



# Agenda

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**AMENDED**

**PLANNING COMMISSION**  
**Thursday, August 1, 2019 - 6:00pm**  
**City Council Chambers**  
**City Hall 1<sup>st</sup> Floor - 200 Lincoln Avenue**

**A. ROLL CALL**

**B. PLEDGE OF ALLEGIANCE**

**C. APPROVAL OF AGENDA**

**D. APPROVAL OF MINUTES AND FINDINGS/CONCLUSIONS:**

**MINUTES: July 11, 2019 *(TO BE POSTPONED TO AUGUST 15, 2019)***

**FINDINGS/CONCLUSIONS: None**

**E. OLD BUSINESS**

**F. NEW BUSINESS**

1. **Case #2019-62. Extra Space Storage Sign Variances.** Hillary Welles of JenkinsGavin, Inc. Agent, for Titan Rodeo SS LLC, Owner, requests approval for a variance to SFCC 14-8.10(G)(7)(d) for a sign to exceed 25 feet in height, and variances to SFCC 14-8.10(G)(7)(a) signs exceeding 150 total square feet and to exceed the maximum number of allowable signs. The Property is located at 2977 Rodeo Park Drive East, is approximately 3.409 acres, is zoned BIP (Business Industrial Park) and is located in the South Central Highway Corridor Overlay. (Margaret Ambrosino, Case Manager, [mkambrosino@santafenm.gov](mailto:mkambrosino@santafenm.gov), 955-6656)
2. **Case #2019-63. Komis Business Park Final Subdivision Plat.** James W. Siebert & Associates, Agent, for Komis Land Company, Owner, requests final subdivision approval to create 19 commercial lots on approximately 104.03 acres. The property is zoned C-2 (General Commercial) and is within the Suburban Archeological Review District. The property is located at 115 NM 599, north of I-25 and NMSR 599. (Dan Esquibel, Case Manager, [daesquibel@santafenm.gov](mailto:daesquibel@santafenm.gov), 955-6587). ***(TO BE POSTPONED TO AUGUST 15, 2019)***
3. **Case #2019-64. Rancho Santa Fe Apartments Development Plan.** Jim Siebert, Agent, for Herrera Associates, Inc., Owner, requests approval of a Development Plan for 156 multi-family apartments. The property is located at 4900 Herrera Drive, is approximately 7.444 acres, and is zoned R-21 (Residential- 21 dwelling units per acre). (Margaret Ambrosino, Case Manager, [mkambrosino@santafenm.gov](mailto:mkambrosino@santafenm.gov), 955-6656).

## **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.**

**RECEIVED AT THE CITY CLERK'S OFFICE**

**DATE: July 24, 2019**

**TIME: 10:37 AM**



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**City Hall 1<sup>st</sup> Floor - 200 Lincoln Avenue**

- A. ROLL CALL**
- B. PLEDGE OF ALLEGIANCE**
- C. APPROVAL OF AGENDA**
- D. APPROVAL OF MINUTES AND FINDINGS/CONCLUSIONS:**
  - MINUTES: July 11, 2019**
  - FINDINGS/CONCLUSIONS: None**
- E. OLD BUSINESS**
- F. NEW BUSINESS**

1. **Case #2019-62. Extra Space Storage Sign Variances.** Hillary Welles of JenkinsGavin, Inc. Agent, for Titan Rodeo SS LLC, Owner, requests approval for a variance to SFCC 14-8.10(G)(7)(d) for a sign to exceed 25 feet in height, and variances to SFCC 14-8.10(G)(7)(a) signs exceeding 150 total square feet and to exceed the maximum number of allowable signs. The Property is located at 2977 Rodeo Park Drive East, is approximately 3.409 acres, is zoned BIP (Business Industrial Park) and is located in the South Central Highway Corridor Overlay. (Margaret Ambrosino, Case Manager, [mkambrosino@santafenm.gov](mailto:mkambrosino@santafenm.gov), 955-6656)
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<p><b>RECEIVED AT THE CITY CLERK'S OFFICE</b> <b>DATE: <u>July 15, 2019</u></b> <b>TIME: <u>9:44 AM</u></b></p>
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**SUMMARY INDEX  
PLANNING COMMISSION MINUTES  
AUGUST 1, 2019**

<b>ITEM</b>	<b>ACTION TAKEN</b>	<b>PAGE(S)</b>
Call to Order	6:00 PM	1
A. Roll Call	Quorum Present	1
B. Pledge of Allegiance	Recited	1
C. Approval of Agenda	Approved as Amended	1-2
D. Approval of Minutes & Findings/Conclusions		
1) July 11, 2019 Minutes	Postponed to August 15, 2019	2
2) Findings/Conclusions:	None	2
E. Old Business:	None	2
F. New Business		
1) Case No. 2019-62	Variances were Denied	2-14
2) Case No. 2019-63	Postponed to August 15, 2019	14
3) Case No. 2019-64	Approved w/conditions and Technical corrections	14-21
G. Staff Communications	No Action	21-23
H. Matters from the Commission	No Action	23
I. Adjournment	Adjourned at 8:38 pm	23

**MINUTES OF THE  
CITY OF SANTA FE PLANNING COMMISSION  
THURSDAY, AUGUST 1, 2019**

**CALL TO ORDER**

A regular meeting of the City of Santa Fé Planning Commission was called to order by Chair Hiatt on the above date at approximately 6:00 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 John B. (Jack) Hiatt, Chair  
Commissioner Pilar Faulkner, Secretary  
Commissioner Lee Garcia  
Commissioner Brian Patrick Gutierrez  
Commissioner Mark Hogan  
Commissioner Jessica Lawrence  
Commissioner Dominic Sategna

**Members Absent**

Commissioner Janet Clow  
(One Vacancy)

**Others Present:**

Ms. Carol Johnson, Land Use Department Director  
Mr. Noah Berke, Planner Manager and Staff Liaison  
Ms. Sally Paez, Assistant City Attorney  
Ms. Margaret Ambrosino, Planner Senior  
Ms. Melissa Byers, Stenographer

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

**B. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited.

**C. APPROVAL OF AGENDA**

Chair Hiatt stated that there were two amendments to the Agenda made by staff. He stated that the Minutes for July 11, 2019 and Case #2019-63. Komis Business Park Final Subdivision Plat have been postponed to the August 15, 2019 meeting.

