

INDEX OF
CITY OF SANTA FE
PLANNING COMMISSION

April 3, 2008

ITEM	ACTION TAKEN	PAGE(S)
A. ROLL CALL	Quorum	1
B. PLEDGE OF ALLEGIANCE		1
C. APPROVAL OF AGENDA	Approved	1
D. APPROVAL OF MINUTES February 26, 2008	Approved	1-2
E. OLD BUSINESS		2
F. NEW BUSINESS		
1. <u>Case #ZA 2008-05. Juanita Street and Alarid Neighborhood Rezone.</u> The City of Santa Fe requests approval to rezone 35.44± acres of land from RM-1 (Residential Multi-family, 21 dwelling units per acre) to R-8 (Residential, 8 dwelling units per acre). The subject property is bounded on the north by West Manhattan Avenue, on the east by the Railyards, on the south by Camino Sierra Vista and on the west by S. St. Francis Drive, in addition west of S. St. Francis Drive, south of Hickox Street, north of Mercer Street and extending mid-block between S. St. Francis Drive and Oñate Street on the west. Within Township 17 North, Range 09 East, SE quarter of Section 23 and NE quarter of Section 26.	Approved	2-13
2. An ordinance amending Section 14-3.9 SFCC 1987 regarding development in flood hazard areas, Section 14-8.3 SFCC 1987 regarding flood regulations, Section 14-11.5(C) SFCC 1987 regarding penalties for violation of flood regulations; and making such other related changes to Chapter 14 SFCC 1987 as are necessary.	Approved	13-15
3. <u>Case #S 2008-01. Kaushal Business Park Final Subdivision Plat.</u>	Postponed per agenda	15
4. <u>Case #M 2008-04. San Mateo Townhouse/Condominiums Development Plan Amendment.</u> Richard Horcasitas, agent for San Mateo Apartments LLC, requests development plan amendment to allow for demolition and reconstruction of one existing building (Building 14) into two separate building with four units each and to close off entrance to the property at St. Francis Drive. The site encompasses a total of approximately 11.64 acres. The property is zoned RM-2 (Multi Family Residential, 29 dwellings per acre) and is located at the northwest corner of San Mateo Road and St. Francis Drive.	Approved	15-17
5. <u>Case #M 2008-02. Del Norte Credit Union Development Plan.</u>	Postponed per agenda	17
6. <u>Case #A 2008-01. Los Cielos Grading Permit Appeal.</u>	Withdrawn per agenda	17

<u>ITEM</u>	<u>ACTION TAKEN</u>	<u>PAGE(S)</u>
G. BUSINESS FROM THE FLOOR		17
H. STAFF COMMUNICATIONS		17
I. MATTERS FROM THE COMMISSION		17-18
J. ADJOURNMENT		18

MINUTES OF
CITY OF SANTA FE
PLANNING COMMISSION MEETING

April 3, 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:

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

MEMBERS ABSENT:

Gloria Lopez

STAFF PRESENT:

Greg Smith, Director Permit and Development Review
Tamara Baer, Planning Manager
Kelley Brennan, Assistant City Attorney
Wendy Blackwell, Director Technical Review Division
Tony Raeker, Senior Planner
Lou Baker, Senior Planner
Denise Cox, Stenographer

B. PLEDGE OF ALLEGIANCE

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

C. APPROVAL OF AGENDA

Ms. Baer stated that Item 3 – Case #S-2008-01 – Kaushal Business Park Final Subdivision Plat is being postponed to the June 5th meeting. Item 5 – Case #M-2008-02 – Del Norte Credit Union Development Plan is postponed to the next meeting, April 17th. Item 6 – Case #A-2008-01 – Los Cielos Grading Permit Appeal has been withdrawn.

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

D. APPROVAL OF MINUTES

February 26, 2008

Commissioner O'Reilly corrected page 3, 5th paragraph from the bottom to refer to state statute 3-19.11, not 3-17.11

Commissioner Salazar moved to approve the minutes of February 26, 2008 as amended, Commissioner O'Reilly seconded the motion which passed by unanimous voice vote.

E. OLD BUSINESS – None

F. NEW BUSINESS

- 1. Case #ZA 2008-05. Juanita Street and Alarid Neighborhood Rezone. The City of Santa Fe requests approval to rezone 35.44± acres of land from RM-1 (Residential Multi-family, 21 dwelling units per acre) to R-8 (Residential, 8 dwelling units per acre). The subject property is bounded on the north by West Manhattan Avenue, on the east by the Railyards, on the south by Camino Sierra Vista and on the west by S. St. Francis Drive, in addition west of S. St. Francis Drive, south of Hickox Street, north of Mercer Street and extending mid-block between S. St. Francis Drive and Oñate Street on the west. Within Township 17 North, Range 09 East, SE quarter of Section 23 and NE quarter of Section 26. (Lou Baker, case manager)**

Memorandum from Lou Baker, Development Review Senior Planner, prepared March 20, 2008 for April 3, 2008 Planning Commission meeting is incorporated herewith to these minutes as Exhibit "1."

Addendum to staff report prepared by Lou Baker, Development Review Senior Planner, dated April 3, 2008 is incorporated herewith to these minutes as Exhibit "1(A)."

Request for exclusion from the new zoning from Mary Miner Porter and Michael Smith is incorporated herewith to these minutes as Exhibit "1(B)."

