



Agenda

CITY CLERK'S OFFICE

DATE 11/30/17 TIME 1:26 PM

SERVED BY Geraldine Gentry

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AMENDED

PLANNING COMMISSION

Thursday, December 7, 2017 - 6:15pm

City Council Chambers

City Hall 1st Floor - 200 Lincoln Avenue

- A. ROLL CALL
- B. PLEDGE OF ALLEGIANCE
- C. APPROVAL OF AGENDA
- D. APPROVAL OF MINUTES AND FINDINGS/CONCLUSIONS

MINUTES: November 2, 2017

FINDINGS/CONCLUSIONS:

Case #2017-93. Casa Mason Final Subdivision Plat.

- E. OLD BUSINESS
- F. NEW BUSINESS

1. An Ordinance Amending Section 14-3.11(B) Of The Land Development Code To Require Public Posting Of Construction Permits For Properties That Do Not Abut Public Streets Or Roads. (Councilors Lindell and Villarreal) (Noah Berke)
2. **Case #2017-96. Ross's Peak Preliminary Subdivision Plat and Terrain Management Variance.** James W. Siebert & Associates, agent for Ross's Peak LLC and Las Soleras del Oeste, requests approval of two-phased preliminary subdivision plat to create 182 residential lots in two phases. The application includes a variance to allow creation of one residential lot with a buildable area that does not meet the requirements of Subsection 14-8.2(D)(3)(b) Natural Slope of Buildable Area and Development Plan to provide innovative lot design. The property is approximately 25 acres and is zoned R-12 (Residential – twelve dwelling units per acre), and is located on Tract 12A-1 and 12A-2 of the Las Soleras Master Plan area. (Dan Esquibel, Case Manager) ***(POSTPONED FROM NOVEMBER 7, 2017)***
3. ~~**Case #2017-96. Ross's Peak Preliminary Subdivision Plat and Terrain Management Variance.**~~ James W. Siebert & Associates, agent for Ross's Peak LLC and Las Soleras del Oeste, requests approval of two-phased preliminary subdivision plat to create 182 residential lots in two phases. The application includes a variance to allow creation of one residential lot with a buildable area that does not meet the requirements of Subsection 14-8.2(D)(3)(b) Natural Slope of Buildable Area. The property is approximately 25 acres and is zoned R-12 (Residential – twelve dwelling units per acre), and is located on Tract 12A-1 and 12A-2 of the Las Soleras Master Plan area. (Dan Esquibel, Case Manager) ***(POSTPONED FROM NOVEMBER 7, 2017)***

4. **Case #2017-97. Ross's Peak Lot Line Adjustment Plat.** James W. Siebert & Associates, agent for the Ross's Peak LLC and Las Soleras del Oeste, requests approval of a lot line adjustment to adjust approximately 3.5 acres of Tract 12B-1 into Tract 12A-1 containing 24.92 +/- acres, and to adjust the boundary between Tract 12A-1 and Tract 12A-2. The property is 25 acres and is zoned R-12 (Residential – twelve dwelling units per acre), and is located within the Las Soleras Master Plan area. (Dan Esquibel, Case Manager) **(POSTPONED FROM NOVEMBER 7, 2017)**
5. **Case #2017-112. Contenta Ridge Apartments Development Plan.** Rick Brenner of Brenner Development Company, requests approval of a development plan to create 59 multi-family apartments located at the northeast corner of Plaza Central and Contenta Ridge. The property is approximately 4.479 acres, is zoned PRC (Planned Residential Community), and is located within Phase 2B of the Tierra Contenta Master Plan. (Margaret Ambrosino, AICP, Case Manager).
6. **Case #2017-113. Cerro del Norte Preliminary Subdivision Plat.** JenkinsGavin, Inc., agent for Summit Business Group, LLC, requests approval of a preliminary subdivision plat for 32 residential lots on 7.44± acres. The property is located between Fifth Street and the Rail Trail, north of the Casa del Cerro subdivision, and is zoned R-5 (Residential-five dwelling units per acre). (Donna Wynant, Case Manager) **(TO BE POSTPONED TO JANUARY 4, 2018)**

G. STAFF COMMUNICATIONS

H. MATTERS FROM THE COMMISSION

I. ADJOURNMENT

NOTES:

- 1) Procedures in front of the Planning Commission are governed by the City of Santa Fe Rules & Procedures for City Committees, adopted by resolution of the Governing Body of the City of Santa Fe, as the same may be amended from time to time (Committee Rules), and by Roberts Rules of Order (Roberts Rules). In the event of a conflict between the Committee Rules and Roberts Rules, the Committee Rules control.
- 2) 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 will be subject to reasonable cross examination. Witnesses have the right to have an attorney present at the hearing.
- 3) The agenda is subject to change at the discretion of the Planning Commission.
***Persons with disabilities in need of special accommodations or the hearing impaired needing an interpreter please contact the City Clerk's Office (955-6520) 5 days prior to the hearing date.**



Agenda

DATE 11/20/17 TIME 10:20am

SERVED BY Geraldine Gurnea

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PLANNING COMMISSION

Thursday, December 7, 2017 - 6:15pm

City Council Chambers

City Hall 1st Floor - 200 Lincoln Avenue

- A. ROLL CALL**
- B. PLEDGE OF ALLEGIANCE**
- C. APPROVAL OF AGENDA**
- D. APPROVAL OF MINUTES AND FINDINGS/CONCLUSIONS**

MINUTES: November 2, 2017

FINDINGS/CONCLUSIONS:

Case #2017-93. Casa Mason Final Subdivision Plat.

