



Agenda

AMENDED

PLANNING COMMISSION
Thursday, August 15, 2019 - 6:00pm
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: July 11, 2019 (POSTPONED FROM AUGUST 1, 2019)

FINDINGS/CONCLUSIONS: None

Case #2019-62. Extra Space Storage Sign Variances.

Case #2019-64. Rancho Santa Fe Apartments Development Plan.

E. OLD BUSINESS

F. NEW BUSINESS

1. An Ordinance Amending Various Sections of Chapter 14, the Land Development Code, to Repeal the Summary Committee, a Subcommittee of the Planning Commission, Repeal Obsolete References to the Business Capitol District Development Review Committee, and Make Such Other Changes as are Necessary to Provide Consistency. (Councilor Abeyta) (Noah Berke, Planner Manager, nlberke@santafenm.gov, 955-6647)
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 ~~24~~ 19 commercial lots ~~on two separate contiguous tracts (Tracts 1A and A2) of land totaling approximately 131.23 acres. The final subdivision plat will consist two open space and park areas, 18 commercial lots, 2 lots within the existing R-3 zoning designation and one lot within the existing BIP zoning designation. 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 FROM AUGUST 1, 2019)**
3. Case #2019-65. 1616 Agua Fria Final Subdivision. James Siebert and Associates, Agent, for Dos Acequias, LLC, Owner, requests approval of a Final Subdivision Plat for 68 single-family lots. The property is zoned R-5 (Residential- five dwelling units per acre). The application includes a property located at 1616 Agua Fria Street and two adjoining parcels (2.686 acres and 7.4 acres) with unassigned addresses, totaling approximately 12.49 acres. (Lee Logston, Case Manager, llogston@santafenm.gov, 955-6136).

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: August 5, 2019

TIME: 4:12 PM



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RECEIVED AT THE CITY CLERK'S OFFICE

DATE: July 29, 2019

TIME: 9:46 AM

**SUMMARY INDEX
PLANNING COMMISSION MINUTES
AUGUST 15, 2019**

ITEM	ACTION TAKEN	PAGE(S)
Call to Order	6:03 PM	1
A. Roll Call	Quorum Present	1
B. Pledge of Allegiance	Recited	1
C. Approval of Agenda	Approved as Amended	2
D. Approval of Minutes & Findings/Conclusions		
1) July 11, 2019 Minutes	Approved as Amended	2
2) Findings/Conclusions: Case No. 2019-62	Postponed	2-3
3) Findings/Conclusions Case No. 2019-63	Approved	3
E. Old Business:	None	2
F. New Business		
1) Ordinance to Repeal Summary Committee	Approved	4-8
2) Case No. 2019-63 & FOF/COL	Approved Approved, as Amended	8-24
3) Case No. 2019-65 & FOF/COL	Approved Approved	24-27
G. Staff Communications	No Action	27
H. Matters from the Commission	No Action	27-28
I. Adjournment	Adjourned at 8:26 pm	28

**MINUTES OF THE
CITY OF SANTA FE PLANNING COMMISSION
THURSDAY, AUGUST 15, 2019**

CALL TO ORDER

A regular meeting of the City of Santa Fé Planning Commission was called to order by Commissioner Mark Hogan, Acting Chairperson, on the above date at approximately 6:03 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 Pilar Faulkner, Secretary
Commissioner Janet Clow
Commissioner Lee Garcia
Commissioner Brian Patrick Gutierrez
Commissioner Mark Hogan
Commissioner Jessica Lawrence

Members Absent

Commissioner John B. (Jack) Hiatt, Chair
Commissioner Dominic Sategna
(One Vacancy)

Others Present:

Mr. Noah Berke, Planner Manager and Staff Liaison
Ms. Sally Paez, Assistant City Attorney
Mr. Daniel Esquibel, Case Manager
Mr. Lee Logston, Case Manager
Mr. Stan Holland, Wastewater Division
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 Land Use Department.

B. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

C. APPROVAL OF AGENDA

MOTION: Commissioner Faulkner moved, seconded by Commissioner Lawrence, to approve the agenda. The motion passed by unanimous voice vote with Commissioners Clow, Faulkner, Garcia, Gutierrez, Hogan and Lawrence voting in favor and none voting against.

D. APPROVAL OF MINUTES AND FINDINGS/CONCLUSIONS

1) MINUTES: July 11, 2019 (POSTPONED FROM AUGUST 1, 2019)

Commissioner Lawrence had one small change on Page 12, third paragraph, she asked that the word "increased" be placed before the words "administrative fee".

Commissioner Faulkner said she didn't have any major changes.

MOTION: Commissioner Faulkner moved, seconded by Commissioner Lawrence, to approve the minutes of July 11, 2019, as amended. The motion passed by unanimous voice vote with Commissioners Clow, Faulkner, Garcia, Gutierrez, Hogan and Lawrence voting in favor and none voting against.

2) FINDINGS: Case #2019-62. Extra Space Storage Sign Variances.

Mr. Berke said he had spoken to Commissioner Sategna, who apologized for not being at the meeting, but something came up at the last minute. Commissioner Sategna indicated that if he would have been at the meeting, he would have requested that the Findings for Case #2019-62 be postponed since the minutes from the August 1, 2019 meeting were just received by the Commission in the last day or two.

Chair Hogan asked if there was any time sensitivity for approval of the findings.

Ms. Paez said that under the appeal provisions it could have some impact because the appeal period is triggered by a final action of the Commission. The final action of the Commission is defined as either "the issuance of the written findings and conclusions or the thirty first day" after the Commission votes on the matter. If the Findings are not approved, the Commission's denial of the sign variance in Case 2019-62 would become a final action on the thirty first day after the August 1 meeting.

Commissioner Garcia said it wouldn't matter if we wait for Commissioner Sategna because the 15 days is already exhausted.

Ms. Paez said, "no," the appeal period starts on the date of the final action and the date of the final action would be the thirty first day after August 1, 2019. So, the appeal

period would start on September 2 which would be before you would have a chance to approve the Findings. But they would still have a 15-day window in September to appeal.

Commissioner Hogan asked if the Findings were adopted tonight, then that would be the final action and the appeal period would start?

Ms. Paez said that was correct, the appeal period would start tonight.

Mr. Berke said it is understanding that the changes that Commissioner Sategna would make would be just to clarify some of the language that certain criterion were met or not met.

Commissioner Gutierrez asked if the correct Findings are in the packet.

Ms. Paez said the wrong draft was inadvertently placed in the packet. The correct Findings were circulated by email on Tuesday. In the emailed version, there is a finding for Criterion 1 that states Criterion 1 was met because the property's location is at 25 feet below grade, which is an unusual physical characteristic. The rest adopts staff's findings that the remaining criterion were not met.

Commissioner Lawrence recognized that Commissioner Sategna would like to express his concerns; and being that there's some confusion about what the Commission is approving, the Commissioners could use a bit more time to review.

MOTION: Commissioner Lawrence moved, seconded by Commissioner Garcia, to postpone the Findings for Case #2019-62 to September 5, 2019 to give the Commissioners more time to review. The motion passed by roll call vote with Commissioners Clow, Faulkner, Garcia, Gutierrez, Hogan and Lawrence voting in favor and none voting against.

Chair Hogan asked for clarification as to whether he should be voting.

Ms. Paez said the Chair is not required to vote, but he may if he wants to. She said when John Hiatt is chairing, his practice is to abstain from voting unless he would break a tie.

3) FINDINGS: Case #2019-64. Rancho Santa Fe Apartments Development Plan.