Mr. Greg Smith presented the staff report included in Exhibit "1."

Staff recommendation:

The Commission's decision should be based on an evaluation of consistency with several General Plan policies, and on other rezoning criteria outlined in this report. This involves balancing the advantages of more intense infill, multi-family development against the advantages of preserving the existing neighborhood character, and against the disadvantages of making a relatively small number of existing multifamily developments legally nonconforming.

The proposed rezoning would provide consistency with the 1999 General Plan Future Land Use Map, and provides protection for the existing neighborhood character supported by the majority of neighborhood residents which is a valid public purpose consistent with NMSA §3-21-1 through 3-21-14. Staff's evaluation concludes that the positive impacts outweigh the negatives, and recommends approval based on a finding of compliance with rezoning criteria in Section 14-3.5 (C) SFCC 2001.

Staff's evaluation is based on circumstances in this particular neighborhood, and any proposed rezoning in a different neighborhood would require a separate, detailed evaluation.

Councilor Patti J. Bushee referred to resolution 2001-55. She said this is following through with the work that began in 1997. She recognizes the pressures the Railyard

put on some of the older neighborhoods, so the discussion started with the idea of conservation districts. The intent of neighborhood conservation districts is to place them in older neighborhoods with homes built prior to the zoning categories being in place. She noted that she has represented that part of town for 14 years so has seen the Guadalupe Street and Agua Fria area undergo drastic changes. The residents wanted to preserve their neighborhood and then they gave up and sold out. She said the resolution in 2001 directed staff to amend the building designation in the historic Guadalupe and Alarid neighborhoods to the designation in the General Plan. This is what she is trying to follow up with. She commented that there has been a huge reaction to some very dense build out that occurred a few months back and then the neighborhood meetings began. She added that there was some discussion regarding the R-9 and R-10 zoning categories. There are some residents on the perimeter that might like to be carved out from this zoning. This zoning category fits closer to what is there currently. She said current resolutions will impact this to some degree, but do not address the density and quality of life impacts the residents would like to see improved.

Public Hearing

Those speaking for and against the rezoning were sworn en masse.

Lawrence Longacre, 609 Calle de Marcos, daughter lives at 533 Juanita, was sworn. He said when he was on the Council residents would come up and say they had been a resident all their life and he used to think that is not going to help you, but now that he is on the other side he hopes it does help. He said he is down with this. He noted that the acoustics are poor and he could not understand a word that Mr. Smith said so many of the people present may repeat what they did not hear. He wanted to restrict the height. He questioned where the R-8 came from. He thanked Councilor Bushee for having the meetings because when there are problems in the barrio she is there immediately. The lots are narrow and long, so at times it is hard to fit in a house. If they go to R-8 they will need 5445 square feet which does not give much room for a house. If they go to R-9 they would only need 4833 square feet. He asked them to consider R-9.

Alan Capling, 531 Juanita Street, was sworn. He agreed that nobody heard the presentation. He said the thinking that it is simpler to amend RM zoning is a simple approach. If the Juanita Street is not rezoned the density is too great and the streets are too narrow with the pedestrian traffic getting worse once the Railyard is completed. Changing the height requirement would solve one of the problems, but it does not address the density which is as big a problem as height. He thought it would be short sighted to change the rules for all RM neighborhoods because Alarid is having a problem. He said they are being affected greatly by the Railyard.

Chair Gonzales suggested Mr. Smith restate his presentation for those that could not hear him.

Mr. Smith summarized the presentation and stated the important points again.

Anna Lobet Mejias, lives on Alarid Street by Alvord School, was sworn. She moved to the neighborhood about six years ago because it was a small neighborhood where you know the neighbors. People want to live and walk to the Farmer's Market, downtown and the schools. She bought the property and it was an ugly two story house,

but now there are more. She believes Santa Fe needs to decide what kind of City they want and which kind of neighborhoods they want. Santa Fe needs homes where people that have kids can live and afford the properties. She said you cannot develop the Railyard and assume the surrounding areas will not be developed. In her opinion this is a City decision to make this an area everyone is proud of having.

Tony Abeyta, 539 ½ Bonita Street, was sworn. He is the third generation to live in this property. He reminded the Commission that over the last couple of years with these projects the stress levels have risen for the neighbors and traffic passing through the neighborhood. They had a record 7 accidents on the corner of Paseo de Peralta mostly with people heading east. He thinks with the current density the people are not happy.

Mary Minor Porter, 714 West Manhattan and speaking for Michael Smith at 710 and 712 West Manhattan, was sworn. She supports the change for the neighborhood, but wishes her property not be rezoned. She handed out a drawing included in Exhibit "1(B)." She said these two are the last pieces of property right before the Railyard. She said the commercial neighbors are El Museo Cultural, Santa Fe Clay and the new movie theater and parking garage. She said to maintain some privacy they do not want to rezone, although she does support the change for the core of the neighborhood. She has been told there may be a legal or constitutional basis for not carving out certain properties in the neighborhood, but suggested they look at the definition of area and neighborhood. She said their property is so impacted by the new development that she feels they are in a separate category.