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

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4. **Case #2017-112. Contenta Ridge Apartments Development Plan.** Rick Brenner of Brenner Development Company, requests approval of a development plan to create 59 multi-family apartments located at the northeast corner of Plaza Central and Contenta Ridge. The property is approximately 4.479 acres, is zoned PRC (Planned Residential Community), and is located within Phase 2B of the Tierra Contenta Master Plan. (Margaret Ambrosino, AICP, Case Manager).
5. **Case #2017-113. Cerro del Norte Preliminary Subdivision Plat.** JenkinsGavin, Inc., agent for Summit Business Group, LLC, requests approval of a preliminary subdivision plat for 32 residential lots on 7.44± acres. The property is located between Fifth Street and the Rail Trail, north of the Casa del Cerro subdivision, and is zoned R-5 (Residential-five dwelling units per acre). (Donna Wynant, Case Manager)

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SUMMARY INDEX
PLANNING COMMISSION

December 7, 2017

ITEM	ACTION TAKEN	PAGE(S)
A. Roll Call	Quorum Present	1
B. Pledge of Allegiance	Recited	1-2
C. Approval of Agenda	Approved as amended	2
D. Approval of Minutes & Findings and Conclusions Minutes: November 2, 2017	Approved with changes	2
Findings of Fact & Conclusions of Law Case #2017-93	Approved as amended	2-3
E. Old Business	None	3
F. New Business		
1. Public Posting Ordinance Amendment	Approved	3
2. <u>Case #2017-96. Ross's Peak</u> Preliminary Subdivision Plat and Terrain Management Variance	Approved with conditions	3-12
3. Deleted	Deleted	12
4. <u>Case #2017-. Ross's Peak</u> Lot Line Adjustment Plat	Approved	9
5. <u>Case #2017-112. Contenta Ridge Apartments</u> Development Plan	Approved with conditions	12-17
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G. Staff Communications	Discussion	18
H. Matters from the Commission	Discussion	18
I. Adjournment	Adjourned at 8:45 p.m.	18

PLANNING COMMISSION
Thursday, December 7, 2017 - 6:15 pm
City Council Chambers
City Hall 1st Floor - 200 Lincoln Avenue

CALL TO ORDER

A regular meeting of the City of Santa Fé Planning Commission was called to order by Commissioner Vince Kadlubek, Chair, on the above date at approximately 6:15 p.m. in the Council Chambers at City Hall, 200 Lincoln Avenue, Santa Fe, New Mexico.

A. ROLL CALL

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

Members Present

Commissioner Vince Kadlubek, Chair
Commissioner John B. Hiatt, Secretary
Commissioner Justin Greene
Commissioner Brian Patrick Gutierrez
Commissioner Stephen Hochberg
Commissioner Mark Hogan
Commissioner Sarah Cottrell Propst

Members Absent/Excused

Commissioner Piper Kapin, Vice-Chair

Others Present:

Ms. Lisa Martínez, Planning and Land Use Director
Mr. Greg Smith, Current Planning Division Director
Mr. Noah Berke, Current Planning Division Manager & Staff Liaison
Mr. Richard Word, Assistant City Attorney
Ms. Margaret Ambrosino, Planner Senior
Mr. Dan Esquibel, Planner Senior
Mr. Carl Boaz, Stenographer

NOTE: All items in the Committee packet for all agenda items are incorporated herewith by reference. The original Committee packet is on file in the Planning and Land Use Department and available on the City's web site.

B. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

C. APPROVAL OF AGENDA

The of the minutes was corrected and Case #3 was deleted.

MOTION: Commissioner Hiatt moved to approve the agenda as amended. Commissioner Greene seconded the motion and it passed by unanimous voice vote.

D. APPROVAL OF MINUTES AND FINDINGS OF FACT

1. MINUTES:

November 2, 2017

Mr. Berke noted the following changes to the minutes:

On page 8, in the last sentence where "pressure fines" should be "crusher fines."

On page 12, 4th paragraph from the bottom, should say, "Mr. Berke noticed a lot of interest in the area from Meow Wolf being located there, amending the permitted uses."

On page 12, second to last paragraph, should say, "Mr. Word said Councilor Maestas has obtained passage of a resolution asking Debra Garcia y Griego ..."

MOTION: Commissioner Hiatt moved to approve the minutes of November 2, 2017 as amended. Commissioner Greene seconded the motion and it passed by unanimous voice vote, except for Commissioner Gutierrez, who abstained.

2. FINDINGS/CONCLUSIONS

Case #2017-93. Casa Mason Final Subdivision Plat.

Commissioner Propst said the name of the findings is different on the agenda than in her packet where it says, "Conejo Drive."

Mr. Berke said at the preliminary subdivision plat hearing, Commissioner Greene proposed the title be changed to the address, so Staff changed it to reflect the address. It is at the same address. 1882 Conejo Drive. It was referred to as both in the minutes, but he agreed to have it as 1882 Conejo Drive.

Chair Kadlubek agreed that we will change that.

MOTION: Commissioner Hiatt moved to approve the Findings of Fact and Conclusions of Law for Case #2017-93 as amended. Commissioner Greene seconded the motion and it passed by unanimous voice vote.

E. OLD BUSINESS

There was no Old Business.

F. NEW BUSINESS

1. An Ordinance Amending Section 14-3.11(B) Of the Land Development Code To Require Public Posting Of Construction Permits For Properties That Do Not Abut Public Streets Or Roads. (Councilors Lindell and Villarreal) (Noah Berke)

Mr. Berke presented the staff report for amending Section 14-311 B. Currently, the language reads that the Land Use Department Director may require additional postings and now will say "shall require additional postings if a property that has construction permits does not abut a public road." With the amendment. in addition to site posting, it would also be posted at the nearest public street. That is the change proposed.