**MOTION:** Commissioner Hogan moved, seconded by Commissioner Garcia, to approve the agenda as amended. The motion passed by

unanimous voice vote with Commissioners Faulkner, Garcia, Gutierrez, Hogan, Lawrence and Sategna voting in favor and none voting against.

**D. APPROVAL OF MINUTES AND FINDINGS/CONCLUSIONS**

- 1) July 11, 2019 Minutes: Postponed to August 15, 2019
- 2) Findings/Conclusions: None

**E. OLD BUSINESS:**

None

**F. NEW BUSINESS**

1. **Case #2019-62. Extra Space Storage Sign Variances.** Hillary Welles of JenkinsGavin, Inc. Agent, for Titan Rodeo SS LLC, Owner, requests approval for a variance to SFCC 14-8.10(G)(7)(d) for a sign to exceed 25 feet in height, and variances to SFCC 148.10(G)(7)(a) signs exceeding 150 total square feet and to exceed the maximum number of allowable signs. The Property is located at 2977 Rodeo Park Drive East, is approximately 3.409 acres, is zoned BIP (Business Industrial Park) and is located in the South Central Highway Corridor Overlay. (Margaret Ambrosino, Case Manager, mkambrosino@santafenm.gov, 955-6656)

**Staff Report**

Margaret Ambrosino, Case Manager, presented the staff report, which is included in the packet. She displayed a 2019 aerial photo to show the Commission the location of the subject property which is situated between Rodeo Park Drive East and the I-25 Frontage Road. The reason for the variances is that the Applicant had existing signage permitted separately from the development plan. The existing signage is in compliance with Section 14-8.10.

Ms. Ambrosino reviewed the variance criteria and explained why staff recommended denial of the variances. *Criterion 1* was not met because the Applicant did not demonstrate that the physical conditions of the site qualify as a special or unique circumstance. *Criterion 2* was not met because the Applicant did not meet the feasibility test for special circumstances that are not related to financial cost. *Criterion 3* was not met because the additional signage serves to intensify the presence of the development. Regarding *Criterion 4*, the Applicant stated that the special circumstance of the project's location sits 25 feet below grade and would be a problem regardless of the type of business developed on site. Ms. Ambrosino said this is a presumptive versus factual statement that disregards the choice of the developer to accept the existing physical site condition by developing there to begin with, therefore *Criterion 4* was not met. *Criterion 5* refers to how allowing the variance would not be contrary to the public interest. Ms. Ambrosino stated that if approved, it would set a precedent for the SCHC whereby the

scenic corridor is threatened by the existing of tall and illuminated signage, therefore, *Criterion 5* was not met.

Ms. Ambrosino said that if the Commission overturns staff's recommendation of denial, the Commission is required to make positive findings of fact and conclusions of law on all criteria that are answered as "no" or "not according to staff's analysis." If the Commission does approve, there are some conditions that will need to be met for the building permit.

Chair Hiatt asked a clarifying question. He thought that staff had stated that this is an increase from the three wall signs. As he looked at the schematic, it looks like they have two wall signs and the entrance monument.

Ms. Ambrosino stood corrected and stated it's two wall signs, plus a monument sign.

Chair Hiatt asked if they had three signs.

Ms. Ambrosino stated that it's a maximum of three signs total and a maximum of 150 square feet. So, the request is for a fourth sign.

### **Applicant's Presentation**

Jennifer Jenkins, 130 Grant Avenue, Suite 101, was sworn. She showed a brief Power Point presentation regarding the subject property.

Ms. Jenkins said the Applicant is requesting two variances, one relates to the number of wall mounted signs permissible. She clarified that the sign ordinance permits three wall mounted signs. The monument sign at the entrance drive does not count as a wall mounted sign. The other variance relates to the sign height of 25 feet.

Ms. Jenkins said that a variance from the SCHC ordinance was not requested, because staff said a variance was not necessary. So, the Applicant is 100% in compliance with the SCHC ordinance.

Ms. Jenkins pointed to the subject property in relation to I-25. The first floor of the subject property sits 25 feet below the nearest drive lane of I-25. The building to its roof deck is a 25-foot building.

Ms. Jenkins showed where the signs are on the property. She pointed to the sign that they want to raise slightly. The permissible height is 25 feet. As she showed previously, the building is 25 feet below I-25. She pointed to where the Applicant would like an additional wall mounted sign at the southwest elevation to be placed at 31 feet.



Ms. Jenkins showed a photograph and stated that if you are on northbound I-25, and you look at the building there's a sign on the building that can't be seen. The applicant is proposing to take that existing sign and raise it so the sign would be visible from I-25.

Ms. Jenkins stated that the Applicant analyzed the elevation of the property with the adjacent properties. The subject property sits lowest in elevation in comparison to the other properties. She said the subject property is a unique circumstance relevant to the neighboring properties. She showed on a slide the difference in elevation of the Christus facility and the Applicant's facility and the visibility from I-25.

Ms. Jenkins stated that the development plan for this project was approved by the Commission in 2017. Because of the elevation of the building in comparison to I-25, the roof was going to be visible with all the appurtenances. The applicant requested that the parapets be higher to screen all the appurtenances. This body thought that was a great idea. Staff recommended approval of that variance request because of the unusual characteristics of this property that exist. Two years ago, a variance was approved based on the exact same conditions that warrant very modest signage variances that are currently being requested.

Ms. Jenkins stated that the purpose of signage is so that businesses can be located. If there's a sign on a building that cannot be seen, it does not serve its purpose. There's a lot of comments made about maintaining visual openness. She stated that the building is there, and the parapet height was approved. If the visual openness was going to be impacted, it was going to be impacted by the building. Having one additional sign on a building that is barely visible from I-25, does not impact visual openness. She said there is no impact on visual openness because of the elevation of this 100,000 square foot building which is 25 feet below I-25.