Joanne Werner, 1715 Paseo de Peralta, was sworn. She has lived in this home for 30 years. She does not object to change or infill if it is appropriate for the neighborhood. She said the property on Juanita is pretty hideous. She took issue with the staff assessment that it will take decades for the neighborhood to change if it stays at RM-1. There is a piece of property with the existing house torn down recently and she is unsure what will be going in. She thinks since there is a lot of rental property in the neighborhood people will be tempted to sell and then the developers can cram as much as possible on the property. She is in favor of downzoning and wants the property as part of the downzoning. She would like to preserve a sense of neighborhood and does not want to give up.

Jennifer Kirkgaard, 842 West Manhattan, was sworn. She supported downzoning as well. She sees the height and the density as issues. With the construction they have been impacted as the trucks park all over their driveways.

Ruben Vasquez, 815 Ninita, was sworn. He thinks most of the petitions have been signed by those that live in the neighborhood. He knows that they will get even more traffic once the Railyard is in and people will want to park and not pay, so they will end up in this neighborhood. He said the resolution indicated that this is an important issue to follow up on. He said they do not need more than 8 units on an acre and questioned where the people would park even with this designation.

Julia Jarvis, attorney with Cassutt, Hays and Friedman, representing Earl and Lorna Calles, owners of 1721 Paseo de Peralta and 547 Juanita Street, was sworn. These properties have one two-plex and one four-plex located on them. The Calles' are opposing the rezoning for various reasons. She said the rezoning is overly broad and too comprehensive for the problem that occurred with the building that went up on

Juanita Street. This project was simply too high. Building restrictions of two stories would have solved this issue. Another concern is that the Calles' property would become nonconforming along with approximately 20% of the properties. Multi units are not bad and are part of the general plan. The other problem is a fire issue because if there were a fire on one of these properties they would not be able to rebuild. This rezoning is changing people's ways of life. She said they are asking to comply with the general plan so there is respectful infill that is not offensive. The characteristic of the neighborhood has already changed significantly with various commercial properties. She said they are interested in the possibility of a carve out. In her opinion the studies need to be revised and studied. She asked the Commission to recommend denial.

Eric Gent, 621 Alarid Street, was sworn. He thinks everyone objects to the height and the issue of density is a blunt instrument because it speaks nothing on floor ratio or the number of people that live in the properties. At 21 units an acre in areas where they are building apartments the units are 800-900 square feet and behind him there is a house where the Vigils raised four children, six grandchildren and probably 10 great grandchildren in the same square feet. He said the only for sale sign is for five 1400 square foot homes on ¼ of an acre. He said this indicates that the people in the neighborhood are stable as they own and occupy their properties or the renters are stable. He said single or two story properties with yards are a desirable thing. He said nobody objects to two stories, but those that try to maximize the floor area ratio with 1200-1500 square feet are not appropriate in this area. He encouraged approval of the R-8 change.

Rosemary Minard, 534 Alarid Street, was sworn. She is in favor of the downzoning to R-8. She wanted to confirm that this is an old neighborhood. The earliest construction began in 1903 and there are several in the neighborhood remaining. She said the speed of change will happen quickly if this downzoning does not take place. The Railyard development is driving the residential development. She understands the current zoning began in the early 1960's and all of a sudden there are condo developments on Juanita Street with others simply awaiting the end to the moratorium on construction. If the neighborhood is not downzoned it will be condominium-ized and they will see rapid change in the character of the neighborhood resulting in a whole lot of anonymous brown, boxy condos in an authentic, historic beautiful neighborhood.

Greg Heltman, 1150 Don Gaspar, was sworn. He supported the folks in this area and the effort by Councilor Bushee. He is concerned about the other RM-21 zones surrounding the downtown area and the potential impacts. This problem was addressed in a study of the general plan. This has been discussed to be reconsidered and redrawn as they rewrite Chapter 14. He thinks this zoning will benefit this neighborhood. He has seen what has happened with this high end development that is surrounding the Railyard. He is concerned that the R-8 zoning minimizes the potential fractional ownership or construction of condos on the lots. His understanding is that this is unclear in the city code, so it could result in multi family units. He hopes that issue is addressed as this goes forward.

Tim Ott, 715 and 715 ½ West Manhattan, was sworn. He agreed with the height limitations, but not the downzoning. He does not think the City staff has presented the other side of the consequences of downzoning. He said normally downzoning has some detraction along with the benefits. There will be non conforming units and he questioned what happens with the fact that people cannot replace them if destroyed along with the

restrictions for modifications and changes. He said when people need to change their home they are not allowed to do it, so this is a significant taking when you downzone. Staff has not really quantified what is being taken away, although many are glad to give up things and others may not be. He does not think they have clearly delineated what will be forced to change due to non conforming status. He agreed the height restriction is very valid. He feels people will be surprised when they want to do a modification and they are not allowed. He gave the example of someone adding on to take care of an elderly person.

Robert Vigil, 130 Fiesta Street, was sworn. The lot is nonconforming right now, but he is in favor of downzoning. He said large density often creates slums. Developers will come in and sell off the places. He supports the downzoning even though he will have a lot that is nonconforming. He said in the 1960's you could still purchase properties grandfathered in which is what he did through a family transfer.

