval from the Wastewater Division that separate sewer service to each lot has been verified."
- Solid Waste Division Review Memo (Exhibit K)
- Fire Department memo (Exhibit L)
- Water Division Memo (Exhibit M)
- Parks, Open Space & Trails Review Memo (Exhibit N)

Public Hearing

Estevan Trujillo, 523 ½ West San Francisco Street, was sworn. He had nothing to add to the presentation.

Fred Wesley, 111 Callejon Tisnado, was sworn. He is one of the property owners and supports the application. He purchased his home in April of last year and was surprised to find it was a condominium. He said there is no way to know it is connected to other homes in terms of the property. It does not feel like a condominium, although he understands the reason was because it was one parcel. He pointed out that none of the current property owners owned the parcel at that time.

The public testimony portion of the public hearing was closed.

Questions and comments from the Commission

Commissioner O'Reilly asked why this needs to be approved by City Council.

Ms. Wynant said that is incorrect. This is the preliminary subdivision plat and then it comes back as a final subdivision plat.

Mr. Smith clarified that the preliminary and final are the extent of the review process.

Commissioner O'Reilly asked the applicants if they understand the separate sewer service and water meter that may be required and the high cost of this if required.

Mr. Trujillo said they currently have separate water meter service. The sewer service goes in different directions and two units share a connection and the other unit shares with other units that are not part of this application.

Mr. Wesley was aware and said it is separated all the way to the property line which is the most costly part to replace. He said they will abide if it is required.

Commissioner O'Reilly moved to approve S-2007-15 with all staff conditions, Commissioner Bordegaray seconded the motion which passed by unanimous voice vote.

- 4. Case #M 2008-01. PNM I-25 and Galisteo Street Transmission Line Relocation. Request by Public Service Company of New Mexico for determination of consistency with adopted General Plan for the relocation of existing 46kv and 115kv distribution line due to the Rail Runner Phase 2 Project. (Greg Smith, case manager)**

Memorandum from Greg Smith, Director, Current Planning Division, prepared February 13, 2008 for February 21, 2008 Planning Commission meeting is incorporated herewith to these minutes as Exhibit "4."

Greg Smith presented the staff report included in Exhibit "4."

Staff recommendation:

In the absence of an adopted electric facilities plan, it is not clear that the proposed project is consistent with all specific policies in the General Plan. However, considering the minor nature of the proposed relocation, staff believes that a finding of consistency is appropriate.

Public Hearing

Laurie Moye, PNM, Alvarao Square, Albuquerque, 87158, was sworn. She thanked the Commissioners for their service as she knows it is not easy. She explained that this is for a consistency review with the General Plan. Since the DOT has firmed up their alignment it has allowed PNM to change the original alignment. She gave a handout included in Exhibit "4(A)." She knows there are neighbors with concerns and shared one issue, EMF's (electromagnetic fields). She said the EMF's on this line will not change. One line operates at 115 kV and other is at 46 kV which will not change. The relocation is at the request of DOT. She reviewed the submittal included in Exhibit "4." She explained that recently the DOT firmed up what was happening at Galisteo which allowed PNM to determine an opportunity to realign some poles and lines. This line will serve about 13,000 customers. She showed on the maps how they would move the lines. She said PNM believes this action is consistent with the General Plan.

Dan Cron, 2984 Corte de Escuelas, was sworn. He said he has no problem with relocating the lines per se, so long as they are underground. He had personal concerns about the electromagnetic fields. His mother died of leukemia and the doctors discussed the EMF's. He did not take a particular home in the neighborhood that was located too close to the power lines and spent several hundred dollars to have testing done to ensure safety from these. He stated that he is not looking to stand in the way of progress, but he wants to do this safely and bury the lines. The people in the neighborhood have put up with a lot of noise and inconvenience and they are going to have noise when the Rail Runner comes in. This is an accommodation that can be done to ensure this is done in a safe way. He requested these be underground.

Rosemary Rowell, 2710 La Silla Dorada, was sworn. She lives adjacent to the construction area. The first issue she had was the berm that used to exist between Galisteo and I-25 that was eliminated by the construction of the Rail Runner; she would like it reconstructed. The berm protected the neighborhood from the noise and visibility. She suggested they construct the type of wall that is along 599. The power line will come even closer to her house. She said she has read many articles on EMF that are of concern. She requested this be put underground where it would not affect the health of the neighborhood.

James Roybal, 2748 La Silla Dorada, was sworn. He stated that he found out yesterday about this. His feeling is that the line should be buried for not just the electromagnetic field but also because this is an entrance to Santa Fe. He thinks when people come to Santa Fe they should see something other than the huge power lines.