Brian Patterson, Titan Development, 6300 Riverside Plaza, Suite 200, Albuquerque, NM 87120, was sworn. Mr. Titan stated that the subject property is in a 25-foot hole. All they are requesting is to raise the sign by six feet. Currently, the sign can barely be seen. People don't know that the business is there.

Bill Fenstermaker, 2977 Rodeo Park Drive East, was sworn. Mr. Fenstermaker stated that about 65% of the customers are senior citizens who don't use google or social media. The rest of the customers are new people moving to town. The feedback he gets daily is that people don't know they are there. The way people have found them is because they are visiting the physicians center, Eye Associates or other neighboring businesses.

### **Public Comment**

Mary Strubin, 2119 Rancho Siringo Road, was sworn. Ms. Strubin asked what the hours of operation are. She also wanted to know if it is possible that the lights that face I-25 be turned off at a certain time.

There being no further public comment, Chair Hiatt closed the public hearing.

### **Commission Discussion**

Chair Hiatt asked if the new sign is to capture the northbound traffic.

Ms. Jenkins responded yes, it's just to capture the northbound traffic.

Chair Hiatt stated that he thinks that their request increases the signage by 52%. He wanted to know why this wasn't discussed at the time the development plan was before the Commission.

Ms. Jenkins responded that as part of the development plan signage is considered in a schematic and conceptual manner. Signage is shown for illustrative purposes. Signage is always a separate permit. There are certain elements of development that aren't known until you're there. Now, this works better, because they are not making assumptions.

Chair Hiatt stated that it seems like there is another alternative. He asked if the Applicant contemplated changing the signage to get closer to the 150 feet and three signs,

Ms. Jenkins said they did have that conversation. She then referred to an image showed where the signs were. What the Applicant is proposing is the minimum that would make it functional.

Chair Hiatt asked if the Commission were to approve this application, why wouldn't others come to the Commission and ask for a similar approval.

Ms. Jenkins responded that she can make no guarantees about that. It's always been the City's position and hers that each application stands on its own merits and circumstances.

Commissioner Hogan asked staff if there is a prohibition of lighted signs in that area.

Mr. Berke responded that there is not a prohibition on light and signage in the SCHC overlay district.

Ms. Paez read section 14-8.10(b)(1) regarding sign illumination, which states:

Sign illumination shall be either indirect with the source of light concealed from direct view shall be through translucent light diffusing materials. There shall be no exposed electrical conduits. However, outside historic districts and except for landmarks structures, electronic messaging signs as set forth in Subsection 14-

8.10(C)(5)(b) and electric city activated gas tubing, including neon, is allowed.

Commissioner Garcia asked how long the business has been in operation.

Mr. Patterson responded since November, for about eight or nine months.

Commissioner Garcia asked if the business is having trouble filling the place.

Mr. Patterson responded that they are getting customers, however, things could be better. He stated that when you drive by, it doesn't look like a storage facility, it looks like a very nice office building. They think this additional signage will help.

Commissioner Garcia what to know how full the facility is now.

Mr. Fenstermaker responded that the facility is at about 30% right now. He stated that they have another location by Best Buy and Sam's Club that opened in the middle of January and they've already reached the level of their occupancy. He believes it's based upon visibility, because visibility does impact business.

Commissioner Faulkner asked what the cost is for getting a new sign.

Mr. Patterson responded that it's about \$20,000 to add the sign and raise the other one. He emphasized that signage is important.

Commissioner Faulkner asked if they are doing any other marketing besides signage.

Mr. Patterson responded that nationwide, Extra Space has a great online platform, but Santa Fe is a different market. They are trying to find other mechanisms to get to customers.

Commissioner Gutierrez referred to other applications that have come through, where franchises say "this is our sign, this is what we use". He asked if they have to use the signage that Extra Space says they have to use.

Mr. Patterson said, there is signage criteria. Currently they have a 50 square foot sign and an 80 square foot sign on a 100,000 square foot building. They would love to have signs on all sides of the building, but they want to be fair to the other businesses in the area.

Commissioner Gutierrez said that knowing that Extra Space has sign criteria, you might have at the time been able to ask for a variance for the signs. He went on to ask about moving a sign so that it could be visible from the exit.

Ms. Jenkins showed the Commission where the existing sign is and not visible. She then showed the Commission the sign that was visible from the southbound traffic. She said as you're getting on to I-25 from St. Francis, to get to Albuquerque, she showed the sign that could be seen if it were raised up.

Mr. Patterson stated that the sign can be seen on the southbound onramp, but the sign cannot be seen from the interstate.

Mr. Berke asked the applicant how the picture of the sign was taken, he wanted to know if the person had pulled over and got out of the car to take the picture.

Mr. Patterson stated that he took the picture while he was driving.

Ms. Jenkins referred to the picture of the sign and said if you're coming from Las Vegas or El Dorado, the sign is not visible.

Commissioner Gutierrez asked they can see the other sign from the highway.

Ms. Jenkins said that sign just serves for interior visibility from inside the business park and Rodeo Park Drive.

Commissioner Gutierrez clarified that the sign was placed at 25 feet, because that is what the Code allows.

Ms. Jenkins stated that is correct.

Commissioner Gutierrez asked if all three of the signs are lit.

Ms. Jenkins said they are all internally lit.

Chair Hiatt asked what the hours of operation are.

Ms. Jenkins said from 9:00 a.m. to 6:00 p.m., Monday to Saturday.

Chair Hiatt asked if the applicant would be anxious to dim the lights.

Commissioner Sategna asked staff how the Code defines "structure". He wanted to know if signs are included as part of a structure. He's trying to understand if the restriction in the SCHC district even applies.

Ms. Ambrosino read the definition of structure from the Code which is: "Anything that is constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground, including buildings, mobile homes, walls, fences, swimming pools, spas, tennis courts, signs, flag poles, microwave satellite receiving dishes, TV antennas and communication devices." She stated that the key words are

"Anything that is constructed or erected with a fixed location". If the question is, does the sign become part of the structure, her interpretation is "yes."