MOTION: Commissioner Hochberg moved to recommend approval of the amendment. Commissioner Hogan seconded the motion.

Commissioner Greene commented that the big yellow signs are not very informative and are a little scary. Having the plan posted would be better.

The motion to recommend approval passed by unanimous voice vote.

2. **Case #2017-96. Ross's Peak Preliminary Subdivision Plat and Terrain Management Variance.** James W. Siebert & Associates, agent for Ross's Peak LLC and Las Soleras del Oeste, requests approval of two-phased preliminary subdivision plat to create 182 residential lots in two phases. The application includes a variance to allow creation of one residential lot with a buildable area that does not meet the requirements of Subsection 14-8.2(D)(3)(b) Natural Slope of Buildable Area and Development Plan to provide innovative lot design. The property is approximately 25 acres and is zoned R-12 (Residential – twelve dwelling units per acre), and is located on Tract 12A-1 and 12A-2 of the Las Soleras Master Plan area. (Dan Esquibel, Case Manager)
(POSTPONED FROM NOVEMBER 2, 2017)

Mr. Esquibel handed out a memo to the Commission. He explained that when the conditions were approved, it required Beckner Road to be opened at the point 75 homes were built. That threshold was reached but Beckner Road opening didn't happen. The letter from Mr. Gordon Skaarsgard said they will open Beckner Road on December 15. The City stopped all building permits for tracts 14 and 15 until that condition is met. This case can still move forward because it was on tract 12 and not tract 14 or 15.

Chair Kadlubek asked why the stoppage would not affect the other tracts.

Mr. Esquibel said that was listed on the conditions of approval of the Master Plan. John Romero had conditions for how that phasing would happen. When they failed to open the road after 75 homes, we stopped granting them. Hopefully it will be taken care of. There will be a discussion on the development plan issue and there was some confusion on how that lot came about.

This is preliminary plat with a variance to allow a structure to locate more than 50% on 20+% slopes. They are asking for a variance on the buildable area for that one lot in the subdivision. Staff recommended approval of the preliminary subdivision but does not believe they met the variance criteria and recommended denial of that variance. The Commission can consider their response.

Staff recommended approval of the preliminary subdivision plat, subject to the conditions of approval and technical corrections. They were compiled from the DRT in Exhibit B of the memo.

Chair Kadlubek asked for clarification of the preliminary approval with denial of the terrain management plan and how the Planning Commission can approve it, if it is dependent on a terrain management variance. I seemed those were intertwined or linked together.

Mr. Esquibel said the plat is only dependent on the variance for one lot. If not approved, they would have to redesign the subdivision to move that one lot elsewhere. If they want that lot there, they would have to come up with better variance reasons.

Chair Kadlubek reasoned that it could be approved without that lot.

Mr. Esquibel agreed. However, he did not include that reduction in the conditions of approval.

He pointed out that when Ross's Peak was approved, there were several plats that made up that Master Plan. They started with tract 12 B 1 and included the hatchet-shaped portion at the north. That went through a lot line adjustment and another lot split that the Planning Commission approved for 9 A 2 and 9 A 1 and created a line that separated the hatchet lot from tract 12 B 1 a. The hatchet lot is relabeled and included it in the phasing plan into two phases. And that changed the lot on the southeast corner. The hatchet lot was originally open space for Ross' Peak. It still includes the trail and adding a lot for more open space.

Commissioner Hogan presumed it would be all mass graded.

Mr. Esquibel said they cannot mass grade that area because of the pond. He said the lot for the variance request is Lot 139.

Mr. Berke said what Mr. Esquibel just explained is the lot line adjustment request tonight. Commissioner Hochberg asked if Staff has no objection to the lot line adjustment.

Mr. Esquibel agreed, and went to the development plan issue from the applicant. He included that discussion as part of the memo on page 9 - 10. He explained that on Jose Street some time ago, Chapter 14 allowed a 70% lot coverage for R-10, R-12, R-21, R-29 lots. Councilor Bushee was approached by some neighbors and an ordinance was developed that reduced maximum lot coverage from 70% down to 55%. The Code now requires, when lot coverage is more than 40% it requires open space to be included on the site plan at 30% of the gross area of the dwelling units. It also has dimensional limit of not less than 12' in any one direction and no slope greater than 1:10 for higher density zones.

The applicant presented a development plan and it included 70% with open space - so it would require a variance beyond what the ordinance allows. He didn't think it could be discussed further without the variance to that section and would require a new notice and another ENN and be presented to the Planning Commission.

The Applicant approached him in the afternoon before this meeting. They would like to go through that but bundle it with the final development plan. He talked with Counsel to see if that could be done - to push the development plan off to a final with a variance because it requires compliance with the development plan.

Chair Kadlubek asked if the Commission can approve the preliminary subdivision plat and deny the variance and then Staff can figure out when it would come back to us.

Mr. Esquibel said there is a condition in the development plan and a correction to that table is required. The question is whether they can concurrently deal with the variance and the final development plan.

Commissioner Hochberg suggested that any discussion of the variance is premature. He asked if the filing came after the ordinance change.

Mr. Esquibel agreed. The ordinance was done years ago.

Commissioner Hochberg surmised that they are coming in at the wrong phase for a variance that includes neighborhood notification and that has not happened.

Mr. Esquibel did not believe they were shortcutting the process or improper in the notice. They agreed to go through the variance process as required and back to the ENN process. They just wanted it to be done with the Final Subdivision Plat.