Manuel Fernandez, 2705 La Silla Dorado, was sworn. His home faces Galisteo. The location of the new pole will be almost directly behind his house. It will be extremely visible. This was their first opportunity to see where the poles are planned to be. Originally he thought they were simply going to move the one pole that was in the way of the rail line off the easement. He still thinks it would be simple to locate off the easement rather than moving to the high ground. He understands there will be a transfer station which is extremely unsightly. All these plans will depreciate the value of the property. He said now hearing about the electromagnetic concerns; he agrees that an underground line would be a far better solution. He said if they have to stay with the poles and not go underground it seems it would be simple to move over about 50 feet and still have the 25 foot easement needed for trucks. He said the only reason this is not being done is because PNM does not own the piece of property. He asked the Commission to consider tabling for further study and to see if a compromise could be worked out. He favors an underground line and does not think \$1 million a mile is an unreasonable cost.

Louelle Fernandez, 2705 La Silla Dorada, was sworn. She said clearly they need more study on this issue. Many of the neighbors were not aware of the problem until they came to this meeting.

John Henry, 2723 Via Venado, was sworn. He said he is the guy that will be there for both the breaks and the horn. He said when they take the construction from Galisteo down to the middle of the temporary road that is his backyard. He supports mass transit although he has to live with the headache and the dust. He said currently they are doing construction 24 hours a day. He said he is here to defend the power company because they do not want to move the line, but they have to. He feels if they can dig a hole big enough for a train to go through they can dig a hole big enough for the power line. He said they will live with the train because it will benefit everyone in New Mexico. He does not see the reason for moving the power line so close to the neighbors.

Tom Johnson, 2984 Corte de Agua, was sworn. He is retired from the labs and the voltages in question are what he worked with every day. He said they worked behind lead walls. He suggested everyone Google high power lines and health. There is a link between cancer and power lines as they are exposed to radiation levels dozens of times higher than the legal limit. There are links between the power lines and childhood leukemia and levels of cancer. He said the levels recorded within 100 yards of the power lines in one study were two times higher than the legal maximum allowed for adult nuclear power plant workers. He noted that there is one house up for sale already due to the construction work then he corrected himself after someone from the audience said there were five for sale out of 130 homes. He pleaded with the Commission to require PNM to bury the lines.

Lynn Murray, 2729 Via Venado, was sworn. She thanked the Commission for allowing them to register the feelings they have. She said she is railroad friendly and has lived in areas where she has commuted on the railroad. In her opinion, the railroad is not the big challenge, but the power lines are. The lines will be closer to her home.

She sees the opportunity to bring these up to 2008 and put them underground where they belong so they are not dangerous to those that live near them or to the environment.

Lawrence G Quintana, 2701 Via Venado, was sworn. He stated that Las Estancias was formed as an association last year. They represent 131 families who look out for each other. They worked together on a play area. They are doing things to better themselves. According to a survey they did last year there are 126 school age children that live in this area. The fact remains that whether they increase the voltage or not they are moving the source closer to the properties where people live and children play. This is a diverse group of artists, lawyers, schoolteachers and the largest population of retired school teachers. These are people that are giving back to the area. She said by moving the lines they will be closer to Rosemont Retirement Center. He said they have heard different possibilities. He said this will follow along the Broussard property. He does not see what the problem would be with placing the lines where it is already torn up for the Rail Runner. He said it is not that great a deal, if they had to start from scratch then he could see the problem. He said the DOT has to want to do this. The neighbors are making the best of it for the betterment of Santa Fe, but there are 126 children relying on this decision.

James Roybal, previously sworn, added that Quail Run buried their lines and they are a private developer.

Ms. Moya explained that there are no lines going over houses. The national electric safety code does not allow lines to go over houses no matter what the voltage is. She addressed the EMF's and under grounding. EMF's dissipate through distance so the farther away the lower the reading. She said when you have an overhead line, the bottom arm is 65 feet from the ground and the mid span is 35 feet. She said to ask for lines to be buried means they would bury the lines at 5-10 feet below ground, so the exposure is considerably higher. She said there is not relief from burying the lines. She commented that this is a critical line for Santa Fe and the expense to underground it is considerable, they would not bury a portion of the line that goes under the railroad no matter what as the lines are too critical. The citizens of Santa Fe would need to bear the cost. She pointed out that all they are asking for is a determination as to whether this action is consistent with the General Plan.

The public testimony portion of the public hearing was closed.