Commissioner Sategna said it's the Commission's job to make sure the criteria are met. What they're asking for is a variance of the number of signs, they want four signs. The Code clearly states that only three signs should be allowed, and they should not exceed a total of 150 square feet and no sign shall exceed 25 feet in height. The Commission is being asked to grant a variance for 31 feet.

Ms. Ambrosino stated that when looking at the variance criteria, she was not part of authoring the criteria, but thinks it was written in regard to structure and not necessarily written for signs. In at least two of the introductory criteria, staff acknowledges that the variance under consideration is applying to the sign and not the structure; acknowledging that the structure is already developed. It was written for structures, not necessarily signs. The variance under consideration is applying to the sign not the structure. There is no separate criteria in Chapter 14 for sign variance. We're just using the criteria for general variances and applying it to signs.

Mr. Berke pointed out that those are screening walls that are screening roof top equipment and if you do drive by, they are visible. He stated that if you were on the other lane, you could probably see the sign.

Commissioner Hogan said on the point about the parapets, he wanted to take exception when Ms. Jenkins said that it's the same thing, he said it's exactly the opposite. The parapets are elevated to simplify the visual chaos that is on the roof. To say that it's the same variance, it's not true.

Chair Hiatt asked Ms. Paez if the Commission chose to deny the new sign and wanted to permit the height increase on the southside; he wanted to know if there was a way of doing that.

Ms. Paez said the Commission could grant one and deny the other. The case has been analyzed as two separate variances.

Commissioner Gutierrez agrees with Commissioner Hogan that the variance for the screening.

Ms. Jenkins stated that it was not her intent to compare the variance requests, because they are different requests. Her intention was to point out the unique and special circumstances of the property apply to both requests. The sighting, the topography the relationship to I-25 apply to both variances.

Chair Hiatt asked if the southside sign were raised to 31 feet, would it be visible from the northbound lane?

Ms. Jenkins said "yes".

Commissioner Hogan asked the Applicant about their due diligence when selecting the property. He wanted to know if anyone at the City suggested that signage was something that they could count on.

Mr. Patterson responded that they did meet with Mr. Berke. They knew about the three signs and the 150 square feet. It was difficult to articulate what 150 square feet looks like on a 100,000 square foot building. If they would have known how it was going to be, they would have requested the variance at that time.

Commissioner Hogan asked if there were others, besides Eye Associates that advertise to I-25.

Mr. Patterson said three of four of those buildings do have signage.

Commissioner Hogan said if you're on Cerrillos Road you know there's competition with signage. At the business park the businesses rely on other means to get people to their business. The nature of this discussion is that there's entitlement for visibility on that side of the building with signage. That's specifically what the SCHC Committee's was formed to prevent; where lit signage is. He stated that there's no entitlement for signage.

Ms. Jenkins recognized that within SCHC district, there is certain intent around that overlay. She stated that SCHC district is silent with respect to signage and it talks about visual openness. She doesn't believe the building is impairing the view sheds when you're traveling the corridor. They're not asking for a variance from SCHC district Code.

Commissioner Faulkner asked staff what a minimum variance would look like.

Ms. Ambrosino responded that it's hard to say, when you're looking at an excess of signage to 55% increase, plus the height. She referred to Ms. Paez's statement that you could approve one and not the other. The minimum might be to raise the height and not add the third wall sign. The concern is still an illuminated sign at 31 feet in height.

Commissioner Faulkner asked if staff is more concerned with adding a sign or raising an illuminated sign.

Ms. Ambrosino said the concern is the adding of the sign and the aggregate square footage to 230 as opposed to the maximum of 150.

Commissioner Faulkner asked if this would be the only sign that was visible and illuminated. She said at night, it would be very noticeable.

Ms. Jenkins responded that the sign is internally lit. This sign is would be visible to north and south bound traffic if it is raised up.

Commissioner Faulker asked if the Eye Associates sign could be seen as well as the sign that the Applicant is proposing.

Ms. Jenkins responded that the Eye Associations sign is visible.

Commissioner Faulkner asked if they would be higher than that sign.

Mr. Patterson responded that the Eye Associates sign is higher than what the Applicant's request is. He understands the concern about illumination and there could be a condition to shut off the light at 10:00 p.m., if the variance is granted.

Commissioner Faulkner asked staff if the sign is lower than what is already visible, what difference does it make?

Mr. Berke stated that this is the closest property to I-25. The other buildings sit farther back. Those other businesses comply with the signage standards. This would be the largest most visible sign on that stretch of the SCHC district, if the variance is granted.

Ms. Ambrosino stated that there are no exhibits provided by the Applicant that show the comparison to Eye Associates of the raised signage to 31 feet.

Mr. Berke clarified, regarding Commissioner Faulkner's question about Criterion 4, that staff is recommending denial for this request, based on the Applicant's response to the criterion and the other factual evidence, therefore, there is no minimum variance.

Commissioner Gutierrez referred to Ms. Jenkins statement that the SCHC is silent for signage.

Ms. Ambrosino responded that "that is correct." She said that the SCHC talks about the purpose, intent and ideology of what it's trying to create. It doesn't give any special restrictions. The SCHC is the underlying zoning for this case. The variance is specific to the sign provisions of Chapter 14.

Commissioner Gutierrez wanted to clarify that the SCHC district is not silent as to light.

Commissioner Gutierrez acknowledged that staff was nodding their heads yes.

Commissioner Gutierrez asked if the property is in the SCHC district.

Ms. Ambrosino said yes, that's correct.

Commissioner Gutierrez stated that even though the SCHC is silent to signage, there's still rules about lights.

Ms. Ambrosino said that is correct. There are photometrics referred to throughout the Code that covers all lighting on a sight, not specific to signage.

Ms. Paez referred to the purpose and intent of the SCHC District and read Section 14-5-5(A)(1)(e) which states to “preserve clean air and a sense of quiet and reduce the potential negative impacts of noise, air pollution, lights, movement of cars, activities on site or other nuisances...” She wanted to show that the negative impact of lights is listed.