MOTION: Commissioner Faulkner moved, seconded by Commissioner Lawrence, to approve the Findings for Case #2019-64. The motion passed by unanimous voice vote with Commissioners Clow, Faulkner, Garcia, Gutierrez and Lawrence voting in favor and none voting against.

E. OLD BUSINESS:

None

F. NEW BUSINESS

1. **An Ordinance Amending Various Sections of Chapter 14, the Land Development Code, to Repeal the Summary Committee, a Subcommittee of the Planning Commission, Repeal Obsolete References to the Business Capitol District Development Review Committee, and Make Such Other Changes as are Necessary to Provide Consistency. (Councilor Abeyta) (Noah Berke, Planner Manager, nlberke@santafenm.gov, 955-6647)**

Mr. Berke stated that staff had previously presented this proposal to the Commission, however, there were some concerns and the Commission voted to postpone action. The concerns were related to notification, posting requirements and the appeal period. Staff worked with Commissioner Gutierrez, Commissioner Garcia and Councilor Abeyta to re-examine the proposal and fine tune it to not only satisfy the Commission's concerns but also to make the process more expedited and administrative in nature. The amendments now being proposed to the previous ordinance and to the changes for the Chapter 14 regarding the Summary Committee is that notice would be in the form of a poster which would state that the application is under review. The notice would be mailed to all property owners and neighborhood associations within 100 feet. This notice would state the property address, the applicant's name, the phone number of staff and the date that a decision will be made. This allows the neighbors or the citizens the opportunity to request that the Land Use Director forward the proposal to the Planning Commission as a full body for a hearing. The Land Use Director would have the discretion to send to the Commission. If a property owner who was in the vicinity felt aggrieved, while the request is under review, they could go meet with the Land Use Director or her designee to present their concerns. If the Land Use Director finds that there is merit to the concerns, the matter would be forwarded to the Commission. He said staff is creating a new process for an administrative procedure. Most other administrative procedures don't follow a notification process. If this proves successful, in the future when we amend the Code we may recommend this type of process for other administrative procedures and that would provide for notification, transparency and posting. This will make for a better process that could be handled at a staff level while saving time in the review process.

Commission Discussion

Chair Hogan asked Mr. Berke if he was looking for a motion.

Mr. Berke said he is looking for a recommendation from the Commission to the Governing Body. If the Commission recommends approval, then the bill would go on for review by the Public Works Committee, Finance Committee and ultimately the City Council.

Chair Hogan asked what if someone would like the Commission to review a matter and the Land Use Director disagrees, how would that be handled?

Mr. Berke responded that the applicant has the option to appeal staff's decision.

Commissioner Lawrence asked about final plat approval expiration which is referenced on page 32. She said it didn't seem consistent with the other changes that are being proposed. She asked if that is consistent with a current process; and why this is part of these changes.

Ms. Paez said that the Land Use Director, Carol Johnson, put this language in to clear up a point of ambiguity, since this provision of the Code was being amended. Ms. Johnson's interpretation of the existing Code provisions is that if a final approval of the final subdivision plat expires then any underlying preliminary plat would likewise expire. So, it's intended to be a clarification, not a substantive change.

Commissioner Lawrence said she has a mild concern that it's being lumped in with the rest of the changes and is not being considered with changes that are more like the plat approval process. She doesn't necessarily have a concern about the change itself, but a concern about potentially including the change in the approval of the rest of these changes, if we do so.

Ms. Paez said that any recommendation from the Commission could come with additional recommendations, such as a recommendation that this piece could be removed or perhaps the title of the bill could be amended to emphasize that this is also a part of what is being proposed, even though it's unrelated.

Public Hearing

Mary Shrubin said she has some comments that have come up with this new draft that have to do with (b)(2) and the word "persons". She pointed out that in many places regarding notifications, throughout the Summary Committee provisions and other language in Chapter 14 "persons" are detailed as to be the owner of the physical address of the property. She said it is very important to retain that because we have so many non-resident owners of property. It's important that the introduction of the word "persons" not become ambiguous about who is getting notified. She wants to make sure that they're not introducing a problem with the word "persons" regarding notices.

Ms. Paez said the first page following the staff report are the proposed amendments to Bill No. 2018-12. The new notice requirements are delineated there in Paragraph 2, where it talks about replacing on page 16 paragraph H(5) with a new paragraph H(5) subset paragraphs A and B. The concern relates to subparagraph 5(b) which says that "the applicant shall mail notice to all persons or neighborhood associations that are within 100 feet of the property." The concern raised in the public comment is that our other notice requirement in each one for notice of a publication before land use prior when it talks about mailing it says. "Notices shall be mailed to the owners of properties, as shown in the records of the county treasurer and the physical addresses of such properties where the property's address is different from the address of the owner." There is a concern that the word "persons" is not the same as owners of properties and property addresses where it's different.

Chair Hogan asked if there was an ambiguity in the language that needs to be cleared up, or can we do that?

Commissioner Faulkner asked if putting the word "all" in front of "persons" would refer to all human beings?

Ms. Paez said arguably that could include any human being.

Ms. Shrubin said there's still a nationwide discussion about whether corporations are persons. She added that corporations own pieces of property.

Ms. Paez said the Commission's recommendation could include that "persons" be amended to be more consistent with the way the entity is entitled to notice as described in the previous subparagraph.

Commissioner Faulkner asked if a corporation has property, shouldn't they be noticed?

Ms. Shrubin said that has not been found in all cases because the corporations are not notified because they are not in the country and they don't receive the mail.

Commissioner Faulkner said all persons would include any legal entity.

Chair Hogan said since we're recommending to the Governing Body for final adoption, we could raise this as a concern as part of our recommendation and pass that through, so the Commission does not try to wordsmith.

Ms. Shrubin also commented that it would be best to keep the 300 foot limit for mailing notices and emails to also include persons who are owners and residents who are beyond the 100 foot limit because some lots would not be notified other than the immediate adjacent neighbors because of the 100 foot limit. She said that all the other

places that she read in the ordinance and other places in chapter 14, 300 feet is the limit. She thinks that it should be standardized and kept at 300 feet for mail and email notifications.

Chair Hogan asked staff to clarify that because in some cases 100 foot kicks in and other places 300 foot kicks in.

Mr. Berke said 300 feet is for ENNs and the standard notification procedure in the Code. In this proposal 100 feet was more consistent with state regulations for notification procedures. when it could be like one block or more than one block. He said they came up with the 100 feet because they felt that one lot to two lots would only require 100 feet and would cover most of the area. A subdivision that has 20 to 30 lots or no more than more than three lots could require the 300 square foot and that's how it's written in the legislation. Since this is a new piece of legislation with proper notification procedures for a smaller scale type of proposal, this would be adequate and consistent with the state regulations.

Commissioner Gutierrez asked for clarification regarding the 100 feet, he asked if it was 100 feet from property line.

Mr. Berke responded that it is 100 feet from the property line.

Commissioner Gutierrez said that every adjacent property owner will get a notification, the way it is written.

Mr. Berke said that was correct. He said there's also the posting requirement. If the 4'x 4' yellow poster is missed, then there's a chance that they'll get a mailed notification.

Commissioner Lawrence said she was still considering whether they need to alter the title of the ordinance amendment which would address her concern.

Ms. Shrubin stated that in the interest of transparency that the Land Use Department provide a regular report to the Planning Commission regarding applications for administrative actions, decisions and appeals so that the report is part of the public record.

Chair Hogan closed the public hearing.