Questions and comments from the Commission

Mr. Smith referred to the resolution adopted by the Council regarding the under grounding of power lines which was included in Exhibit "4." He stated that Nick Schiavo is present and can respond to critical questions.

Commissioner Armijo stated that PNM indicated the closer the magnetic field the more danger and they are moving the lines closer.

Ms. Moya explained that right now the lines run at the back fence as there is an existing PNM easement. They are proposing to move the lines slightly northeast and crossing over three property owners. They have negotiated easements with those property owners for the power lines.

Commissioner Armijo said it looks like PNM is crossing five properties.

Ms. Moya said that is not correct, the alignment stays the same up to the first red diamond and then they cross three properties.

Commissioner Armijo wanted to know if they are moving a couple hundred feet closer to the homes.

Ms. Moya stated they are being moved 50 feet and that increases as they move northeast. She said they have negotiated easements with these affected property owners.

Commissioner Armijo asked if there is proof that there is less EMF off an overhead line than on underground lines.

Ms. Moya said that is correct, although she does not have anything with her currently.

Commissioner Armijo asked if the trappings of underground lines strip or displace the EMF's. He also asked about a placement conduit.

Ms. Moya said none of these displace the EMF's.

Commissioner Armijo clarified that NMDOT wants to move this away from the track.

Ms. Moya said they are trying to move away from the slope. She added that PNM did not remove the berm.

Commissioner Armijo understood that it will be crossing the Rail Runner at the same point.

Ms. Moya said that is correct. She said they are taking a double circuit pole away. For the safety of workers PNM will put one line in service and cut one line off and put in another pole. She said they will have to turn on a 46 and turn off the 115 and realign the pole so the workers are safe.

Commissioner Armijo questioned that some of the neighbors mentioned they are just finding out about these things.

Ms. Moya said that statement applies to the Rail Runner project. PNM notified the neighbors per the City Code through certified mail and regular mail.

Commissioner Armijo asked what the overall cost of going overhead vs. underground per foot is.

Ms. Moya was unsure of the exact cost. She estimated the overhead line to cost about \$300,000 and underground lines to be 3-10 times the cost.

Commissioner O'Reilly asked if the consistency review requires an ENN.

Mr. Smith said the determination is based on the state statutes rather than Chapter 14, so no ENN is required. Typically PNM has gone through a process similar to an ENN.

He understands the timing imposed by the Rail Runner did not allow PNM to follow that practice.

Ms. Moya said they were informed by DOT representatives that they had numerous meetings regarding this particular alignment and at one of those meetings there was a board that showed the realignment, but there were no PNM representatives at the meetings.

Commissioner O'Reilly asked Mr. Schiavo if it is true that EMF's dissipate with distance.

Nick Schiavo, City of Santa Fe's Energy Specialist, stated that he is not an EMF specialist. His understanding is that it is true that EMF's dissipate with distance and it would be closer if the lines were in the ground rather than if they were suspended in the air.

Commissioner O'Reilly asked what the status of the franchise agreement is.

Mr. Schiavo said it has been under negotiation for quite some time, but it would not address this. In this case DOT has asked PNM to move their lines. His understanding is that the franchise agreement addresses placement of lines and assessment of fees for allowing PNM to have lines in City property.

Mr. Smith agreed that the franchise agreement is not the facility plan or various code amendments.

Chair Gonzales reminded the Commission that Gerard Martinez y Valencia, representative from the DOT is present.

Commissioner O'Reilly asked if the area described is the extent of Rail Runner excavation.

Ms. Moya said that is correct.

Commissioner O'Reilly understood the need to safely access the poles. He asked why PNM would not relocate 10-15 feet to the top of the cut. He asked the reason for moving the lines that far away from the excavation.

Ms. Moya said the poles were moved onto what they thought was PNM property and the Rail Runner is in PNM property, so DOT will be giving property to PNM and the poles are being moved onto the PNM property. PNM wanted to minimize the angle of the poles.

Commissioner O'Reilly said it appears they will need an easement to cross the Rail Runner. He wonders if the easement could be obtained closer to the Rail Runner right of way rather than so far away from the Rail Runner excavation.

Ms. Moya said all the area is in question as to where DOT has easements and does not. She said this has been a large discussion and issue and she does not have information to answer this line of questioning.

Commissioner O'Reilly did not see a topographic reason for this alignment closer to the top of the cut. He suggested they postpone this to find out if the easements could be obtained so that the poles could be located farther from the neighbors.

Ms. Moye requested they be heard on March 6th if this is tabled.

Chair Gonzales stated that the March 6th hearing was canceled.

Mr. Smith said there could be a special meeting on March 6th although staff does not have a venue for it currently as the election will be occupying the Council chambers.