Commissioner Garcia asked if this is going to create such an eye soar that no one will want to drive by there. He also asked if the size of the signs could be smaller, the height increased, and illumination be reduced at certain times of the day. He referred to Ms. Ambrosino's statement that if the Board is to approve this, then the Commission would have to come up with new findings of fact.

Ms. Ambrosino said that is correct. Staff would ask that the Commission deliberate and find positive findings for all criterion. The best she could offer is clarification of her analysis.

Ms. Jenkins said the Applicant is willing to consider dimming of the signs at night. If the ground on which the building was built was six feet higher, it would have a much more significant presence on the highway and they wouldn't be asking for a sign variance. She said the fact that they are so far below I-25 is a benefit to maintaining visual openness and has created challenges that they are trying to mitigate.

Ms. Ambrosino said that if the Commission is to reverse staff's recommendation, and approve the variance, the motion would have to include the adoption of new findings of fact.

### **Action of the Commission**

**MOTION:** Commissioner Gutierrez moved, in Case #2019-62, to deny the variance requests.

Commissioner Gutierrez added that the Commission has been told when a variance request comes to them it should be considered heavily. He stated that Extra Space Storage does an excellent job as far as marketing themselves. The Commission heard from the Applicant that they are one of the only storage facilities in this location, which will help them grow organically. The property sits in the SCHC district which has a intent to reduce the potential negative impact of noise, air pollution and lights and that is the reason for his motion

Commissioner Hogan seconded the motion, with a friendly amendment that the request did not meet the criteria that was spelled out in the conditions for a variance.



Chair Hiatt asked Commissioner Gutierrez if he accepted the friendly amendment.

Commissioner Gutierrez accepted the friendly amendment.

Commissioner Sategna stated that he doesn't agree with the staff's interpretation of the criteria. He agrees that all the criteria have not been met. He said the Commission is looking to approve whether it meets the criteria or not. The property itself is already developed but the intention of sign is to be visible, to be shown, that's a structure. From that side, there are conditions that prevents a sign to be shown. He thinks a lot of the criteria could be argued to be yes. There are special circumstances that make it infeasible to develop the structure and its intent.

Commissioner Satenga said Criterion 1 points to unusual characteristics that distinguish it from surrounding properties, specific to signage that would meet that criterion.

Commissioner Satenga said with regards to Criterion 3, the intensity of the development shall not exceed that which is allowed on other properties. He doesn't believe that this criterion is met because the limitation states there's only an allowance for three signs. From that standpoint, one of the requests for variance would be denied.

Commissioner Satenga said with regards to Criterion 4, the variance is the minimum variance, which would make possible the reasonable use of the land or structure. Well, because it's being blocked by surrounding land and the intention is for a sign to be seen, he would say yes, by allowing it to go up six feet, that it could meet that intention on that side of the property, he thinks Criterion 4 could be a yes.

Commissioner Satenga said with regards to Criterion 5, the variance is not contrary to the public interest. He would say with the SCHC district doesn't necessarily apply in a case where you're limited by the number of signs or the 25 feet prevails. He would say Criterion 5 would potentially not be met because of the intention of the SCHC district. The intention of that corridor is to limit light obstructions; therefore, he does think that raising it or putting lights that high would meet that last criterion.

Commissioner Satenga just wanted to mention for the record that he doesn't necessarily agree with the Applicant's arguments or staff's arguments, he believes that some of these criterion could be a yes. Overall, he believes the request should be denied because they do not meet all the criteria.

**VOTE:** The motion to deny the variances was approved by roll call vote with Commissioners Faulkner, Gutierrez, Hogan, Lawrence and Sategna voting in favor of the motion and Commissioner Garcia voting against.

Chair Hiatt asked if there were any other substantive motions that any of the Commissioners want to offer.

Commissioner Gutierrez asked if a motion was needed for the Findings of Fact and Conclusions of Law.

Ms. Paez stated that if the Commission agrees with the Findings of Fact and Conclusions of law that were in the packet, this would be the appropriate time to adopt them. She stated that there may be at least one commissioner who put on the record some disagreement with some of that analysis. There could also be a motion to amend, if there's a small amendment that the Commission wants to make, that could be done. If there are further amendments, they could be adopted at a subsequent meeting.

Chair Hiatt asked again if there were any other substantive motions the Commissioners wanted to offer, other than the Findings.

Chair Hiatt stated that there were no other substantive motions, therefore, he would entertain a motion on the Findings.

**MOTION:** Commissioner Hogan moved, in **Case No. 2019-62**, to postpone the Findings of Fact and Conclusions of Law to the next meeting of August 15, 2019. The motion was seconded by Commissioner Faulkner.

Chair Hiatt asked Ms. Paez if there was an objection to that.

Ms. Paez asked if there is any additional guidance, for instance if the Commission's will be to change any of the findings, it would be helpful to have guidance. Or, if you just want to review them as they've been presented, and then propose revisions at a subsequent meeting, that's fine too.

Chair Hiatt said if this motion passes, the Commissioners are entitled to contact Ms. Paez if they would like to discuss these in detail. Otherwise, at the August 15<sup>th</sup> meeting, he asked the Commissioners to come with specific changes, if they have them. He'd like them to discuss with Ms. Paez first.

Commissioner Faulkner asked if they could make a motion to approve the Findings of Fact. She stated that she agrees with Commissioner Satenga. She doesn't agree that all the criterion are no's. She asked if they would have to be specific about which one's they don't agree on.

Ms. Paez responded that yes, there would need to be a majority of the Commission agreeing on specific criterion that have or have not been met. If it would be helpful, she could circulate a draft for review and individual comments. She could gauge if there's a majority that agrees or not that certain criterion have been met.

Chair Hiatt said that would be helpful but wanted to first see if the findings were going to be postponed.

**VOTE:** The motion to postpone the Findings of Fact and Conclusions of Law to August 15, 2019 passed by roll call vote with Commissioners Faulkner, Garcia, Gutierrez, Hogan, Lawrence and Sategna voting in favor of the motion and none voting against.