Chair Hogan said that the testimony that was provided will be in the record so he doesn't think that the Commissioners need to repeat that information because it will get passed on to the Council.

Action of the Commission

MOTION: Commissioner Lawrence moved to “recommend approval to the Governing Body of the proposed text amendments and the ordinance amending various sections of Chapter 14; to repeal the Summary Committee, subcommittee of the Planning Commission; and repeal obsolete references to the Business Capital District Development Review Committee; clarify plat expiration procedures and make other such changes as are necessary to provide consistency.” Commissioner Gutierrez seconded the motion. Commissioner Gutierrez said “As long as we add in there the mirroring of H(1) to H(5) language.” He referred to Ms. Shrubin’s point on transparency. He said, “The whole reason this got kicked back from June 6 to now is because we wanted more transparency.”

Chair Hogan asked Commissioner Lawrence if those comments were acceptable for the motion.

Commissioner Lawrence said, “yes.”

VOTE: The motion was approved by roll call vote with Commissioners Clow, Faulkner, Garcia, Gutierrez and Lawrence voting in favor 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 approximately 131.23 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 FROM AUGUST 1, 2019)

Staff Report

Mr. Esquibel referred to the information in the packet and stated that he wanted to make some changes to the memo. He stated that in Criterion 2, there are changes to the number of lots. This one came out of the BCC. It’s 19 lots because back when the property was in the county it was probably just one lot. By separating that subdivision out there will be a balance on one of those tracts which will inadvertently create that 19th lot. That’s on page 8 of the memo. Also, within the expiration of the proposal it says 77, it’s not, it’s 19 lots and then Exhibit “F” should be Exhibit “E”.

Mr. Esquibel distributed a corrected version of the Findings, attached as Exhibit "1". He said he included a change in the findings at the at the end of the page. He said the last sentence will now read "This final step revision plat approval shall be subject to expiration in accordance with applicable provisions of the Land Development Code governing the expiration of final subdivision plan approvals and extensions of such approvals."

Staff Recommendations

Mr. Esquibel recommended that the Commission should approve the final subdivision plat subject to the recommended conditions of approval in Section 2 and all technical corrections in Exhibit A. He added a condition to that reads: "Landscape phasing plan to be submitted, to be approved by the Land Use Administrator with a note on the plat addressing street trees planting in conjunction with the landscaping phasing plan." He said he talked with the applicant/agent and they agree with all conditions.

Mr. Esquibel said the subdivision went through an approval process by the County in 1997 through 2008. There were several time extensions in the SPAZO. As a result of the lawsuit between Las Soleras, the City and the County; it was developed in the annexation that went in between 2009 and 2015. It was determined that as a result of SPAZO that the City would basically accept all county approvals. It was determined by the City that the Komis final plat expired, leaving the preliminary plat alive to expire in December of 2019. Originally, the final plat approval identified many reviews and conditions from many of the state agencies and county departments. Unfortunately, during the transfer of records at the time of annexation from the County to the City, many of those documents were missing. In lieu of those missing documents we substituted City review and conditions. Those are referenced in the memo and within those conditions. Staff has covered everything either with the County's review or the City's review. The expiration and final subdivision are subject to 14-3-19, Expiration, Extensions and Amendments of Development Approvals.

Mr. Esquibel said this application has met all the prerequisites by meeting the notice requirements for ENN and the notice requirements for public hearings. There were no concerns raised at the ENN. The applicant has addressed all the criteria for the final subdivision plat. The plat itself is slightly different from what was approved by the County and that has a lot to do with the changes that came across. He spoke with Mr. Siebert about why this occurred and it's because that was during the 2012 changes to the floodplain, they made some alterations with that. Staff also negotiated with the applicant to, instead of following the County's bicycle trail plan, they agreed to follow the City's master plan for bicycling and trails. So that was a plus for the City. The rest of the subdivision infrastructure meets with the preliminary plat that would have been approved, had these changes gone through the County.

Questions for Staff

Chair Hogan asked for clarification regarding annexation. Essentially this property was transferred to the City, with the County approvals that can be documented. But, for some reason some documents are not available, and, in those cases, the City is reviewing those areas where the information from the County is missing. He asked if that was right.

Mr. Esquibel said "that's right."

Mr. Esquibel said the City engineer looked at the subdivision. He had very minor changes because there was some different information between both the previous and the current application. The applicant agreed to those. As far as traffic is concerned, traffic pointed to the state. They'll be going through whatever the state requires. The applicant will produce a new letter from the traffic department.

Mr. Esquibel said that the applicant is not happy with the water rights issue. The County approved this with forty-five-acre feet of water. He said the City doesn't use groundwater. The City uses surface water rights. The applicant would have to meet City requirements. Because of the magnitude of the subdivision, each lot would have to come in with about five-acre feet of water that would have to be serviced by the water system and even though there's some offsets there, there is worry about where that much water is going to be found. That's five-acre-feet times 19 lots. That's a lot of water the City must come up with. The forty-five-acre feet will help the City subsidize that need, leaving the balance of those lots if they go above five-acre feet to come in with their own water rights to subsidize that. He said he feels sorry for Mr. Komis having to pay for water rights twice.

Applicant Presentation

Jim Siebert, 915 Mercer Street, was sworn. He said he wanted to present a little more of the history of this case because he thought it was important for the Commission to understand how the applicant got to where he is. He said it began with a master plan back in 1997 that was approved by the Board of County Commissioners. There was a preliminary plat approved by the Extraterritorial Zoning Commission in August of 2002. The final development plan was approved by the County Commissioners in 2008. This property was annexed on January 1, 2014. There was one exception that was stated in Ordinance 2013-1, which was adopted by the City Council and the Board of County Commissioners. In that Ordinance both the City and County agreed that there would be areas annexed, with mutual services shared over a period of time through their annexation. He was referring to paragraph "D," which reads "Which permits and approvals with vested rights, permits and approvals granted by the Extraterritorial Zoning Authority and the Extraterritorial Zoning Commission prior to enactment of this Ordinance for which rights are vested, whether or not permit approval conforms to City Land Code should be recognized by the City and the County." He said what the Commission is looking at are

some elements that really are not consistent with City regulations and actually it's very much limited to roadways.

Mr. Siebert then referred to the 1999 General Plan and presented some visuals. He said, "What we have is down in towards the bottom there, that's this particular site. And if you turn the next page, what they simply wanted to do was let the Planning Commission know that very little planning has ever taken place. This is considered to be the future growth area. And, if you turn the page the words the future land use map it has basically everything in yellow which is residential. They do have BIP (Business Industrial Park) adjacent to 599 but by and large, having been around for the last 35 years in planning, very little planning was really ever done to this particular area of Santa Fe. The next sheet is simply the current zoning out in the area. The area in red is the area you're reviewing tonight. Adjacent to it are some business industrial lands both south and north and then some land that's zoned R12, it's immediately adjacent to it. The remainder of the land that's yellow, is actually owned by the Komis family as well, the Komis Corporation. So in this next sheet what I've done, you can lay the two sheets out, side by side; one goes left, one goes right. And what you see, for all intents and purposes, is the same development. There are some changes and the one that's probably most significant, is back when Walker Engineering worked on this, he had a CLOMR (conditional letter of map revision), approved by FEMA. The one on the left is actually the one that's current today which is the 2012 FEMA flood maps which came out in 2012 and they superseded the CLOMR. So, the blue one that's on the left is the current subdivision is the one that dictates today. But by and large it's about the same. The road orientation is the same. The basic drainage pattern is the same. So, the next page what we've done is just describe what it was and what it is now. Well, prior it was county water and county sewer because they were in the extraterritorial area and had to connect to county water and county sewer which they had engineering plans to do that."