Marilyn Bane, President of Old Santa Fe Association, 522 ½ Canyon Road, was sworn. She thanked Councilor Bushee for pushing this downzoning. It is as important to her association as much as it is to the neighborhoods. She said Councilor Bushee not only did what her job is, but has brought integrity to the table in doing this. The City has a moral obligation to protect this neighborhood. This is a traditional neighborhood that honors tradition. If it is destroyed it will be a loss to an entire City. The Board of the Old Santa Fe Association supports this downzoning. She said they need value their neighborhoods as much as they value development and financial gain.

Deanna Einspar, Board member of Santa Fe Neighborhood Network, was sworn. The Neighborhood Network continues to strive to enhance neighborhood character and quality of life. As part of their role in the community they initiate and solicit review and comment on programs and policies that will promote neighborhood preservation. They applaud the amendments, but do not feel these are sufficient to address the challenges facing this neighborhood. The Board asked the Commission to support this rezoning.

Rick Martinez, 725 Mesilla Road, was sworn. The three resolutions address density and height. He read from the Railyard story included in Exhibit "1." He feels it is important to keep the locals there without chasing them off. He urged the Commission to support this decision.

Councilor Bushee explained that there are a whole group of folks that live and front with access from Paseo de Peralta who would like to pursue an overlay zone of C-4. She understands they cannot act on this tonight, but these people have no problem with the underlying zoning of R-8. There are a couple of other exceptions. The two properties that back up to the parking garage and retail want a higher zoning. She asked if this is possible as they are not in the core neighborhoods. She said if they could stay RM-1 it would be appreciated. She said the majority of folks want this so she can bring forward an overlay zone of C-4. This will be denser for a transition zone. She said she will pursue another piece of legislation for this. She added that this is not all about height. She hopes the long range subcommittee looks at the condo issue and how they are getting around some of the requirements.

Therese Montoya Prada, represent 1710 Paseo de Peralta, was sworn. Her parents lived here since 1939 and left the home to the children and grandchildren. They feel the R-8 zoning will protect the scale of the buildings, but it will not stop the traffic or change

the fact that the property is not the quaint property it used to be. The most recent change is the Railyard. This has brought development that began with the widening of Hickox then there was Whole Foods which disrupted the lives of those living around it forever. They have tried mitigating this with traffic calming, so they now have the bulb out that took a parking space and they cannot landscape it as it has become a trash can. They are asking for an overlay zone for the property abutting Paseo de Peralta. She supports the height change to 24 feet and the rezoning.

Diana Jaramillo, 1710 Paseo de Peralta, was sworn. She concurred with Therese and stated support. She hopes they reconsider an overlay district for them.

Claudette Montoya, 724 Los Lovatos Road, was sworn. She represented the property at 1710 Paseo de Peralta. She concurred with Therese Prada and supports the overlay for the area.

Deacon Enrique Montoya, 724 Los Lovatos, was sworn. He concurred with the overlay and zoning.

Fred Garcia, his mother lives at 1708 Paseo de Peralta since the 1930's, was sworn. He concurred with Ms. Prada.

Bobbie Gallegos, 1704 Paseo de Peralta, was sworn. He supports the Montoya's and the proposed overlay district as well as the height restriction.

Irene Herrera, 730 Montes, was sworn. She stated that she is against the high rise buildings and for the rezoning.

Ray Montes, 727 Montes Place and Alarid Street, was sworn. He pointed out that the people raised in this neighborhood that could most benefit from having taller and taller buildings are saying please stop. He said in law school they are taught that if there is an overriding state interest, in this case human being sustainability, that overrides objections to the constitution. He asked the Commission to consider all the neighbors.

Leslie Allison, 510 Lolita Street, was sworn. She lives in Southern Colorado where she is on the Planning Commission. She supports infill and initially was in favor of keeping the higher densities, but what she came across is that as good as they look on paper when applied to old neighborhoods they do not turn out quite as well. She asked them to consider the situation for Santa Fe and the neighborhood in particular. She knows this is a really tough area and more density is hard to swallow. She questioned that a Fire Truck could even get in there. She said eventually they will displace the long time homeowners. Regarding the issue of takings, it is not a true legal argument because it is more difficult and complex than that. She said when you decrease the quality of life you have taken something from the neighborhood.

Raymond Herrera, 379 Hillside Avenue, was sworn. He thanked the audience for the great participation. He has been an advocate for over 30 years and shows up at the right time to make people aware of what is happening in their neighborhood before it is too late. He said this is before them due to the disasters that have happened in the Alarid area. He said this could have been avoided if the resolution had been enforced. He feels they are losing neighborhoods and the quality of life that people have been accustomed to for generations. There is no parking on Alarid. All the streets are narrow.

This is happening in all the small neighborhoods and it will get worse. Manhattan was downzoned and this worked. He agreed that some of the infill on the east side plan was good, but the developers have taken advantage of it. He asked the Commission to consider this because these people's lives are at stake and they deserve more than what they are getting.

Ivory Garcia, 516 Juanita Street, was sworn. She owns five units on two lots on Juanita Street. She said it is almost too late for her to ask for rezoning because she is already surrounded and has already felt the affects of the density. Her sidewalk is always busy with everybody's cars. There is now vandalism and she has never had that since 1978. Currently she can't get through due to the construction. Parking has always been a problem but it is worse now.

The public testimony portion of the public hearing was closed.