2. **Case #2019-63. Komis Business Park Final Subdivision Plat.** James W. Siebert & Associates, Agent, for Komis Land Company, Owner, requests final subdivision approval to create 19 commercial lots on approximately 104.03 acres. The property is zoned C-2 (General Commercial) and is within the Suburban Archeological Review District. The property is located at 115 NM 599, north of I-25 and NMSR 599. (Dan Esquibel, Case Manager, daesquibel@santafenm.gov, 955-6587). **(POSTPONED TO AUGUST 15, 2019)**

3. **Case #2019-64. Rancho Santa Fe Apartments Development Plan.** Jim Siebert, Agent, for Herrera Associates, Inc., Owner, requests approval of a Development Plan for 156 multi-family apartments. The property is located at 4900 Herrera Drive, is approximately 7.444 acres, and is zoned R-21 (Residential- 21 dwelling units per acre). (Margaret Ambrosino, Case Manager, mkambrosino@santafenm.gov, 955-6656).

## **STAFF REPORT**

Ms. Ambrosino stated that the proposed development is located at the intersection of Tierra Contenta and Hernandez Road at the northeast corner. The other intersection is at Hernandez Road and Herrera Drive at the southernmost point of the property. The development totals just over 81,000 square feet which triggers the development plan approval by the Commission. At 21 dwelling units per acre, the development is at the maximum allowable density for R-21. Most of the units are one bedroom and range from 689 to 851 square feet. There are various amenities to the development plan. There's covered parking, a club house, a pool, a dog run and green space. The Applicant's design has oriented the buildings to the streetscape of Hernandez/Herrera and put the parking and amenities central to the development, as recommended by staff. This is for 156 market rate apartments. The Applicant is agreeing to pay a fee in lieu, as permitted by the Santa Fe Homes Program Agreement, for approximately \$227,000, as currently permitted by ordinance.

Ms. Ambrosino stated that she wanted to talk about access, traffic and public transportation. As previously mentioned, there are two accesses into the development one at Herrera and Tierra Contenta Drive and the other at Herrera and Hernandez Road. There is a traffic impact analysis (TIA) that was completed approximately a decade ago for WalMart Super Center. There were no conditions as a result of that TIA. There are no technical corrections. There is correspondence between Land Use and Traffic Engineering in the packet. It's generally about connections to adjacent Tierra Contenta neighborhood development. Lastly, concerning City transit, Director Keith Wilson could not be present at the hearing, but they talked extensively about the conditions regarding bus pads. He has requested as a condition of approval that the Applicant construct two concrete pads to accommodate bus service/stops on both sides of Hernandez Road. If the Commission approves the development plan, the Applicant would coordinate with the Traffic Division. The development will create a community that will rely on public transit.

Ms. Ambrosino stated that regarding heights of buildings, the Applicant provided additional data for the requested increase in height up to 36 feet with approval of a development plan. The building right now, with rooftop appurtenances looks like it goes up to 35 feet. The criteria they must meet is the three criteria for the development plan itself. Staff found that the Planning Commission has the authority to approve the development plan. That approval of the plan does not adversely affect the public interest. In fact, it supports the public interest because it provides vital housing.

Ms. Ambrosino said staff is recommending approval. The Applicant has satisfied the test for the architectural points analysis.

### **Applicant's Presentation**

Jim Siebert, 915 Mercer, was sworn. Mr. Siebert introduced Mike Gomez the principal of Santa Fe Engineering to answer any engineering questions the Commission may have, and he also introduced the developer, Don Murphy. Mr. Siebert said this part of the larger Entrada Contenta development. The Applicant agrees with the conditions and 90% of the technical corrections have been completed. There is only one issue and that has to do with the condition of the concrete pads for the bus stop. The problem with that is that it's a physical structure they have to put in prior to development plan recordation. Mr. Murphy would not be owner of the property. They would ask that it be handled like any other property. That it would be included in the engineer's opinion of probable cost on the letter of credit and be completed along with all the other infrastructure that would take place on the site.

### **Public Comment**

There being no public comment, Chair Hiatt closed the public hearing.

## **Commission Discussion**

Chair Hiatt asked Mr. Siebert if he communicated with staff about the issue with the bus pads and are they in agreement.

Mr. Siebert said they are all in agreement with the bus pads, but John Romero is going to have to site where those pads go to satisfy certain distance and access requirements.

Chair Hiatt said there's gravel seeping across the sidewalk and he recommended that it be moved simply because it's a liability.

Mr. Siebert said that's an important issue. There is gravel on the site right now and because of the steepness and the slope, that gravel has washed onto the sidewalk. They are going to take the gravel off, get rid of it, and probably reuse it on the site somewhere. The slopes will be laid back three to one so they can be revegetated with native grass. A biodegradable net will be put in place until the grass can be established.

Commissioner Faulkner referred to a picture in the packet that showed the gravel and the sidewalk with a tree. She asked if they could not plant those trees in the development. She said those trees are dying all over Tierra Contenta. All along Herrera, they're dead.

Mr. Siebert said when the Entrada Contenta project was put in, the trees were supposed to satisfy the requirement of the trees on the planter strip. He said Commissioner Faulkner is right, some are dying and the reason for that is because there's no irrigation to them. He said as part of the landscape plan for this project, the trees that are dead or need work will be removed and new trees will be put in their place.

Commissioner Faulkner said she has this kind of tree in her yard and she waters as much as she can. These trees just do not do well in this climate.

Commissioner Faulkner asked if this is the last time we'll see project.

Mr. Siebert responded "yes," this is the final development plan.

Commissioner Faulkner asked if there are floor plans they could see for the apartments.

Mr. Siebert said they don't have any floor plans that they brought with them, it's not a requirement of the development plan.

Commissioner Faulkner asked if more ADA/handicapped parking can be put in. She wanted to know if they could put two more spaces, one more in the covered parking and one more in the garage.

Mr. Siebert said yes, they could do that, they'll add one in the garage and one in the covered parking.