Mr. Siebert next referred water rights that were referenced by Mr. Esquibel. He said at that time the water rights that Mr. Komis required were groundwater rights that were acceptable to the county. The problem is that the City does not accept groundwater rights. They have to be Rio Grande water rights. The applicant is going to have to purchase additional right water rights to satisfy the City requirement. In addition, now it's city water and city sewer. He said they're operating off the 2012 FEMA mapping. He said he was not the planner on their original project. What they did was change the trails to reflect what's on the city trails now. They are designed to connect into other trails into Tierra Contenta.

Mr. Siebert said they have been working closely with the city wastewater on how to deal with onsite and offsite sewer line which will have to be lifted at one point. The early planning had based everything on what they call gravity flow sewer. They jumped outside that line back in 1999 and the urban boundary then became 599. Both water and sewer were parallel to 599. He then pointed to the top of the Blue Line, which is the line that continues on. Santa Fe engineering already has approved plans for constructing that line.

It's possible as soon as it's constructed to tie into that particular line. They would have to acquire some easements from Catherine Fishman for the force main. They are confident that they can get the necessary easements to complete the force main sewer that's there. He referred to the last page, which is simply the engineering that shows, in the blue, the existing engineered water line that is on top of a trail. Both the waterline and the trail are coincident in this case. Then there's the force main where they would have to acquire additional easements.

Public Hearing

No one commented at the public hearing, so Chair Hogan closed the public hearing.

Commission Questions/Discussion

Commissioner Faulkner said that this project is missing a lot of documents which is no fault of the applicant. She asked why an extension would not be a viable solution right now, because they're up against the timeline of December 2019.

Mr. Esquibel said there are a couple of things that that would not work well with this. The first is the application is for a final subdivision plat approval. The second is the City would not be able to find those documents. This subdivision was approved back in 1997 through the County process. The odds of even some of the state agency people that work in those areas may not even be available; and whether they kept those records would be questionable. The approval process that is in place now will automatically provide them with an extension process as outlined in Chapter 14. This would work better for the applicant as a function of this project than just providing a secondary extension that's only going to go for a period of so many years. The only thing the Commission would extend would be the preliminary plat as opposed to the final plat which is what the request is for. They're asking for final plat approval. An extension would not benefit this project.

Commissioner Faulkner asked, for the record, if the applicant is going to be required to do an up to date archeological review because there is more technology available now?

Mr. Esquibel said the approval that was granted by the county is intact. There were some conditions of approval that outlined what they needed to do with the sites that they did find. The City's historic preservation person who looks at archaeology also included that they that go back and follow through with those state requirements so they will either have to remediate or provide easements for those sites.

Commissioner Faulkner questioned if they won't have to take a fresh look at the site. She said there's a technology available now that wasn't available in 1994.

Mr. Esquibel said if the state were to require additional information as they process that from the conditions that they already have, that would be something they'd have to work out with the state. The city just pointed to the state requirements and told the applicant to follow through with the state conditions.

Commissioner Faulkner clarified that the city is not requiring them to do an up to date archeological review, using newer technology.

Mr. Esquibel said "no."

Commissioner Gutierrez asked about the water rights. He asked due to the way building is done now and things are more conservative than they would have been in 1997, was a new study done on how many acre feet of water rights the Komis family should purchase today as opposed to then or did we just keep everything equal?

Mr. Esquibel said the hardest part about developing water rights for a project is understanding the amount of uses that can be attached to that lot or lots. Identifying a specific number would be daunting because it's going to have to be anticipated how many uses, what type of uses, how big those properties are going to be and how much water to assign to this subdivision. The problem that the City had is the County was specific in the number of acre-feet, which was 44 and but rounded it up to forty-five-acre feet. What was discussed and he could defer to legal on this as well, is that the 45 acre feet is a function of the approval and must be adhered to as part of this project. But, the type of water rights would have to be water rights that would be acceptable to the city and that was reasonable to staff and he thinks, in talking with the applicant's agent, he believes he was trying to figure out how to accommodate if the city were to push for a new band of water for this subdivision. And I don't think either of us were able to come up with a solution as to how to figure out that number so that 45-acre foot stood as part of the county approval.

Commissioner Gutierrez said, "for clarity, absolutely, you cannot differentiate because of the approval that was done back in the day and the amount of acre feet rights that have to come forward to the city."

Mr. Esquibel said if you look at the approvals granted by the County; they didn't have a use list in their code. The County adopted a master plan within a concept called the node concept for a given area and then they attached basic uses within that master plan that were a function of that development that occurred. The City zones large areas of property and provide a lot of uses associated with that zoning so that they're compatible with each other. That's the difference between the county zoning and the city zoning. To try and mesh the two together for an approval is very difficult because the City's code is very different from the County code. The City just accepted the water rights rather than force a new use list.

Commissioner Gutierrez asked if there's City staff that runs the water rights numbers.

Mr. Esquibel said the City has somebody that will do a water budget. The City ordinance will trigger water rights after five-acre-feet and it's 10-acre feet for residential subdivisions but that's about as close as staff can come in order to address the approvals granted by the county. The City is bound by the approvals that governed at the time they adopted that preliminary plan.

Commissioner Gutierrez said this property for lack of a better term is kind of like the "Wild Wild West" and there's a lot of issues with this annexed area. If something is not done on this level, the City is going to keep having problems and he understands that this has already gone through. But on the Komis family side, if they could have come in with less water rights, since he's having to buy double because of efficiencies in everything from 2019 to 1997 that might have benefited him for output. He asked Mr. Siebert if the water rights that had been purchased are still marketable somewhere.

Mr. Siebert said the groundwater rights are groundwater and they were purchased by him and he's got the right to sell those to other people. It's a long-term process to transfer water rights from one groundwater location to another but they are marketable water rights. It's a substantial number, it's almost close to a million dollars for the water rights that he must purchase from the city. As each use comes in on the property, they will have a definitive water budget either that they prepare or that they take the city's numbers. Out of that pool of forty-five-acre feet they can draw down whatever is required. That's what's taking place in Los Soleras right now. As each one comes in, they provide the water rights. It will work out over time but it's going to be a financial hardship that Mr. Komis can't immediately sell those water rights.

Commissioner Gutierrez asked what point Mr. Siebert was trying to get across on these permits and approvals with vested rights.

Mr. Siebert said he thought it was important for the Commission to fully understand how they got to where they are today because it's complicated. All these approvals happened out in the county over 15 years ago, now all of a sudden, they came in to the city and asking the Commission for another set of approvals. He said the Planning Commission is better educated than he anticipated. He didn't know the Commission was familiar with the extraterritorial bodies.

Commissioner Gutierrez asked about the streets within the subdivision. Those will be city code or county code.

Mr. Esquibel said those streets are going to be as they were approved in the county. There will be private streets maintained by the individual lot owners. There will be an association out there that will maintain those once 51% of those lots are sold, and it

would go over to the association. That will also include implementation of the landscaping for street trees as well. Based on the condition that we just revised so that the city will not be looking to accept this road they will be maintained by the association.

Commissioner Gutierrez asked about what kind of differences from approval time to this time is there on these roads. He asked if the roads are going to be friendly roads, passable roads that aren't built at 20 feet. He asked about the county approval side compared to what the city has now.