Commissioner Hochberg said it would be establishing a new procedure and other people would ask for that too. It is much harder to change things at final. It is not the normal way to do it at the end.

Mr. Esquibel agreed.

Mr. Berke said the typical lot coverage is 40% but can go up to 55% with private open space. This Applicant is requesting an interpretation that they can go up to 70% which is the old amount that is not done now. Staff has never seen 70% lot coverage in practice. It is not typical. If the Commission approved

the case with conditions and corrections, the Applicant would have to correct the lot with the 70% lot coverage. And they would try to justify why they should be allowed to have 70%. They can advertise for an ENN and go back through the ENN process.

Commissioner Greene clarified that with 70% on the lot, they would have to have 30% open space on that lot.

Mr. Berke agreed.

Commissioner Gutierrez asked what number of lots the 70% is for.

Mr. Esquibel said it would be in all the lots in the subdivision.

Applicant's Presentation

Mr. Jim Siebert, 915 Mercer, was sworn. He responded to Mr. Hogan's question about the grading. It does happen in the open space and on the pond. There is a trail in the open space and is part of the City trail system and part of it is on top of a sewer line, so a 12' wide trail is required instead of 10'. So more grading must be done because of the trail system.

Mr. Siebert said he had Pulte principles, Paul Weimer, Kevin Patton and Fred Arfman present. What is requested now is the preliminary development plan for phases 1 and 2. He described in the phasing plan. Phase 1 is 112 lots, Phase 2 is 70 lots for 1882 and Phase 3 is not under contract yet, would be on the east side of Railrunner Road. He described the open space which represents the original Las Soleras Master Plan and the amended plan adopted by City Council. There is area outside the open space used for residential development, also. He described the site plan for the Commission and the legend on the map. He showed the development plan for the property and the various components of common open space. The gross density is 6.4 dwelling units per acre. Outside the "meat cleaver" shape is 1.33 acres of open space for acceptance by City Parks including an area along the trail but not the pond.

He pointed out the trail system, the sewer line location that abuts the regional park on the south side of the property. The internal trail system doesn't meet city standards, but it is just for pedestrian circulation within open space.

The design is alley loaded that serves as actual access and the public road is at the front. They are requesting 65% lot coverage and can accommodate all dwellings at that lot coverage. He showed the private open space that is 12' in both directions with some of it under portals. 100% of that counts toward private open space. The counting is complex - each model has an ability to have a slightly larger area, depending on desire of the buyer. The biggest house has the bonus area counted. Lot coverage includes garages. The smallest model would be 27% and the highest is at 64% and the average coverage is 52.4%.

He said if they had to go to 55% lot coverage, they would have to have 4' more width and go from 12 lots to 10 lots to meet the requirement and 5.8 dwelling units per acre. The loss total would be 24 to 28 lots with the reduction of the open space.

Mr. Siebert said he tried to find out how the transition took place from 70% to 55%. The 2009 City Code showed 70% and the 2013 code after the major rewrite was still at 70%.

The 2014 code is where it actually changes to 55% and earlier, on same plat, was under 70% in 2013. They asked Staff to evaluate the open space standards. Common or private open space may be provided in any combination, so they felt they could make up the deficit with common open space in the interior of the subdivision that would more than cover it. So it is not straightforward. The definition of open space doesn't include private open space. The majority of those areas contain the interior trail system.

Regarding the slope variance, they have an anomaly with a 20% slope on a lot. Half of the building can be constructed on 20+% slopes. None of these are 30% lots. On that lot, the buildable area is xxx square feet. The extent of the variance is 2.3%. They are all paired lots and would lose two lots as the result of the variance.

He looked at grading and did not see anything in the City code to prevent grading that property. So, if variance is not approved, they would still grade there.

They are asking for approval of the variance to have more than 52% of the building on 20% slopes and are asking to have it considered with the final plat. If the variance has some merit to it, they would back things up and apply for the variance.

Public Hearing

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

Mr. Esquibel clarified that on residential development, the subdivision is proposed by the Applicant. But that is not the only form to achieve higher density. They want to massage some of the lot coverages. It isn't that they cannot meet the standards but want to have a variance to meet their needs. We may not allow mass grading because of the dust issue out there. They still did not meet the variance criteria, and they still have to meet the Findings in order to grant a variance. He couldn't believe they met that.

Discussion/Questions

Commissioner Hiatt asked if Mr. Siebert was telling the Commission that if the variance is not granted, they will grade the hill.

Mr. Siebert explained that if they didn't grade it, there would a hole there.

Commissioner Hiatt was not sure he understood it.

Mr. Siebert said the dirt will be brought up 2-3' and with natural grade, it would have a hole and their desire is to eliminate the hole for safety.

Commissioner Hiatt asked if they were changing the slope with the new dirt.

Mr. Siebert said the slope is not changed.

Commissioner Propst understood the lot line adjustment but the rest seemed like they are trying to rush through something that is sloppy and would bend our rules to allow them to build quickly and is not the first time with this applicant, so her patience is thin.

Chair Kadlubek said the recommendations make sense and he would add that lot 139 is not approved. The Commission can approve it without 139 and deny the variance.

Commissioner Hochberg thought they are talking about the whole project, and the whole project is very crowded.

Mr. Kevin Patton was sworn and said they don't want it to be sloppy or bend the rules. There was a misinterpretation of what Pulte understood in 2014, that was grandfathered in at 70% and it would be okay to withdraw and come back to meet the 55% and restrict some floor plans to meet it. Then the only issue might be the 20% slopes. If left as is, the concern for filling it in was a concern with surrounding neighbors. With the existing grade, it would have to be fenced off to avoid kids going there. It could be a danger if someone fell into it.