Questions and comments from the Commission

Ms. Baer explained the C-4. C-4 is not per se an overlay. The map shows which areas are available for C-4 zoning and once you rezone to C-4 it becomes its own zoning district. She wanted to make that clear. It is limited to an area along St. Francis on either side between one and maybe three lots deep. She said if they want to consider other areas for C-4 eligibility you would have to amend that part of the code.

Chair Gonzales asked if they would have to advertise that they were considering that.

Ms. Brennan said they can make their decision on what is before them and what has been noticed, so this would be a separate consideration.

Mr. Smith stated that so far the City has only applied this on St. Francis, but if the Commission does pursue this then they would consider that for other busy streets in the City. He said this could potentially involve several hundred units in the City.

Chair Gonzales thanked everyone for the efficient testimony.

Commissioner Armijo asked if this were approved for rezone, if it is correct that they would not be able to build again if their home burned down.

Mr. Smith explained that in the case of rezoning it would prevent them from rebuilding at the previous number of units. There are other factors than density alone. He said they would be allowed to maintain the property and do conforming additions, but if more than 2/3 of the floor area were damaged they would have to meet all the current code.

Commissioner Armijo commented that there has been a resounding response from the neighbors and the Commission needs to listen.

Commissioner Bordegaray asked how the border is defined.

Mr. Smith explained that they looked at the RM districts and the areas adjoining the Railyard that had higher density than 7 units per acre. He said essentially it is the RM-1 district. He said there are some donut holes.

Commissioner Bordegaray understood that west of the boundary toward Baca Street the density is different.

Mr. Smith said the density is lower there.

Commissioner Bordegaray said these neighborhoods show a strong sense of identification which is a hallmark for those eligible for neighborhood conservation. She asked if they considered applying for that.

Mr. Smith said the neighborhood conservation districts were considered at the City Council meeting and was postponed for reconsideration.

Commissioner Bordegaray said that would have been an alternative if it were in place. She said the whole neighborhood extends from Guadalupe to Baca Street which is a huge area. In her opinion it is hard to blatantly define an area that large. She questioned the map showing how the area is built out.

Mr. Smith said many lots are built at a higher density and many are lower. He said for practical purposes if a single family dwelling unit has less than one acre it does not inhibit an accessory dwelling unit. He said they do not have reliable records so it is hard to assess the impact of how many are nonconforming. If the existing level of development is a single family dwelling unit it does not have a significant impact one way or the other. The density is important primarily if you want to do a lot split or build a duplex or triplex.

Commissioner Bordegaray asked how practically this will affect what people are trying to do. She wanted them to be careful when it comes to conforming and non-conforming because it is not an easy answer. She commented that the neighborhood is dense now, although it is a beautiful density in a unique neighborhood. She said it is all about being appropriate as there are mostly single family homes on very small lots. She does not want to reduce the chances of increasing the amount of housing that goes in. She thanked staff for the excellent preparation on this case.

Commissioner Hughes felt the neighborhood conservation district is the best thing. He asked if that passed why it would not take care of this.

Mr. Smith stated that he is not clear because those regulations have not been completed and passed. He said they could adopt specific rules about density, but that is not clear at this point. It is clear they can determine setback, height and character issues. He said there is difficulty evaluating the abstract and how the impact of stricter development standards would be relative to density. He said it is possible the development standards are more strict, but currently this is a range of hypothetical statements because they cannot state what it will be until it is adopted.

Commissioner Hughes said another alternative would be the rewrite of Chapter 14 as it would be covered under the rewrite of Chapter 14.

Mr. Smith said the range of existing zones districts may match the desired character of the neighborhood as they are applied, but they might or might not address all the concerns. He added that the street infrastructure was not adopted in accordance with the standards in affect today.

Commissioner Hughes said the third alternative is code amendments to address the concerns. He asked if the code amendments address the concerns.

Mr. Smith felt the code amendments address a number of the concerns, but the intensity of development in the neighborhood, traffic and lack of available parking may not be addressed.

Commissioner Hughes asked if mixed use zoning would be useful in this neighborhood.

Mr. Smith said it would be appropriate to apply with the mixture of uses, but as it is on the books it is suited to multiple acre developments. He said they need buffer uses at the perimeter and these lots are already so small it is difficult to develop. He said as part of the Chapter 14 rewrite he suspects there will be discussion to develop the mixed use to apply to small lots.

Commissioner O'Reilly made a quick observation. He noted there is a difference between infill that occurs on vacant land and the kind of infill that happens when people tear out the fabric of an existing neighborhood. He asked what the intent of the future land use map was when it was created. He asked if it was to be a guide for future developments or if it was intended to be adopted as city wide zoning.

Mr. Smith explained that the future land use map is a guide to zoning and the language talks specifically about the need to implement the future land use map by adjusting the zoning correspondingly.

Commissioner O'Reilly stated that they see cases come before them that demonstrate they are in compliance with the future land use map and the more proactive response where the city implements the zoning designations shown on the future land use map.

Mr. Smith said it is possible that if someone brought a project and proposed a density higher than 9 units per acre the Commission could point out the general plan policies and rule they were not going to allow a project more dense than 9 units per acre. He added that they would not be prevented from approving a denser project.

Commissioner O'Reilly asked why the ordinance was not implemented.

Mr. Smith was not clear, although the staffing levels were very different. During that time frame it would have been assigned to the long range planning staff to do work on this, although they were busy with the southwest area master plan. He said they fell into staffing shortages shortly after that.