Mr. Esquibel said if this had gone through the City process, we would be looking at a much better review process, more detailed that would have incorporated many other procedures to make this easier to develop within the municipality. Based on the approvals that were granted, he said maybe Mr. Siebert might be able to provide a better understanding of how they're going to build those roads.

Commissioner Gutierrez asked Ms. Paez about issues such as roads, he wanted to know if the City was bound because it was approved by SPAZO to have roads, even though this has now been annexed and coming to the city to have roads that may be substandard for lack of a better term. As opposed to approving this with roads that do meet current standards for business industrial park residential whatever it may be.

Ms. Paez said this has been a very difficult process to determine what should be done. In looking at the provision of SPAZO that talks about vested rights, there's some question about what rights are in fact vested. The City has chosen to honor an opinion of a previous assistant city attorney that was working on land use several years ago who determined that this preliminary subdivision plat could be acted upon through the end of this year and so that seemed like a simple answer at the time. Then when we tried to harmonize the city's current code provisions with what was approved in the county and the lack of information and the fact that the county has a sort of a separate process for approving what is part of a development plan what is part of a subdivision proposal how that's treated differently here.

Ms. Paez said we did meet with Land Use Director Carol Johnson, representatives from the applicant and other members of city staff and we talked about the importance of ensuring life safety issues if we're going to honor this prior approval, we wanted to make sure that at least the minimum important things in terms of health, safety and welfare were going to be met. In those discussions the traffic engineer and the fire marshal did look at the roads and it was determined at least that we needed appropriate fire turnarounds and things within the street system that otherwise we would go ahead and recommend approval of the existing roads. There's not a clear answer as to what your decision should be. You could approve it. Your motion is your motion. I'm not sure the commission's decision is abundantly obvious, whether it could or should require different road standards, but the city's recommendation is that we would recommend approval of the county roads.

Chair Hogan said when the County turned over roads to the city during the annexation period, they were required to bring those roads up to city standards for them to be accepted by the city. These are roads that are yet to be constructed. He asked why that wouldn't apply.

Mr. Berke said Chair Hogan was correct in the understanding of SPAZO and how the City accepts roads that are constructed. The city wouldn't accept a road right now if it wasn't built to a standard that we felt that we wanted to maintain or could maintain. He said one of the nice things about this subdivision is that as we accept the phases of it, as we accept the infrastructure, as is infrastructure is built, it will be required to be built to the standard for the use which is being proposed there. Nothing prohibits the traffic engineer from asking for more information to assess the situation. This is a primarily commercial subdivision, as such the city wouldn't get themselves into a state where we would have to accept something that we knew was going to fail. We would require the improvements, punch list items, financial guarantees all those different things that would be required for the city to maintain a commercial subdivision or business park or residential subdivision. The city is not interested in accepting substandard roads.

Mr. Berke said the Airport Road Business Park is one of these business parks that was created in the county. It's got the big roads. They have a lot of traffic, but the City can't accept them yet because they're not up to city standard. Maintenance costs would outweigh the benefit to the city to do that. We asked that the property owners in conjunction build it to City standard. The City will come out and inspect it and if it's up to City standard, we'll take it over.

Maury Walker, 905 Sierra Vista, Walker Engineering, was sworn. Mr. Walker said this project meets county standards. It's an arterial road. They planned it for being one of their major roads in the county. It's not substandard and as far as roadways, it's a nice section of road and it's wide enough for emergency vehicles. A roundabout was required by the New Mexico Highway Department. That's going to be their main road also, from the Frontage Road. It's not a substandard road. It just doesn't meet what the City is requiring these days. It's going to help with traffic. There's nothing particularly wrong with the way the roads were designed.

Chair Hogan asked Mr. Walker if the City standards are more expensive and why couldn't this just be addressed by saying the roads would be built to City standards?

Mr. Walker responded that this is still a rural area, an area that's not really in the city. So, we decide "OK" do we a rural type road. Right now, it's a rural area. So that's why we had it that way and that's why we want to keep it that way.

Commissioner Gutierrez said he wanted to talk about roads. He referred to Mr. Berke's statement about the Airport Road Business Park having nice roads, but the City will not accept those roads until they're brought up to City standards. Commissioner

Gutierrez referred to Mr. Walker's point. I understand that it might cost more to make the road to city standards today. He understands that he's saying it's a rural area versus urban. It's still going to be the "Wild Wild West" and it's going to grow out that way. He asked Mr. Walker how many arterial roads are running through there.

Mr. Walker said the main road was going to be an arterial road. It has medians and landscape areas.

Commissioner Gutierrez asked if there's other feeder roads for different parts.

Mr. Walker said yes.

Frank Herdman, 123 E. Marcy St, Suite 200, was sworn. Mr. Herdman said they've had extensive communications with staff; they've reviewed SPAZO. He respectfully disagrees with the assistant city attorney. SPAZO was crystal clear. When there was a preliminary subdivision plat that was approved by the county, the city has to recognize those approvals. When it comes to the road standards whether they do or do not comply with the city that's one thing that is crystal clear. There may be questions about the water issue. We've agreed that we're going to recognize the 45-acre-feet. But when it comes to the road standards, those road standards are stated on the plat that was approved by the county. In all due respect, the city has no choice but to recognize those. That is by virtue of a joint ordinance that was adopted by the city and the county as a matter of public policy to say "developers invested a great deal of time and money in designing their subdivisions; and now we're going to transfer that land to the jurisdiction of the city. As a matter of fairness, we have to recognize what they've done." This subdivision received final subdivision plat approval by Santa Fe County, not just preliminary, but also final. The plat was ready to record, but because of the recession and the economic hardship associated with posting a letter of credit the developer was unable to do it. This has been completely vetted and approved by Santa Fe County. When it comes to roads, in all due respect, the obligation is to recognize what was approved by the county.

Mr. Esquibel said staff had a long discussion about the infrastructure development of this subdivision. It was recognized that we would accept the roads as is based on the approvals of the county. That is very different from accepting the roads for maintenance. That is why the applicant is still maintaining what the county would require which is to develop an association, develop bylaws, and maintenance requirements. Once 51% of those lots were sold, then the association would take over the maintenance of that as opposed to the developer. That was done for many years especially and even for the residential subdivisions. That part was preserved, as far as a carryover from the approvals. The City is not disputing that fact.

Commissioner Faulkner asked if the Commission has the authority or jurisdiction to set conditions on the approval.

Mr. Esquibel responded that the Commission could condition anything that the Commission believes is right, but he deferred to Legal to identify where we stand with regard to this case.

Commissioner Faulkner said this is tricky wicket for the developer and for the Commission. She said she can sympathize with the developer because he's already done his due diligence and then he's having to do it again. She's hesitant because some of the information isn't up to date and the Commission is being asked to make decisions on things that are behind the curve. Her biggest concern is the archaeological review. There is so much more technology available now than there was in the 90s. It's hard for her to decide, based on information that isn't even relevant anymore.

Mr. Herdman said staff clarified where the information was not available and staff-imposed City requirements. The applicant is not contesting that. The absence of information has inured to the benefit of the city. So, the applicant respectfully requests the Commission bear that in mind.

Commissioner Faulkner said the city's not going to require an archeological, they're going to punt that to the state.

Chair Hogan said there is an archaeological report in the packet.

Commissioner Faulkner said it's from 1994. There are new technologies available. There may be some parts of the property that have more archaeological significance that were undiscovered at the time because of lack of technology.