Commissioner Hochberg asked if he was now suggesting that they would change everything to make it less dense.

Mr. Patton said the lots would stay the same and they would have to restrict the building size.

Commissioner Hochberg asked if the Commission couldn't combine that with an adjusting lot. It was not much - only two lots.

Commissioner Hogan said he was not concerned about the slope variance. It is a mass graded situation and leaving it as is would be more awkward but with grading, it would have two more lots. It won't make an appreciable difference and would be awkward to leave it. He didn't think the Commission could act on the lot coverage issue now.

Commissioner Hochberg said no decision was needed for variance because Mr. Patton agreed to change the models to meet the ordinance. And it is procedurally out of order. He would ask for all the issues to be put with the final plan.

Commissioner Hogan said they are requesting the variance for slopes at exactly the right time. Otherwise, they would have to revise that one piece. The variance for lot coverage must be resolved before final and would add 4' to each lot without approval.

Mr. Esquibel said the Staff findings in the review in the memo is whether the applicant addressed those issues. If the Commission makes a finding in favor of the variance, we know the rationale. - only for

the slope at that one lot to have those two lots without a need for fencing off an area that would be problematic otherwise. They have gone through the process and that variance was published for the ENN. It is only if the Commission agrees with Staff findings or comes up with their own findings.

Commissioner Hochberg recalled that Staff recommended denial.

Commissioner Propst asked Commissioner Hogan if we could talk through the hardship issue. She was persuaded by the Staff argument.

Commissioner Hogan said the special circumstance in this case, is a subdivision being developed in multiple lot increments. Mass grading does not work with small spots that exceed the slope criteria. It is not a problem for the City or anyone else. It is the opposite of that because it is more expense to have to grade around that area. They could definitely work around that slope issue.

Commissioner Greene said Mr. Esquibel mentioned it as a cookie cutter and the Applicant is unwilling to tweak it. They could reconfigure the lots and they could be developed without the variance so, he was not for it. For the procedure on 55-70% lot coverage, he asked if they couldn't go for 70% at the time of building permit.

Mr. Esquibel said they could not. The ordinance says 55%, so a variance of that ordinance is the only way. It must have a variance from the Commission. 70% was in the previous code and that was dropped to 55%.

Mr. Berke said they were cited by Mr. Siebert and are all above the required code.

Chair Kadlubek asked where the lot coverage variance was captured in this case.

Mr. Esquibel said it is not in there because they did not apply for a variance to lot coverage. In Exhibit A, the last condition is where he required them to meet the code standard and included a table there.

Chair Kadlubek pointed out that this needs four motions. The first is the lot line adjustment.

Mr. Berke agreed.

MOTION: Commissioner Hogan moved for approval of the lot line adjustment for Ross' Peak preliminary subdivision plan in Case #2017-97. Commissioner Hochberg seconded the motion and it passed by unanimous roll call vote with Commissioners Hogan, Greene, Hiatt, Propst, Gutierrez and Hochberg voting in favor and none voting against.

MOTION: Commissioner Hogan moved approve the Subdivision Plan for Ross' Peak in Case #2017-96 as recommended by Staff and subject to the conditions of approval and technical corrections. Commissioner Hiatt seconded the motion and it passed by unanimous roll call vote with Commissioners Hogan, Greene, Hogan, Propst, Gutierrez, and Hochberg voting in the affirmative and none voting against.

The third motion was on the variance.

Commissioner Propst pointed out that if the variance is not approved, the Commission would have to change the first motion.

Commissioner Hogan added that if the Commission wants to discuss the variance, we would have to discuss the criteria. We talked about one point but not the two others.

Commissioner Propst said the Commission didn't talk about 1-A but talked about #2 or #3 intensity of development, which Staff said had been met. 3-A was if the property in question could be used without a variance and on that one, Staff said it had not been met.

Commissioner Hogan asked what would be the use if lots are developed on both sides and this is 2 feet lower. It is not big enough for open space or ponding, so he believed it does meet the criteria for a variance.

Commissioner Greene said it could be joined with another lot next to it.

Commissioner Hiatt asked if the applicant had a response to that proposal.

Mr. Patton said it would be a possibility but didn't know how it would work. It would require a flat pad, but leaving it natural would be a danger. It is not flat. It has a 20% slope and the adjacent lot may be a 10% slope. It would need to be filled in. So if the Commission doesn't approve it, we would have to leave it natural. It would be difficult to have my kids playing around that steep of a slope.

Mr. Word commented about infeasibility of use. He was hearing arguments from Mr. Hogan. The Commission should develop the record more on why it is not feasible. The code says, "The special circumstances make it infeasible for reasons other than financial cost to develop the property in compliance with the standards of Chapter 14." As he read the code, the property is the entire subdivision - not just lot 139. That needs to be in the Commission's finding.

MOTION: Commissioner Hochberg moved to deny the Applicant's variance request relating to natural slope of usable area in that Lot 139. Commissioner Greene seconded the motion and it passed by majority (4-2) roll call vote with Commissioner Hochberg, Commissioner Greene, Commissioner Hiatt and Commissioner Propst voting in the affirmative and Commissioner Gutierrez and Commissioner Hogan dissenting.

The final motion was to approve the two-phased 181 residential lots of the preliminary subdivision plat.

MOTION: Commissioner Hogan moved approval of Case #2017-96, Ross' Peak Subdivision Plan, subject to conditions of approval and technical corrections for 181 residential lots. Commissioner Hiatt seconded the motion.