Commissioner O'Reilly said it seems what they have been doing is reactive and not proactive. He wants to follow the general plan, but expressed concern with the nonconforming structures that will result. He said the nonconforming house issue and wanting to provide for an elderly family member concerns him also.

Mr. Smith stated that if a home were developed in accordance with the density they would be allowed to build an accessory dwelling unit if the owner occupies the property. He said some would be allowed the accessory dwelling unit and some would not. The practical impact would be governed by other conformity issues. He said they do become nonconforming due to the density, but on a single lot of record there would be no

practical affect. He said they have not been able to determine how many multifamily developments there are currently.

Commissioner O'Reilly wanted to clarify if they are asking for R-8 or RC-8.

Mr. Smith said it will be R-8 because that would not require development plans. He said the RC-8 was discarded by staff after looking at this issue. This is an older neighborhood, but there is not compound type development.

Commissioner O'Reilly asked for an opinion regarding downzoning as stated in the general plan in light of the recent court decision.

Ms. Brennan explained that in the Albuquerque Commons case the downzoning was not within the general plan and did not follow due process. She had no problems with recommending downzoning in this case.

Commissioner Lindell commented that she is sorry they have to discuss this because of the development that occurred. She stated that just because you can develop something does not mean you should. This does bring to light the urgency of bringing the zoning in compliance with the future land use map as outlined in the general plan. Resolutions occasionally get lost in the pile because this one seemed pretty specific. She said the summary of issues talk about cost and she cannot understand the discrepancy in hours between this and Exhibit "N."

Ms. Baer could not explain this and agreed to look at it again. She believes the later numbers are the correct ones.

Commissioner Lindell said there would be four full time staff people working on this for five months which seems improbable. She commented that it is interesting that families that have lived in this neighborhood for generations that would have the greatest potential for profitability are very happy to have downzoning. She finds it heartening that group of folks that own a property will chat with a Councilor and support what they think is great for their neighborhood.

Commissioner Bordegaray referenced previous minutes where there were alternatives proposed including making all the lots legal and conforming by grandfathering them in.

Ms. Brennan said they create zoning districts and the non-conforming uses cannot be made conforming.

Mr. Smith said there are other zoning regulations that have much more liberal rules and some allow more extensive repairs and small expansions different than those existing in the Santa Fe code. This follows from some rules that say nonconforming uses must phase out to those that allow replacing and expanding uses.

Commissioner Bordegaray supported the rezoning because it is consistent with the general plan, but as a planner does not support the rezoning on principle. The practical effect of this is because of the Railyard and development has started so she supports this because of what lies ahead.

Commissioner Bordegaray moved to recommend to the Governing Body approve the rezoning Case ZA-2008-05 from RM-1 to R-8, Commissioner Salazar seconded the motion.

Commissioner Salazar said it is time for the City to get proactive.

Chair Gonzales asked if the issue raised regarding some properties being left out has been resolved.

Councilor Bushee said they cannot address the C-4 overlay at this hearing and there are two folks that wanted to stay RM-1. She is unsure if it is appropriate this evening to carve those out. She said she will come back in the future.

Mr. Smith explained that the Chapter 14 rules allow the Commission or City Council to initiate consideration of rezoning, but it would be a separate matter from tonight's hearing. He said with regards to the RM district, the advice he has gotten is that they can rezone a smaller area, although this is a judgment call. The Commission will make findings as to the suitability of the district and could adopt specific findings as to why they left out certain properties.

Councilor Bushee stated that these properties border the Railyard development, so this would be offering a different transition if they were left out.

Chair Gonzales asked if they could exclude those from the rezoning.

Mr. Smith said the Commission needs to make specific findings explaining why those parcels are different than any of the other parcels.

Ms. Baer stated that the zoning to the north of the parcels is RM-1 so this would not be a spot situation.

Commissioner Armijo asked if it would open a can of worms if they leave some properties out of this rezoning.

Ms. Brennan stated that she would be more concerned if these were carved out of the middle. The idea of opting out is the equivalent of spot zoning. If they find there are good reasons to exclude a property due to the specific characteristics and location then it would be acceptable.

Commissioner Hughes moved to amend the motion to take those properties, 710, 712 and 714 West Manhattan and exclude them from the rezoning. This was not accepted by the second. Commissioner Lindell seconded the amendment.

The amendment failed on a 3 to 4 roll call vote.

Those voting for the amendment: Commissioners Bordegaray, Hughes and Lindell.

Those voting against the amendment: Commissioners Armijo, Lewis, O'Reilly and

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

Chair Gonzales excused himself from the meeting at this time and turned the meeting over to Vice Chair Hughes.

Commissioner Lewis left the meeting at this time.

The Commission took a ten minute break.

- 2. An ordinance amending Section 14-3.9 SFCC 1987 regarding development in flood hazard areas, Section 14-8.3 SFCC 1987 regarding flood regulations, Section 14-11.5(C) SFCC 1987 regarding penalties for violation of flood regulations; and making such other related changes to Chapter 14 SFCC 1987 as are necessary. (Wendy Blackwell, case manager)**

Memorandum from Wendy Blackwell, Technical Review Division Director, prepared March 21, 2008 for April 3, 2008 Planning Commission meeting is incorporated herewith to these minutes as Exhibit "2."