Mr. Berke referred to Condition of Approval #2. Staff is recommending, should the Commission choose to approve subdivision, the applicant would be required to hire an archaeologist from the City of Santa Fe's approved list of archaeologists and historians and first submit data recovery plan. In summary, because it's in front of you, that might cover the concerns raised because current archeological studies would use the best technology available to them. We have a very good vetting process to put archaeologists and historians on this list. That's still a current rule because the ground has not been disturbed in this area which does require an archaeological review.

Commissioner Faulkner said she's confused because Mr. Esquibel said "we're punting to the state" and Mr. Berke said "we're looking at it." She asked for clarification.

Mr. Esquibel said when he found all the archeological information within the file, he digitized the file and forwarded that to Lisa Roach who reviewed the information. She provided comments as to what she believed would be appropriate. When he read those comments, he believed them to read that the City is still going to have to work with the state conditions of approval. She was not opposed to what was already found. Between the two combinations of how they're going to resolve this matter either by reclamation or

easements it's going to have sort of a bridge of both city and county process in order to move forward. She didn't have a problem with that. That's what was stated in her response as a DRT Review, Exhibit "B."

Commissioner Faulkner asked if a more up to date review going to be done as a requirement for this to move forward.

Mr. Esquibel said, based on the condition, they're going to have to meet City standards.

Commissioner Faulkner asked if that includes a new review of the entire property, or is the City just focusing on the mine sites that's been that have been identified.

Mr. Esquibel said they did talk about those sites mainly. That's how this condition was generated by her.

Commissioner Faulkner said she's not getting the answer she needs. She's going to require a more up to date review of the property in total be done.

Mr. Berke responded that she would want an up to date review, she could state that in her motion. But, Condition #2 covers her concern, which is an up to date archeological study that is satisfactory.

Commissioner Faulkner said so when Mr. Esquibel gave that to the city's historic review person, did that count as that review.

Mr. Berke said, "no," that counts as a DRT review of the applications and the applicant submittals.

Commissioner Faulkner said, there are two things going on. One, the person who Mr. Esquibel gave the report to says "OK" for these nine sites. It looks like they did their due diligence. But, in Condition #2, City's additionally requiring them to do a new review. It seems like a mixed message.

Commissioner Clow said to ask the developer.

Peter Komis, 610 Don Gasper Avenue, was sworn. Mr. Komis said he is the owner of the property. He spent a lot of money on this archeological study. He's done so many studies with the county. Once again, it's another thousands and thousands of dollars of studies. If the Commission is going to make him do it, then he'll have to do it. I think the study is good, it's efficient. He understands Commissioner Faulkner's concerned about the new up to date studies. But then again, this is SPAZO, it should be accepted under the spirit of SPAZO. He said that's his opinion. As with the water rights, the shock he felt and the loss he felt about being required to buy these water rights. Now he's required to

buy different water rights because the city didn't accept these water rights even though there's a SPAZO Agreement. It's a double standard and he feels resentful for it. He wants to confer with his attorney before he gives an answer with regard to an archaeological survey, a new survey or an up to date survey.

Mr. Herdman said he has to go back to the ordinance that was adopted by the county and the city. It recognizes that the approvals that were granted by the county have to be recognized by the city. He reiterates this went all the way to final subdivision plat approval. He asked, "are things different today? Yes. Are those standards different today? Yes. Are the city's water requirements different? Yes." He asked the Commission to appreciate the circumstance in which this property owner finds himself today. This plat was ready to be recorded within Santa Fe County. As a result of nothing over which he had any control, this property was annexed into the City of Santa Fe. It is now on the very outskirts of the City of Santa Fe. There are all sorts of implications associated by virtue of that annexation, including for example a complete change in the rules when it comes to water rights which are going to cost well over a million dollars to repurchase again.

Mr. Herdman said the City has to respect the approvals granted by the county. That's the proclamation by the governing bodies of the county and the city in order to lessen to some extent the hardship that these properties owners are facing by virtue of the fact that they're now on the outskirts of a city when they were well within the central metropolitan parts of the county. In all due respect, that archeological approval as a matter of law, has to be recognized because that's the public policy that was adopted. He there's no way for to anticipate the added cost. There's no way to anticipate here, today, whether and to what extent any new technology might yield a different result. He respectfully requested that the approvals that were granted by the county be respected because that's exactly what the ordinance provides.

Commissioner Faulkner said she completely understands where the applicant is coming from. She thinks the issuers were charged with a certain thing and that is to look at developments for the city if they're going to be for the betterment of the people who are going to use the properties, the people who are going to shop there, live there, whatever their property use is going to be. She said she would hate to be in the applicant's position. She's represented developers before. This is like one of those nightmare scenarios. She said the Commission has a job that we have to do and they're in conflict now because of what the City and County agreed to. She thinks, without any foresight to what kind of problems this would cause in making decisions as the projects move from the county into the city.

Commissioner Clow said, "It seems to me that when I think that the city and the county probably anticipated what the problems would be and at times you just bite the bullet and you go forward and understand that there are going to be some repercussions because of it. But to me it seems that Section D is really clear, that when you have a vested property right, it's saying when you have an approval, the city has to accept it. I

think to me it sounds like the developer has made an effort to agree to things that are costly to him. I think you might be able to challenge. He probably could have challenged that. Well these water rights should be accepted, but he's agreed not to; and he's agreed he has to tie into the city sewer and he's creating city sewer out there and city water and everything else. So, to me it seems like you know there's good parts to it and there's bad parts to it. But I think we're stuck with it just because of what happened with that annexation and that we don't get to sit here, and try to renegotiate the deal. It's not fair."

Chair Hogan asked staff if the aspects of the City archeological ordinance still apply. For example, if there's a discovery during earthmoving, they still have to stop and document that and deal with that. It's not like there's no further recourse if there's other discoveries out there. He asked if that was accurate.

Mr. Esquibel said he believes that is correct.

Commissioner Gutierrez said when one attorney respectfully disagrees with another attorney it puts him in a place where he wants more information as to why. He said Mr. Herdman is saying because of SPAZO, the City needs to accept X, Y and Z. The biggest portion and the biggest expense for Mr. Komis, I would imagine is water rights. He asked why Mr. Komis didn't he put his feet down on water rights, if he was allowed too.

Commissioner Gutierrez said he didn't want to rush, this a big property and "if we close our eyes, we might come up with something we don't like." The sewer was the other thing that was brought up. He referred to Mr. Siebert's statement that they're going to try and obtain right of ways to connect, all the way to the pump station. He asked what the alternative is, if those rights-of-way aren't able to be connected to this source system.

Stan Holland, City Wastewater Division, said the question of whether this sewer line can go up to the 599 Corridor hasn't been definitively decided yet. There are other utilities out there, so they're looking at that. He said he understands from Public Works that there's roads that are possibly going to be coming from the north side from Tierra Contenta going into this. They want to get those into that development. So that's an option they're looking at. Then there's easements from the private property owners. The dilemma they're facing is if all of them fail, then there would be no way to get that sewer line from this property up to the City trunk line which is basically up there by the existing overpass right now. They're still trying to figure out what's going to work best out there. He said if he had his personal preference, he would lean toward anything further toward 599. He's concerned because of corrosion and odor effects. He doesn't want to try to take it to residential neighborhoods if that can be avoided. These are a lot of balls that are being juggled right now.

Commissioner Gutierrez asked if everything fails, they'll still be able to do something with this property but with a property owners association or something like that for all the wastewater on this property.