Mr. Berke asked, for clarity, that the motion should state which lot is excluded - excluding lot 139.

Mr. Patton asked if the Commission could divide the motion to not include the lot count at 181 lots. Pulte might make it work with the criteria to have 182 lots.

Chair Kadlubek said that made sense to him.

Commissioner Hogan withdrew his motion.

Chair Kadlubek said it sounded like the applicant is asking for denial.

Mr. Patton said they would withdraw their variance request.

Commissioner Hochberg pointed out that the variance request is already denied.

MOTION: Commissioner Hochberg moved to approve Case #2017-96, Ross' Peak Subdivision Plan, with 182 lots as put forward by the applicant, subject to all conditions and technical corrections. Commissioner Hogan seconded the motion and it passed by unanimous roll call vote with Commissioners Hogan, Greene, Hiatt, Propst, Gutierrez and Hochberg voting in the affirmative and none against.

3. ~~**Case #2017-96. Ross's Peak Preliminary Subdivision Plat and Terrain Management Variance.**~~ James W. Siebert & Associates, agent for Ross's Peak LLC and Las Soleras del Oeste, requests approval of ~~two-phased preliminary subdivision plat to create 182 residential lots in two phases.~~ The application includes a variance to allow creation of one residential lot with a buildable area that does not meet the requirements of Subsection 14-8.2(D)(3)(b) Natural Slope of Buildable Area. The property is approximately 25 acres and is zoned R-12 (Residential – twelve dwelling units per acre), and is located on Tract 12A-1 and 12A-2 of the Las Soleras Master Plan area. (Dan Esquibel, Case Manager) **(POSTPONED FROM NOVEMBER 7, 2017)**

4. **Case #2017-97. Ross's Peak Lot Line Adjustment Plat.** James W. Siebert & Associates, agent for the Ross's Peak LLC and Las Soleras del Oeste, requests approval of a lot line adjustment to adjust approximately 3.5 acres of Tract 12B-1 into Tract 12A-1 containing 24.92 +/- acres, and to adjust the boundary between Tract 12A-1 and Tract 12A-2. The property is 25 acres and is zoned R-12 (Residential – twelve dwelling units per acre), and is located within the Las Soleras Master Plan area. (Dan Esquibel, Case Manager) **(POSTPONED FROM NOVEMBER 7, 2017)**

This was approved above.

5. **Case #2017-112. Contenta Ridge Apartments Development Plan.** Rick Brenner of Brenner

Development Company, requests approval of a development plan to create 59 multi-family apartments located at the northeast corner of Plaza Central and Contenta Ridge. The property is approximately 4.479 acres, is zoned PRC (Planned Residential Community), and is located within Phase 2B of the Tierra Contenta Master Plan. (Margaret Ambrosino, AICP, Case Manager).

Mr. Berke provided a handout that was not included in the packet. He asked if the Commission wanted a time limit on public comment.

Commissioner Hiatt announced that he has a potential conflict as a board member of Tierra Contenta and could not recall if the Board discussed it and was pretty sure he could be neutral unless a commissioner objected.

Chair Kadlubek pointed out that the potential for development would benefit the Board.

Commissioner Hiatt said it is always in the Board's interest to encourage development.

Commissioner Hochberg asked him to recuse himself.

Mr. Berke added that Commissioner Hiatt might have to approve it in a recommendation from the Tierra Contenta Architecture Committee.

Commissioner Hiatt recused himself and left the meeting at 7:48 p.m.

Ms. Ambrosino presented Case #2017-122 to the Commission. She explained this is an apartment development at the northeast corner of Contenta Ridge and Plaza Central in Tierra Contenta. An ENN meeting was held and comments from the community and a packet of emails not in the Exhibit 9 were in the handout.

Chair Kadlubek disclosed that he was contacted by a person and didn't discuss the case.

Ms. Ambrosino said the Land Use Department is recommending approval with four conditions that were nothing really radical. They read as technical corrections but were listed as conditions. This is a 59-unit multi-family development on tract 51 of the Tierra Contenta Master Plan.

Prior to the ENN and meeting with Staff to discuss it, Benner Development met with the Tierra Contenta Architectural Review Committee and she noted that in 2008 there was a development plan for town homes that expired. Benner, in coming to Staff with this proposal, was in response to the need for multi-family and rental units.

Surrounding this 4.5 acreage on the north, east and south, is the same PUD zoning and to the west is R-7. Surrounding the vacant property is single-family residential development.

What is proposed is a little more than 4,100 square feet. Tract 51 has a recorded development plan for up to 59 units, which is two dwelling units per acre.

Compared with the Tierra Contenta standards, there are a few modifications. It is for three buildings with 8-16 units each and the design team is aware of a need for four. Staff discussed that need with them.

Specific points in the analysis for 59 units is the intent to address market needs. The slope is downward at the southeast portion to the northwest of the site and the Applicant at ENN said it would eliminate the second floor from looking down on single story homes. The rest of the site is higher toward the southwest and 599 highway. Regarding parking, terrain management, water and, waste water, there was not much in the comments. The code requirements have substantially been met.

The ENN meeting was on October 2 with 45 individuals attending. Concerns included traffic and crime. The Santa Fe Police were invited to attend but were not here. However, they are aware of the concerns.

Other comments made were on affordability. Tierra Contenta is, by creation, an affordable community. At least 40% of residential in Tierra Contenta is required to be affordable. This is a higher restriction than the Santa Fe Homes Program. They might provide a fee in lieu of affordable units on site.