Comments from Wendy Blackwell dated April 3, 2008 and Flood Insurance Rate Map are incorporated herewith to these minutes as Exhibit "2(A)."

Wendy Blackwell presented the staff report included in Exhibit "2."

Public Hearing

Albert Duran, Upper Canyon Road, expressed concern with the Planning Commission hearing the variances of applications of property for minor construction in the fringe area and edges of the flood plain. He suggested these be a permanent variance if granted rather than temporary. He explained that for nine years he has been working with conservation organizations to protect development on both sides of the river and in the course of that has been involved in some conservation sales and a radical downzoning of the property defined in the fringe area. The fringe area is defined as one foot depth or less and where it does not exceed a certain flow. He asked them to consider these variances.

The public testimony portion of the public hearing was closed.

Questions and comments from the Commission

Ms. Blackwell explained that they are not starting with these changes to require a variance to build in the flood fringe because that is already in the code book. The one place where they talk about the role of a flood plain administrator they added the term the building flood fringe had to be approved by variance. This is not the first time, so they are reflecting what is in the code somewhere else.

Commissioner Armijo asked if the flood plain administrator would have other duties.

Ms. Blackwell stated that they are proposing to have this position if the fees are approved and increased. It is written to have the flexibility for the director to select the person. It could be one person that only works on these issues or it could be a staff person that is already working with similar issues.

Commissioner Armijo made a correction to page 5 and 6.

Ms. Blackwell explained that some of this wording is vague because not every permit may need more than the basic information. This is the reason they left it open.

Commissioner Armijo questioned City Council modifying the map to include additional areas.

Ms. Blackwell explained that if there is an area that the City continues to see problems in they could modify the map to increase the protection so it is more stringent than what the Federal Government requires.

Commissioner O'Reilly thought they should make it clear that the above example is the specific instance in which the governing body would be involved. He found that unclear as well. He then referred to page 12 and asked what the purpose of (b) engineering criteria is.

Ms. Blackwell said these are general guidelines as opposed to specific engineering criteria. She noted that there is a different section that talks about specifics.

Commissioner O'Reilly suggested wording. He pointed out that there are areas that are base flood zones and yet the topography may be different. He said there is a great difference between one year and five years from now because during events the channels change. at the beginning of that section, he suggested adding when it is necessary. He suggested at the end of the section, line 23, use the word and/or as there may be times when there is a flood hazard area and he does not see the need to determine that all over again.

Ms. Blackwell understood, but said normally if they are coming in and there is construction it would require determining what the base flood elevation is.

Commissioner O'Reilly said the language needs to address the actual pragmatic occurrence.

Ms. Blackwell explained that it happens and the surveyor does a more detailed site specific study, so then they send a request to modify the maps. She understood the concern.

Commissioner O'Reilly referred to page 15, where they change the word flood plain to flood hazard area. His understanding is that the flood plain includes the 1% chance and the 2% chance.

Ms. Blackwell said the flood plain is just the 1% chance and includes both flood way and flood fringe. The hazard area is mapping to 2%. She said the engineers that commented told her where to put each term, so she suggested revisiting this.

Commissioner O'Reilly referred to page 24 and discussed the zone A and B on the flood insurance rate map. Zone B is the 500-year zone, so what they are doing now is regulating in the 500 year zone. He said that has been a problem all along in the code so it should be addressed. Another issue is the drainage way which drains five or more acres. He said five acres in a field is much different than St. Michael's Drive. He

thought they should go to the standard similar to what is in the county regulations and relate to the cf's as opposed to how big the drainage area is.

Ms. Blackwell said they have to use the FEMA definition and then can make it more stringent. She said she can do more research on this. The outstanding piece is that they have not received comments back from the state or FEMA.

Vice Chair Hughes asked if they are looking for a recommendation as it seems there is more drafting.

Ms. Blackwell said to remain in good standing they must adopt this. She said they can prepare a memo presenting the changes made at this Commission. She said some items go in as amendments.

Commissioner O'Reilly moved to recommend the Governing Body approve this ordinance with the recommended changes, Commissioner Armijo seconded the motion which passed by unanimous voice vote. [Commissioner Lewis and Chair Gonzales were not present for this vote].

- 3. Case #S 2008-01. Kaushal Business Park Final Subdivision Plat. Linda Tigges, agent for A.K. Kaushal, requests final subdivision plat approval for 11 lots on 1.998± acres located north of Rodeo Road between Sawmill Road and SFRR right-of-way. The property is zoned I-1 (Light Industrial). (Donna Wynant, case manager)**

Postponed per approval of the agenda

- 4. Case #M 2008-04. San Mateo Townhouse/Condominiums Development Plan Amendment. Richard Horcasitas, agent for San Mateo Apartments LLC, requests development plan amendment to allow for demolition and reconstruction of one existing building (Building 14) into two separate building with four units each and to close off entrance to the property at St. Francis Drive. The site encompasses a total of approximately 11.64 acres. The property is zoned RM-2 (Multi Family Residential, 29 dwellings per acre) and is located at the northwest corner of San Mateo Road and St. Francis Drive. (Tony Raeker, case manager)**

Memorandum from Tony Raeker, Land Use Senior Planner, prepared March 24, 2008 for April 3, 2008 Planning Commission meeting is incorporated herewith to these minutes as Exhibit "3."