Mr. Holland said, "right". Then bring it into scope on the other side of 599. He said there was Mr. Cook's development that was designed years back that had two lift stations down on it. There is an option that they may be able to go under 599. Santa Fe County has a master plan study out in this for other areas. The City is still waiting to see what their options are and what they're planning on doing out there too.

Commissioner Gutierrez asked what it would look if nothing happened and they had to do something on their property?

Mr. Holland said the other option we haven't looked at is a sewer line from Mutt Nelson Road towards Cerrillos Road. The ultimate would be, they'd have to use their own on-site waste disposal system.

Commissioner Gutierrez asked if at that point it would be out of the City's hands and into the hands of the state.

Mr. Holland said the City would have some control over that and the NMED, ultimately.

Chair Hogan said the Commission is providing an approval based on a system that is proposed involving a lift station. The Commission is not giving them approval for an alternate wastewater treatment plant as part of this application.

Mr. Holland said, Part One of the conditions was basically any design that goes in there does require approval by the Wastewater Division.

Commissioner Garcia had a question about the easement and the sewers. He said the approval of this final subdivision plat occurred 20-25 years ago and now it's being revisited. There are a lot of challenges. Part of the problem that they are facing, and they have quite a few of them as they go to construction with this if he does get approved. Everything that is constructed or built is going through City Code approval. He asked for clarification if this refers to the old County standards that were done.

Mr. Esquibel said construction will go based on the applicant's construction plans that were approved in the county. For the roads, they will be using the standards that are before the Commission, which were adopted by the County. Like Mr. Walker identified, those roads are not substandard. They don't comply with the city's rules and regulations. The applicant has agreed to go with City standards, but they don't have to do that with those approvals that they have from the county. The City is bound by those requirements and the applicant is also bound by those requirements. He said this is sort of a blend that is taking both county and city review processes and the City is going to process the application if and when it comes in. This plat is not going to be filed until they can bring in

a letter of credit and an engineer's cost estimate to build this subdivision out based on the criteria that's approved here. You might end up seeing this for an extension.

Mr. Siebert said he took Commissioner Garcia's question a little different way. He said as each development comes in on these individual lots, they will have to comply with City Code. He asked Commissioner Garcia if that was the question he asked.

Commissioner Garcia said yes. He said there's a lot of challenges with this project and this goes forward each development will have to submit a set of plans to the City staff and get all that approvals.

Commissioner Garcia said it seems like it's going to be a work in progress project. The City seems to be willing to work with the developer for the progress of this. He knows they have a lot of challenges to meet.

Mr. Esquibel said that the approvals that the Commission is granting today are exactly what has to be developed tomorrow. They are not being approved with well and septic. They are being approved with city utilities. If there is a requirement to change as a result of whatever happens out in the future that will have to come back as a change before this body. Because it is a function of the Commission's approval.

Action of the Commission

MOTION: Commissioner Faulkner moved, seconded by Commissioner Garcia, in Case No. 2019-63 to approve the Final Subdivision Plat, with the conditions of approval and technical corrections.

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

MOTION: Commissioner Faulkner moved, seconded by Commissioner Clow, in Case No. 2019-63 to approve the Findings of Fact and Conclusions of Law, as amended.

Mr. Herdman said he wanted to mention the amendment to that last sentence that was worked out. He requested that that be included. Mr. Herdman read the last sentence of the Finding which says: "The final subdivision plat shall expire three years from date of this final action." He said that he and Mr. Esquibel worked out the following proposed alternative language: "This final subdivision plat approval shall be subject to expiration in accordance with applicable provisions in the Land Development Code governing the expiration of final subdivision plat approvals and extensions

of such approvals.” The goal being to track the language in the code and not to try to construe it in a way that's inaccurate.

Chair Hogan asked Mr. Esquibel if that is consistent with his understanding.

Mr. Esquibel indicated that that was correct.

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

Mr. Komis thanked staff and the Planning Commission.

3. **Case #2019-65. 1616 Agua Fria Final Subdivision.** James Siebert and Associates, Agent, for Dos Acequias, LLC, Owner, requests approval of a Final Subdivision Plat for 68 single-family lots. The property is zoned R-5 (Residential- five dwelling units per acre). The application includes a property located at 1616 Agua Fria Street and two adjoining parcels (2.686 acres and 7.4 acres) with unassigned addresses, totaling approximately 12.49 acres. (Lee Logston, Case Manager, llogston@santafenm.gov, 9556136).

Commissioner Gutierrez recused himself from hearing this case.

Staff Report

Lee Logston, case manager, said the Commission heard this in January of this year as an R7 rezoning request with accompanying development plan and preliminary subdivision. At that time, the Commission recommended denial of the rezoning, therefore, the development plan tabled the subdivision. The applicant came back to the Commission in April of this year. At that time, the Commission unanimously approved the preliminary subdivision plat with conditions of approval that were outlined in the staff report and with five of six consensus conditions that were introduced at that hearing by Mr. Herdman who represented a group of residents from the adjacent properties.

Mr. Logston said consensus condition #1 was calling for an emergency access gate where the new subdivision would join Montano Street and onto the existing street. The Commission unanimously denied consensus condition #1. The motion and the findings that were adopted that night were to approve the subdivision with five of the six consensus conditions. The decision was appealed to the Governing Body on July 31, 2019. The Governing Body unanimously voted to affirm the Planning Commission's approval of the subdivision but modified the Commission's decision and impose consensus condition #1, in other words, gave them the gate. In addition to the conditions

already imposed by the Commission.

Mr. Logston said the applicant had already filed the final subdivision plat application in anticipation of an affirmative decision by the Governing Body. The final plat will be modified to include the gate required by consensus condition #1. Staff has added that as a condition of approval. The list of conditions that staff has recommended is very short and includes all six consensus conditions. The applicant has already incorporated all the preliminary subdivision approval conditions into the plat before the Commission. Consideration of a final plat involves evaluation of conformity with the preliminary plat.

Staff Recommendation

Mr. Logston said the proposed subdivision meets Chapter 14 approval criteria. Staff recommends approval of the final subdivision plat with the conditions of approval listed in the report. There are findings to this effect. One motion would be required to approve or deny the final subdivision plat, subject to the conditions of approval and technical corrections recommended by staff. The second motion would be to approve or deny the findings of fact and conclusions of law.

Applicant's Presentation

Mr. Siebert, previously sworn, said he agrees with all the conditions stated by staff. He further stated that most of the technical corrections have been done.

Public Hearing

Mr. Herdman, previously sworn, said he represents various residents along Velarde and Nicole Place. He wanted to express their gratitude to the developer for working with them in supporting all six of the consensus conditions. Staff has confirmed that all six were adopted as conditions of approval on this project and staff is correct that as a condition of approval, all six will be stated on the development plat.

Dr. Jane Whitmore, 813 Osito Place, was sworn. Dr. Whitmore said their statement represents the views of 12 residents on Osito Place and the surrounding area. They submitted four documents for the record:

Document #1 is their statement to the City Council regarding the appeal, attached hereto as Exhibit "2". This addresses many issues, not only those related to the appeal.

Document #2 is their statement regarding neighborhood bill of rights, attached hereto as Exhibit "3".

Document #3 is a traffic study, attached hereto as Exhibit "4", which was

conducted by the neighbors in 2018 which can be used as a baseline for future traffic studies.

Document #4 is their statement regarding conditions of approval. Dr. Whitmore read portions of the statement, which is attached hereto as Exhibit "5".