The Applicant hosted the ENN meeting and it was about 2 hours in length and they hired a professional mediator and note taker to make sure the comments and concerns were addressed and provided Q and A forum. Those are included in the packet.

In the design meeting, many comments were addressed in the revised design that is in the packet.

Ms. Ambrosino explained that this request is actually preliminary and final in their one request.

Applicant's Presentation

Mr. Alexander Dzurec was sworn. He was excited about the project in light of the shortage of housing and working to provide a thoughtful well-designed development. He introduced his project team and mentioned others including Morey Walker. In 2007, a development plan for town homes was presented and the recession hit. Now it has a different approach for apartments. The site is 4.5 acres and zoned for multi-family at 20-30 du/acre. But they propose 59 units, which is 13 du/acre. They propose two-story buildings at a maximum height of 26'. Total area to develop is only 3.5 acres. Lot coverage is 29% with 30 parking spaces and a leasing office. It has 57,000 square feet of covered area. They are not asking for any variance or any rezoning. The site has exceptional views to west and north and south to the Sandias. The Santa Fe Mountains are somewhat blocked.

This is exceptional site for multi-family and has excellent access to 599 and Jaguar on to I-25. As well as access to the existing roundabouts on Plaza Central. He described the trail network in the

community and recreational trail to the north. The topography is steepest to the north and is a no build area.

They found the 59 units are more in scale, (compared to the previous town home plan) with development of a loop road, preserving open space along the arroyo with a trail and a leasing office on the corner. They added a covered garage as a buffer between the parking lot and adjacent neighbors with amenities, abundant open space and recreation. They are directing rainwater for irrigation, natural vegetation and wild life habitat with a variety of species and places for people to gather picnic areas, etc.

He wanted to address the concerns raised at the ENN meeting. One was traffic. The Tierra Contenta Phase 2 B Master Plan included 59 units on this site and their traffic plan was designed to meet that use. They have encouraged a 599 direction instead of through the adjacent neighborhood. Having 50 town homes would have generated more traffic and single-family homes even more.

Regarding environmental issues, this plan preserves vegetation and set back from the arroyo trail. Water harvesting, and energy efficient buildings will comply not only with state and federal standards, but also for dust control during construction.

School overcrowding was an issue raise. They gave notice to SFPS for the development and they had already included that in their plans for full build out of Tierra Contenta.

Regarding crime, the common perception is that apartments breed crime. But in their survey of crime statistics they found among 250 single family homes, three apartment complexes the ratios were very close to each other. They will work with property management and encourage police officers to locate there. They feel their work will reduce crime.

Public hearing

MR. JAMES HICKS, Executive Director of Tierra Contenta Corporation, 1111 Agua Fria was sworn. He said it hasn't been pointed out that these apartment units going in are not affordable units. So it is going to relieve 59 units of affordable housing in the community. So it won't fix everything, but it is a good project. Thus far, Tierra Contenta has 457 apartments and the Master Plan calls for over 700 so we have underperformed. In next phase, we will have more. The Architecture Review Committee reviewed this plan and they are happy with it.

MR. PAT LÓPEZ, 4400 Contenta Ridge, was sworn. He said he is a home owner and they propose to build these apartments very close to his house. "I know it is difficult for the City because there is not enough rental space in Santa Fe and also you get many complaints saying not in my backyard, which typically is in my back yard. Our house will get devalued. I've lived in Santa Fe all my life and worked hard to buy our dream house here. I'm sure the other residents feel the same. It will cause congestion - the streets are very narrow; people will park on the street. We dreamed about this new house and it is difficult. Hopefully, the Commission will disapprove this plan for the apartments. I know many residents could not be here because they got late notice for this meeting. Thank you."

MS. MARIA LÓPEZ, 4400 Contenta Ridge, was sworn. She said, "I'm asking that perhaps it could be postponed to another date because I know I spoke to a lot of my neighbors. I called many neighbors and they didn't know of this meeting and some were out of town. We had 40 people opposing this. We'd like to have study of the streets. There is not enough room for parking. Had we known there would be apartments - We never heard about 50 town homes and now hearing at the meeting that if there was not enough room in the school, the District said they would quash this idea but now they are saying another school is proposed. But that will be many years from now. There is lots of congestion. Our neighbors wanted to be here but couldn't, but they oppose it."

MR. GILBERT MANCHOU, 4441 Contenta Ridge was sworn. He said, "I purchased a home through Homewise in this location. It was where I planned to stay and never was told that there would be a big apartment built there. If I had known, I would have thought about it. And I probably would not even have bought it. On that part of town, how many apartment complexes are there. There are many down Airport Road - two across from Capital High. I tend to do a lot of work in apartments and have seen a lot of crime - graffiti, cars broken into, home invasions, etc. There is lots of congestion there now. It sounds like these apartments are very nice but in time, they will be bad. Think about the people who live there. Would you want them in your back yard? Please think about it."

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

Discussion

Commissioner Greene asked what amenities would be provided? Washers/dryers? What other communal amenities.

Mr. Dzurec said they have located space for communal areas; a club house for meetings, adjacent courtyard; trails into and out. There are hook ups for washers and dryers but no community laundry room. They will be in the units.

Commissioner Greene asked about the streetscape. The sidewalks don't have a 5' landscaping strip. He asked if that is part of Tierra Contenta standards.

Ms. Ambrosino said she had not noticed that in the landscaping plan and didn't have an immediate answer. The only comment she recalled is that landscaper on staff had a comment.

Mr. Berke said Katherine Mortimer reviewed it and said it meets Tierra Contenta guidelines with trees planted 2' behind the property line. This plan would cover the design standard for Tierra Contenta.