Chair Gonzales understood there is a sense of urgency to come to a solution. He said if this is postponed he agrees there should be a hearing sooner rather than later.

Ms. Moye added that PNM needs to be out of the way by April 1st and it takes PNM three weeks after pouring the foundation for poles to place the poles.

Chair Gonzales asked if the Planning Commission approval is the final step.

Mr. Smith said staff has discussed whether there is an appeal process to the Council.

Commissioner O'Reilly asked if DOT knows who owns the property.

Gerard Martinez, NMDOT, was sworn. He stated that he does not know. He said he would report the question back to Patricio Guerrero Ortiz, Deputy Secretary of Programs and Infrastructure.

Commissioner Lindell said she doesn't know much about the power lines except that nobody wants them any closer to their property than they have to have. It appears moving this north onto the Rousseau property might be a possibility. She asked if there is a reason the lines could not come down closer to the Rail Runner which would bring the lines further away from homes.

Ms. Moye stated that she is unfamiliar with the easements and where NMDOT property is to clearly answer this question. She knows that PNM bought property from NMDOT. Apparently there has been some trade or discussion about the property. She said she cannot answer a question about moving the poles or realigning the poles closer or changing the poles. She does not have property ownership or easement information.

Commissioner Lindell asked how long ago the transfer took place.

Ms. Moye understood that PNM bought the property last year.

Commissioner Lindell said it seems it would have been helpful to know that since they have an entire neighborhood that is concerned about this. She knows that PNM does not want to displease an entire neighborhood. She said it seems they do not have enough information to make this decision.

Ms. Moye stated that PNM's application is not about placement of poles or lines. The intent of the application is to determine if the action is consistent with the General Plan.

She said what she was prepared to talk about if this is consistent or not and not about conductor wire or pole locations.

Commissioner Salazar believed the General Plan is for the purpose of public safety and welfare, so the only way he could approve this is if these are put underground or moved. The way he sees the General Plan this does not meet the intent. He agreed the poles should be moved further away from the neighborhood, if they have to be above ground. He has not heard any reason for putting the poles up in this area and they have many people stating their legitimate concerns. He would think PNM would want to listen to these people's concerns.

Chair Gonzales reminded everyone that there are a lot of logistics in moving the poles. He said if a decision is not made at this hearing there needs to be a hearing March 6th.

Commissioner Bordegaray agreed and thought they should have a meeting on March 6th with the presence of Mr. Guerrero Ortiz. She understands they are reviewing this in accordance with the General Plan. She said being the solution oriented commission that they are they are looking at a pole issue, so it would be helpful to have answers. She stated that the Rail Runner is huge and valuable and the process has been pretty unsavory to witness as a public servant, but everyone needs to make the best of the train due to its benefit. She feels the questions are fair and the DOT can answer them. She understands that PNM is being squeezed to do this. She would like to confirm that based on the state statute they are talking about the General Plan and not nearing the 65th day which is the deadline for the Commission to act.

Ms. Moya said that on March 6th they will be at 52 days.

Chair Gonzales understood that PNM is responding to an action taken by the DOT and not doing this on their own initiative. He said it appears the Commission will postpone to March 6th. He asked Mr. Martinez for Patricio Guerrero Ortiz's contact information.

Mr. Martinez passed out his cards and said his cell phone number is 554-6812.

Chair Gonzales said it appears the Commission has discussed moving the poles and they have questions about property ownership and how this will be paid for. He said when a motion is made, he would like to see the State take an active role in meeting with the neighbors to allow them an opportunity to tell NMDOT their concerns. He said due to the urgency NMDOT needs to have key decision makers to say we will administer these funds to purchase properties.

Mr. Martinez agreed to this and requested that City Staff convey this in writing.

Chair Gonzales urged the neighbors to please contact Mr. Gerard Martinez to share their concerns.

Ms. Moya reiterated that PNM needs clear direction so they know what the Commission wants and a decision can be made on March 6th and they can move forward at the next hearing.

Commissioner O'Reilly pointed out that there are other options. He said the Commission could find that this application is consistent with the General Plan if the line

is relocated as would they would indicate to PNM. The Commission could postpone this and it does not have to go to the next scheduled Planning Commission and they could set a date to have a special meeting to review just this case. He said it does not have to be two weeks from now.

Mr. Smith said that is basically correct, but the logistical problem is the staff has difficulty confirming specific times and places. He said tonight they could announce the date and then in three days or more post the location.