Addendum to staff report prepared by Tony Raeker, Land Use Senior Planner, dated April 3, 2008 is incorporated herewith to these minutes as Exhibit "3(A)."

Tony Raeker presented the staff report included in Exhibit "3."

Staff recommends approval subject to compliance with the code requirements of the following departments:

- Subdivision Engineer
- Engineering Division traffic review
- Water Division

- Wastewater Division
- Fire Department

One additional condition that they are still working on is the final details of the radius of the turn in order to close off the entrance at St. Francis Drive.

Public Hearing

Richard Horcasitas, representing the applicant, was sworn. He stated that they have reviewed the staff report and agree with the conditions. They will continue to work with staff to remain in compliance. This is in keeping with the land use codes.

The public testimony portion of the public hearing was closed.

Questions and comments from the Commission

Commissioner Armijo asked if they are required to have a city inspector indicate there is reason for demolition based on structural reasons.

Mr. Raeker was not sure.

Ms. Baer explained that in certain districts they are required to have a demolition permit, but it is not a requirement here. She said if this were required it would be a building permit requirement. The applicant's engineer states they need to demolish the building for structural reasons and the City accepts that.

Commissioner Armijo said the buildings he has demolished have required it.

Ms. Baer only knows of this in the historic district and BCD.

Commissioner Armijo asked why the applicant is indicating reasons for demolition if it is not a necessity.

Mr. Raeker stated that he asked on the application and included it. He wanted to make sure there were no external issues that would affect other portions of the review.

Commissioner O'Reilly understood this property has an approved development plan.

Ms. Baer said that is correct and the original development plan is being changed so they had to come back.

Commissioner O'Reilly said development plans do not have to have the exact precise footprint and they can modify it slightly without coming back. He questions that it could have been handled administratively.

Ms. Baer said staff tries to err on the side of being conservative.

Commissioner O'Reilly stated that the wastewater report asked for UEC charges which did not seem right. He said he spoke to staff and that is not the case and the memo is in error. There is no net change in units and therefore there should not be any charges. He said the motion should delete the recommendation.

Commissioner Bordegaray asked how the signage is being dealt with.

Ms. Baer explained that they are not proposing to change the signage that was already approved.

Commissioner Lindell asked if the driveway will be blocked or not.

Mr. Raeker said they are working on the last fire issues, but they are both okay so long as the revised exit can accommodate a fire truck.

Commissioner Armijo clarified that the building permit takes care of the compliance issues.

Commissioner O'Reilly moved to approve Case #M-2008-02 with staff recommendations with the exception of UEC fees, Commissioner Salazar seconded the motion which passed by unanimous voice vote. [Commissioner Lewis and Chair Gonzales were not present for this vote].

5. **Case #M 2008-02. Del Norte Credit Union Development Plan.** Slagle Herr Architects, agent for Del Norte Credit Union, request development plan approval for a 7,044 square foot addition to the 2.97± acre lot. The property is located on the south side of Cerrillos Road, between Richards Avenue and Camino Consuelo and is zoned C-2 (General Commercial). (Tony Raeker, case manager)

Postponed per approval of the agenda.

6. **Case #A 2008-01. Los Cielos Grading Permit Appeal.** Ken Cassutt, agent for William Hazleton, appeals the issuance of the grading permit for the Los Cielos Compound residential condominium project at 200 Los Cielos Drive (Permit No. 2007-2280). The property is zoned RM-LD-PUD (Multi-Family Residential, 12 dwelling units per acre, Planned Unit Development overlay district). (Tamara Baer, case manager) (POSTPONED FROM MARCH 20, 2008; APPEAL WITHDRAWN ON MARCH 25, 2008)

Withdrawn per approval of the agenda.

G. BUSINESS FROM THE FLOOR – None

H. STAFF COMMUNICATIONS

Ms. Baer thanked Mr. Raeker and Ms. Baker for all the work on the Juanita Street rezoning. She appreciated the work and it really showed.

Ms. Brennan stated that she will be scheduling a study session on findings of fact and conclusions of law

I. MATTERS FROM THE COMMISSION

Commissioner O'Reilly asked if the direct findings of fact should be stated at the conclusion of each case.

Ms. Brennan said the direction was sufficient.

Commissioner Bordegaray asked about the status of the long range planning subcommittee.

Ms. Baer believes that will be staffed by long range planning staff, but they have not heard anything further.

Vice Chair Hughes stated that his understanding is they are waiting for the Mayor to appoint the final two members.

Commissioner Bordegaray asked if variances from the Board of Adjustment are good for one year only.

Ms. Brennan said she was unsure what the man was speaking of that mentioned this. She said it is good for one year from approval as far as exercising the use and once it is exercised the variance does not expire.

Commissioner Armijo pointed out that they issue permits for one year, but they expire within six months if not used.

Ms. Brennan agreed to look into this.


J. ADJOURNMENT

There being no further matters to come before the Commission, and the Commission having completed its agenda, Commissioner Lindell moved, seconded by Commissioner Salazar to adjourn the meeting. The motion passed unanimously on a voice vote and the meeting was adjourned at 9:30 p.m.

Approved by:

Chair Estevan Gonzales

Submitted by:



Denise Cox, Stenographer