Commissioner Greene asked if there is any on street parking on those streets.

Ms. Ambrosino said there appears to be but she couldn't tell dimensionally if the stripe was for a bike lane, but she parked there, and it appears to be very narrow.

Commissioner Propst asked what the process is when people buy in Tierra Contenta for notification of future build out. The neighbors seem shocked that this was a plan for the area. Should they have been informed about it?

Ms. Ambrosino said she couldn't speak to the process at Tierra Contenta. But the commentary was that those owners were told by realtors that it could be 50 town homes.

Chair Kadlubek said this has come up in the past with more dense projects. People argued it was unexpected, even where there is not a zoning variance. He had the same question on legality for selling a home with information that is not accurate. But that is not our purview.

Commissioner Propst said usually, the home owner has to do the due diligence.

Mr. Hicks said- 46 % of the residences in Tierra Contenta are affordable and people who live there now are often not the original purchasers. He required the builders to tell buyers what was going on in the neighborhood around them. But that doesn't fix problems of new residents in the neighborhood when real estate agents might not know what the requirements are.

Mr. Berke said regarding the public notice, that Staff provided notice out 300' and disclosure is a state law and home owners could file suit against a realtor for non-disclosure. Tierra Contenta has its requirements. And Mr. Hicks addressed that. So the requirements for code were followed.

Commissioner Hochberg understood no variance is required. The housing is needed by the City and it is part of the original concept of Tierra Contenta and is a part of progress. Apartments are not an evil thing.

Commissioner Propst agreed. This has been thoughtfully designed.

Commissioner Gutierrez said, "It was a slick presentation." In the October 23 letter to the City, it said an Affordable Housing agreement is under negotiation with Tierra Contenta Corporation Board of Directors and asked where that stands.

Mr. Hicks said he presented the plan to Mr. Brenner on Monday and hasn't heard that it is not accepted so he thought it must be.

Mr. Hick explained it is a fee in lieu. The Tierra Contenta Board considered it and talked about plans for actually putting feet on the ground of Affordable Housing. It came down at the end to the Board members realizing what the apartment shortages are and want to get it done now.

Commissioner Hochberg asked what the fee amount is.

Mr. Hicks said it is \$144,000.

Commissioner Gutierrez asked if that was similar to what the Homes Program would require. Not all Tierra Contenta housing is just the Homes program.

Ms. Alexandra Ladd said the Tierra Contenta Corporation was set up in the annexation to act as city agent for 40% Affordable Housing or greater. Each tract has been negotiated on its own. Some are 30%, some 50 and some 100%. When this project came up, the others were done through tax credit or transitional. The Tierra Contenta Board did not have a way to process the request without units on site. The by-laws require a City staff on the board. So the idea of fee in lieu was voted because the City has a way to calculate the gap and Tierra Contenta uses the same calculation. That fee doesn't to the City but to Tierra Contenta Corporation.

Chair Kadlubek asked if the uses are similar.

Ms. Ladd said Tierra Contenta has never received those funds. But they will use it for affordability.

MOTION: Commissioner Hogan moved for approval of the plan to create 59 apartments, subject to conditions of Staff and all technical corrections. Commissioner Greene seconded the motion.

Chair Kadlubek asked if the applicant agreed with those conditions.

Mr. Brenner said they agreed.

Chair Kadlubek said the Commission should get an update from Ms. Ladd on the current needs.

Ms. Ladd said the situation has not improved for how tight the market is and how rents are going up. We have several in the pipeline and not predictable how soon. There should be more added to the inventory shortly.

The motion passed by unanimous roll call vote with Commissioners Hogan, Greene, Propst, Gutierrez and Hochberg voting in favor and none voting against.

Commissioner Greene informed the neighbors that there are some big projects just down the street that are not part of Tierra Contenta and might come back in the next few months.

Mr. Berke said the neighbors could contact someone in Planning at the City or the Tierra Contenta Board. There are tracts out there with fixed unit numbers and approved development plans.

- 6. Case #2017-113. Cerro del Norte Preliminary Subdivision Plat.** JenkinsGavin, Inc., agent for Summit Business Group, LLC, requests approval of a preliminary subdivision plat for 32 residential lots on 7.44± acres. The property is located between Fifth Street and the Rail Trail, north of the Casa del Cerro subdivision, and is zoned R-5 (Residential- five dwelling units per acre). (Donna Wynant, Case Manager) **(TO BE POSTPONED TO JANUARY 4, 2018)**

This case was postponed under Approval of the Agenda.

G. STAFF COMMUNICATIONS

Mr. Berke introduced Mr. Carlos Morrow as a new planner on this, his first day.

H. MATTERS FROM THE COMMISSION

Commissioner Gutierrez reported that two cases were heard at the Summary Committee and both passed. One was a Family Transfer to split a lot and he was glad for it. The other was near Chair Kadlubek's Meow Wolf for parking for the greenhouses.

Commissioner Hogan wished the Staff and Commissioners happy holidays.

Commissioner Greene said he has been serving on the Chamber's committee for regulations and moving targets between and most of them fall in electrical inspection.

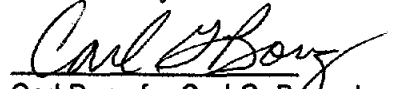
Commissioner Greene asked if the City found people to replace him.

Ms. Martínez asked him to please come back. They are still looking for two commissioners in District 3.

I. ADJOURNMENT

The meeting was adjourned at 8:45 p.m.

Submitted by:


Carl Boaz for Carl G. Boaz, Inc.

Approved by:


Vince Kadlubek, Chair
Piper Kapin