Commissioner O'Reilly understood time is of the essence. He sympathized with the position PNM is being put in. He said it is very clear that the General Plan addresses health and safety and the applicant testified and admitted that the closer the lines get the more the EMF's increase. He feels the Commission can accommodate the time line.

Ms. Moye commented that PNM has an auditorium at the South Pacheco office and PNM could offer that for a public meeting if the Commission would like to have a meeting earlier than March 6th.

Commissioner Bordegaray understood if the Commission denies this, PNM can go to the PRC.

Mr. Smith confirmed that the utility has the authority to go to the PRC to overrule the Planning Commission decision.

Commissioner O'Reilly asked what the earliest day is that they could meet and make the requirements.

Mr. Smith said if they have the date, time and place then anything would be acceptable.

Chair Gonzales asked if they can do this statutorily or if PNM will have to purchase property and will need more time to discuss the business issues of moving the poles.

Ms. Moye said there is a sense of urgency for NMDOT and PNM is responding, so they will find a way to meet and discuss whatever is directed prior to the meeting.

Commissioner O'Reilly moved to postpone Case #M-2008-01 to Tuesday at 6 p.m. to hear additional information about moving these lines closer to the Rail Runner excavation at the PNM auditorium.

Ms. Moye stated the address as 2041 South Pacheco, immediately adjacent to the post office. She said the auditorium is in the front and they will have a door open from the outside.

Chair Gonzales asked that Gerard Martinez, someone from the DOT right of way department, and Patricio Guerrero Ortiz be present at this meeting.

Commissioner Salazar seconded the motion.

Commissioner Armijo asked if PNM has an expert on electromagnetic field and if there is any staff report on the same matter it would be helpful.

Ms. Moya said they have people that can come and discuss this issue.

Mr. Quintana said the Commission asked previously that the DOT people meet with the association, although the time frame is not going to give much time.

Chair Gonzales was concerned with the timeline, but he thought it would be tough to delay given the statutory right of PNM to go to the PRC to get a decision quickly. He does not like this either, but they want to help the neighbors find a solution. They understand the issue is to get it away and as far away as possible. He said if they send out letters to all the families he does not think the issues will change.

Mr. Quintana understood and said they would appreciate the opportunity to meet with PNM to see what they are proposing. He said there were several different maps and if they were able to meet then they could better understand.

Chair Gonzales suggested they delay the meeting to 7 p.m. so the neighbors can see the plan prior to the meeting.

Commissioner O'Reilly accepted that they delay the public hearing to 7 p.m. to allow the neighbors time to view the plan. Commissioner Salazar accepted this as well.

Ms. Moya understood they would meet with the neighbors from 5:30-6:30 and then have the public hearing at 7 p.m.

There being no abstaining or dissenting votes, the motion passed by unanimous voice vote.

G. BUSINESS FROM THE FLOOR – None

H. STAFF COMMUNICATIONS

Mr. Smith stated that staff is investigating the error on the signs to make sure the permits are all approved properly.

I. MATTERS FROM THE COMMISSION

Commissioner O'Reilly referred to the two signs at Plazas at Pecos Trail. He requested that Chapter 14 be changed to say they could have a second sign at the secondary entrance. He asked if the ordinance they looked at about rounding up has progressed.

Mr. Smith stated that it has not yet gone to hearing, but it will go to the Council meeting next week for request to publish. He suggested contacting Jeanne Price with questions on this.

Commissioner Armijo referred to the short term rental ordinance. He said what was passed is that all the people that were illegal became legal. The only ones that qualified were those that were breaking the law. He does not understand the way City Council passed this. His understanding is that they can get an application only if they have proof that they were doing it all along illegally.

Mr. Smith understood the concern. He said there is an investigation that raised some question if the City could establish that the current operators were in fact illegal. He said staff's position was that they were illegal, but there has been advice to the contrary.

Commissioner Armijo said whether they are illegal or not others cannot apply currently.

Mr. Smith stated that the Commission could initiate amendments to the code or to the Council.

Commissioner Armijo said in his opinion this is a bad precedent as they are showing if you do something illegal then it will be made legal.

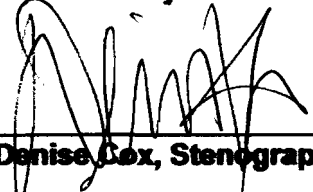
J. ADJOURNMENT

There being no further matters to come before the Commission, and the Commission having completed its agenda, Commissioner Salazar moved, seconded by Commissioner Lindell to adjourn the meeting. The motion passed unanimously on a voice vote and the meeting was adjourned at 9:20 p.m.

Approved by:


Chair Estevan Gonzales

Submitted by:


Denise Cox, Stenographer