Commissioner Faulker clarified that there will be a total of two ADA parking spaces in the garage, a total of two in the covered parking and a total of seven for the regular parking. There are currently five in the regular parking.

Don Murphy, 106 Kokonio, Ruidoso, NM, was sworn. He said they could accommodate the ADA parking.

Commissioner Gutierrez referred to Joe Barela's conditions of approval which states that they "must be completed prior to public hearing." That is referring to the landscaping gravel that's sliding off the slope. This is the public hearing, he asked if that had been taken care of.

Mr. Siebert he and Mike Gomez met with Joe Barela. Mr. Barela's intent there was to provide a solution to that prior to the meeting. We then asked the landscape architect to give the best solution which is what Mr. Siebert already told the Commission.

Commissioner Gutierrez stated that he didn't like that the development is going to be enclosed with wrought iron fencing. He wanted to know the thought process on that, instead of leaving it open.

Mr. Siebert said the reason there's more one-bedroom apartments is because a lot of his tenants are single family women. Security to them is paramount. He does these on his projects simply to make those women feel more secure.

Commissioner Gutierrez asked where it shows the walkability for pedestrians. Without a locked gate, they can go to WalMart or anywhere in that vicinity.

Mr. Murphy said they will have locked pedestrian gates as well as vehicular gates with digital codes for access. He does this at his other projects, all for security purposes.

Commissioner Sategna asked if he is correct that in addition to approving development plan, the Commission is also approving affordable housing plan.

Ms. Ambrosino said "yes," that is part of the proposal, it's not a separate condition because they've been able to satisfy the Santa Fe Homes Program Ordinance, with the fee in lieu of.

Commissioner Sategna asked staff to explain the intention of the "fee in lieu of" provision. The Commission has had a presentation on this and his understanding is that the intention of the mayor is to provide more affordable housing. Yet, in this situation, we find again, rather than providing affordable homes, we are allowing them to pay in lieu of. Of the 156 rental units, that would only equate to about 23 of those. The developer is

paying \$227,500, in lieu of that. He asked what the thought process was in this given the City's intention to provide affordable housing.

Ms. Ambrosino said the Santa Fe Homes Program has an ordinance in place that allows a multifamily developer to pay a fee in lieu by right. That does not extend to single family housing, it is only extended for multifamily housing. This ordinance was put in place in 2015 to economically stimulate multifamily housing development because it had stalled after the 2009 housing recession. That ordinance is going to sunset at the end of the year. Currently all fees go into the Affordable Housing Trust Fund which are disbursed back to the community through an RFP process that is administered by the City Affordable Housing Office. Through service providers and contracts approved by the Governing Body, that pays rents for low income residents of our community, pays down payment assistance, and pays for home improvements for low income and senior homeowners in our community. Currently, there is a success rate with the fee in lieu of as to how it benefits the community.

Commissioner Hogan referred to the affordable housing component and recognized that the Applicant is in compliance. He was curious about the deterrent from providing affordable units versus going with the fee in lieu of.

Mr. Murphy said the main deterrent was the financing. He said he's a HUD developer. Typically, the financing is grouped for affordable or for market rate. He said if you try to blend them, you can't get the financing for that. He's never been able to. Pagosa Springs asked him to do that for their town and look at properties that they were willing to give him. It was taking a component of affordable and blending it with market rate. He couldn't get the financing.

Commissioner Hogan asked if that's something that's common along the lending industry.

Mr. Murphy said it is and it steers the financing for areas of towns to affordable and other areas to market rates.

Commissioner Satagna asked in the loan process what do they look at to determine if you can afford to build, he wanted to know the criteria they are looking at.

Mr. Murphy responded that the first criteria for this project is job creation. He has a HUD guaranteed loan, even though it's a market rate deal, he's proving through market studies that he's got enough job creation to warrant additional multifamily housing for Santa Fe. To qualify on a financial basis, the cost of land with cost of construction, there must be particular income level to pay for 1.2 times the mortgage rate. The income must be 120% of what the mortgage will be.

Commissioner Sategna asked, compared to Rio Rancho, would you argue that the cost for just the structure itself would be like that in Santa Fe.

Mr. Murphy said, "absolutely, yes."

Commissioner Sategna asked if the cost of the land in Rio Rancho is like that in Santa Fe.

Mr. Murphy responded that it's about twice as expensive here.

Commissioner Sategna asked about the amount that you can rent for here, the price per square foot versus that in Rio Rancho, he wanted to know if that's the same.

Mr. Murphy said they're about the same.

Commissioner Sategna asked if Mr. Murphy if he's saying that the cost of living in Santa Fe is the same as in Rio Rancho.

Mr. Murphy responded that the cost of living in Santa Fe is a little more expensive but not dramatically more expensive.

Mr. Satenga asked if Mr. Murphy if he had a percentage he could provide.

Mr. Murphy said per month, it could be \$100 to \$200, per month, per unit, in Santa Fe. It's not that much of a difference.

Commissioner Satenga said we're about to have discussions about affordable housing. It's important to hear from a developer's perspective the factors that they've considered as to why they won't develop in Santa Fe and how many units can actually be afforded to make it feasible to give incentive to still develop and meet the bottom line.

Commissioner Gutierrez said if there are elderly and they are walking, the distances are kind of far. There's one building on the back with two entrances on the back. Along Hernandez there are three buildings set up. There are no pedestrian gates, only vehicular gates. Then on Herrera, there's one building and no gates. He asked if the developer could work with staff to get some more gates placed in there for pedestrian access.

Mr. Siebert said they could look at that. The key is the gates must be ADA accessible. Every walk within that project is ADA accessible. This project does have some slope constraints and that is getting down to the street, along Hernandez. Along Hernandez there is about 10 to 12 feet below the bank.

Commissioner Gutierrez said that that makes sense but if he and the staff could get more pedestrian access that would be great.



### **Action of the Commission**

**MOTION:** Commissioner Hogan moved, in **Case No. 2019-64**, to approve the project, subject to the conditions of approval and technical corrections as outlined by staff. The motion was seconded by Commissioner Gutierrez.

Commissioner Gutierrez asked if they were going to talk about the technical correction of putting up a bond and getting a value of some of the project that needed to be done but wasn't under ownership by Mr. Murphy.

Chair Hiatt asked if he was talking about the gravel.

Commissioner Gutierrez said he was referring to the bus stops.

Commissioner Hogan stated that he understood that there's already an agreement in place about that. The developer said they would be doing the pads; it was just a matter of where. He thinks they just need to show it in the record that the developer did agree to construct those once they're told where.

Commissioner Gutierrez asked staff if there was a bond, he thought somebody had mentioned a bond.

Mr. Berke responded that in the motion, Condition No. 2 would be amended to include that the developer construct or bond for the improvements of the transit improvements.

Chair Hiatt asked Mr. Siebert if that was acceptable.

Mr. Siebert said "yes" it is.

Chair Hiatt asked Mr. Gutierrez if that was acceptable to him as the seconder.

Mr. Gutierrez said "yes" it is.

Chair Hiatt asked Mr. Hogan if it was acceptable to him as the motioner.

Mr. Hogan said "yes" it is.

**VOTE:** The motion, as amended, was approved by roll call vote with Commissioners Faulkner, Garcia, Gutierrez, Hogan, Lawrence and Sategna voting in favor of the motion and none voting against.

Chair Hiatt referred to paragraph 12 of the Findings of Fact and asked staff if they intended to say in the middle of the paragraph “expressed concerns **with** over parking” he wanted to know if that was the intended language.

Ms. Ambrosino said she changed it to read “approximately one-half mile from the subject development expressed concerns over parking in the general area.”

Chair Hiatt said the word “with” will be eliminated from paragraph 12.

Ms. Ambrosino said “correct,”

**MOTION:** Commissioner Hogan moved to approve the Findings of Fact and Conclusions of Law to include the change to paragraph 12 to remove the word “with.” The motion was seconded by Commissioner Satenga.

**VOTE:** The motion was approved by roll call vote with Commissioners Faulkner, Garcia, Gutierrez, Hogan, Lawrence and Sategna voting in favor of the motion and none voting against.

## **G. STAFF COMMUNICATIONS**

Mr. Berke stated that there will be a meeting on August 15, 2019. There will be three items on the agenda: the first item will be the Summary Committee legislation; the second item will be the Komis Business Park final development plan; and the third item will be the final subdivision plat for Dos Acequias.

Mr. Berke stated that there was an appeal that was heard by the Governing Body last night and the appeal was to the proposed conditions and that condition was to have the fire access gate. The appeal was approved, and the Governing Body sided with the neighborhood and to some degree the Applicant. Consensus condition number 1 was included with the preliminary subdivision plat which was the connection to Montano Street and whether that can be an emergency access only gate. It was determined that it could be. When the preliminary subdivision plat comes before the Commission, that will be included because the appeal was granted.

Chair Hiatt asked if there is anything they can learn from that process.

Ms. Paez said the Governing Body modified the Commission’s approval of the preliminary subdivision plat by imposing one additional condition of approval which was the consensus condition No.1 that the Applicant and the neighborhood had agreed on. The southwest corner would have an emergency access gate, rather than being an open connection to the neighborhood via Montano and Velarde Street.

Mr. Berke stated what could be learned is that it was a good effort by the Applicant and the neighborhood to work together. In this instance they made a finding that this was a type of through street in that area that could have a fire access gate.

Commissioner Faulkner said she did watch City Council and she thought staff did a great job. She thinks maybe the Commission needs to get better at getting more information from staff. She thinks that some things were answered at Council that weren't answered at Planning Commission. She asked if the City Council's decision is legally sound. Because the Commission could have imposed the same condition. She got the feeling during the Commission's discussion that they couldn't.

Ms. Paez said the recommendation from the City Attorney's Office was that the Commission's decision was correct, and that staff's recommendation was correct. At the end of the day, the Governing Body made some findings that were based on legal provisions and explained why they thought this was an appropriate interpretation of the Code.

Ms. Johnson updated the Commission on the new system and permitting process. The new system went live on Tuesday. They are keeping the old system alive in read only form. She encouraged the public to stay patient. She would like to thank the members of the public and contractors who have been patient.

Ms. Paez said she's going to be out next week. She'll send out a draft of the Findings for ExtraSpace Storage sign variance. If they have any questions, they can speak with Noah or Margaret.

Chair Hiatt said he really appreciates the staff reports when they have the staff contact information on them. He asked staff forward him and the other commission members contact information for staff.

Commissioner Satenga asked for clarification about contacting staff.

Ms. Paez said the Commissioners can contact staff. The only exception is if there's an appeal of the Land Use Director's decision, then they can only talk with the City Attorney. She said they cannot speak amongst themselves as a quorum, but they're welcome to contact staff.

Ms. Paez said with regard to factual information about the case, the commissioners are not allowed to do outside research on the issues that are raised.

Commissioner Faulker said they could talk to other commissioners, just not a quorum of other commissioners.

Ms. Paez said the limitation on a rolling quorum doesn't all have to be at the same time, there's a danger that it accumulates.

Commissioner Faulkner asked if the Commissioners could attend community meetings or ENNs for cases that are going to come before the Commission. She said City Councilors do.

Ms. Paez said she would advise against it. When she's spoken at City Council, she's advised the Governing Body members to exercise a lot of caution if there's a chance a case could come before them. Because you would need to evaluate whether you need to recuse if the case does come before them.

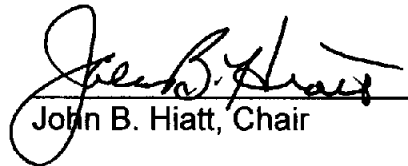
#### **H. MATTERS FROM THE COMMISSION**

There were no matters from the Commission.


#### **I. ADJOURNMENT**

Having completed the agenda and with no further business to come before the Planning Commission, the meeting was adjourned at 8:37 p.m.

Approved by:

  
John B. Hiatt, Chair

Submitted by:

  
Melissa D. Byers, Stenographer  
for Byers Organizational Support Services