Rae Domenico, 817 Osito Place, was sworn. Ms. Domenico said this development is opposite of the case you just heard. That development is out in the Boondocks, this development is in the center of a congested community. They've always considered this a round peg in a square hole. The density does not fit the existing community. She said there have been many irregularities in this process. She referred to the first document that was submitted to the Commission which outlines all their remaining concerns. The second document indicates the way that they believe that their neighborhood rights have been dismissed and denied. Document #3 is a traffic report that the people from the Nicole group conducted. They want it on record so it can be used as a baseline as the Commission implements the three conditions that they just submitted. They believe that the three conditions are the least that the Commission can do to make sure that this development is not going to be a safety and welfare and quality of life condition, that can't be reversed, once it's done.

Anna Blyth, 836 Osito Place, was sworn. Ms. Blyth said she wanted to support her neighbors that are in support of those three conditions. She said they are the people that live in this neighborhood. They've always understood that some development is possible. She was floored with the density of the development. She said it is an astronomical number. It's going to affect her quality of life. She would have supported a smaller scale development that needed one access point. She supports the three conditions outlined by her neighbors. As a neighbor who lives on the Acequia Amedio, they'll always hold that concern around any effect the drainage is going to feed these two acequias near their homes. She said her home has been very close to see that existing acequia overflow during storm events. Whatever happens to this in terms of drainage, she hopes the oversight is incredible.

Chair Hogan closed the public hearing.

Commission Discussion/Questions

Chair Hogan asked Ms. Paez to clarify the Commission's abilities related to the three conditions presented by the public.

Ms. Paez said the proposal as submitted in the packet incorporated all phases of development. There is not a mechanism for the Planning Commission to claw back the second phase, after the first phase has been approved. Staff have not had opportunity to analyze the proposed conditions since they were just presented this evening.

Commissioner Faulkner asked who is going to maintain the locked gate.

Mr. Logston said it's the developer pays for the installation. The maintenance falls on the City.

Action of the Commission

MOTION: Commissioner Garcia moved, seconded by Commissioner Faulkner, in Case No. 2019-65, to approve the Final Subdivision Plat, subject to the conditions of approval and technical corrections recommended by staff and as part of the motion the documents presented during the public hearing are to be kept on record.

VOTE: The motion to was approved by unanimous roll call vote with Commissioners Clow, Faulkner, Garcia and Lawrence voting in favor of the motion and none voting against.

MOTION: Commissioner Faulkner moved, seconded by Commissioner Clow, in Case No. 2019-65 to approve the Findings of Fact and Conclusions of Law.

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

G. STAFF COMMUNICATIONS

Mr. Berke said there is going to be a busy meeting in September, so please reach out to staff if you are not able to attend.

H. MATTERS FROM THE COMMISSION

Commissioner Faulkner asked if someone recuses themselves can they then testify as a private citizen.

Ms. Paez said she would advise against it, but she's not aware of any explicit legal bar.

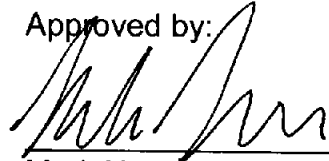
Commissioner Faulkner said she thought the reason one would recuse himself is because he's on a particular side.

Ms. Paez said that anytime a commissioner is concerned about the ability to be fair and impartial or the potential appearance of impropriety or even if you happen to live in a neighborhood or something, then people might think that you don't have the ability to be fair and impartial, that might be an appropriate reason to recuse.

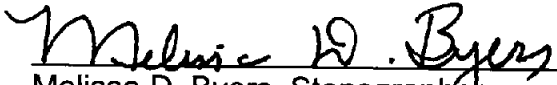
I. ADJOURNMENT

Having completed the agenda and with no further business to come before the Planning Commission, the meeting was adjourned at 8:26 p.m.

Approved by:


Mark Hogan, Acting Chair

Submitted by:


Melissa D. Byers, Stenographer
for Byers Organizational Support Services

City of Santa Fe
Planning Commission
Findings of Fact and Conclusions of Law

Case #2019-63

Komis Business Park Final Subdivision Plat

Owner's/Applicant's Name- Komis Land Company

Agent's Name- Jim Siebert, James Siebert & Associates

THIS MATTER came before the Planning Commission (Commission) for hearing on August 15, 2019 upon the application (Application) of James W. Siebert & Associates as agent for Komis Land Company (Applicant).

The Application involves properties located at located at 115 NM 599, north of I-25 and NMSR 599, totaling approximately 131.23 acres. The Applicant proposes to create a 19-lot subdivision and requests final subdivision plat approval (Project).

After conducting a public hearing and having heard from staff and all interested persons, the Commission hereby FINDS, as follows:

FINDINGS OF FACT

1. The Commission heard reports from staff, received testimony and evidence from the Applicant, and heard testimony offered by any interested members of the public.
2. The Santa Fe City Code (SFCC) § 14-3.7(B) sets out certain procedures for final plat approval including, without limitation, a public hearing by the Commission and approval based upon the criteria set out in SFCC § 14-3.7(C).
3. SFCC § 14-3.1 sets out certain procedures to be followed on the Application, including, without limitation, (a) a pre-application conference [SFCC § 14-3.1(E)]; (b) an Early Neighborhood Notification (ENN) meeting [SFCC § 14-3.1(F)(2)(a)(v)]; and (c) notice and public hearing requirements [SFCC § 14-3.1(H)-(I)].
4. SFCC § 14-3.1(F) establishes procedures for the ENN meeting, including (a) scheduling and notice requirements [SFCC § 14-3.1(F)(4)]; (b) timing and conduct of the meeting [SFCC § 14-3.1(F)(5)]; and (c) guidelines to be followed at the meeting [SFCC § 14-3.1(F)(6)].
5. A pre-application conference was held on May 9, 2019 in accordance with SFCC § 14-3.1(E)(1).
6. An ENN meeting was held on May 30, 2019 at the Southside Santa Fe Public Library, 6599 Jaguar Dr., Santa Fe, New Mexico 87507. The ENN meeting was attended by 3 members of the public, the Applicant, and City staff.
7. Notice of the ENN meeting was properly given.
8. At the ENN meeting, City staff explained the purpose of the meeting, the procedure to be followed, and the manner in which future communications concerning the Application will be made. The Applicant presented the proposed Project and answered questions. Residents in attendance expressed no concerns about the project.
9. Pursuant to SFCC §§ 14-2.3(C)(1) and 14-3.7(B)(4)(e), the Commission has the authority to review and approve or disapprove final subdivision plats.

10. City staff reviewed the Application and related materials and information submitted by the Applicant for conformity with applicable SFCC requirements and provided the Commission with a written report evaluating the factors relevant to the Application (Staff Report), together with a recommendation that the Commission approve the final subdivision plat, subject to certain conditions of approval (the Conditions) and technical corrections set out in the Staff Report.
11. The preliminary subdivision plat was approved by the Board of County Commissioners (BCC) of Santa Fe County in May 2008.
12. The City recognized the BCC's approval of the preliminary subdivision plat pursuant to Ordinance No. 2009-01, "Ordinance Establishing Subdivision, Platting, Planning and Zoning Rules Within the Presumptive City Limits."
13. As described in the Staff Report, the Applicant has received multiple time extensions, and the preliminary subdivision plat will ultimately expire in December 2019 if a final subdivision plat has not been approved by that time.
14. SFCC § 14-3.7(C) sets forth approval criteria for subdivisions.
15. Pursuant to SFCC § 14-3.7(C)(1), the Commission has given "due regard . . . for all natural features such as vegetation, water courses, historical sites and structures, and similar community assets that, if preserved, will add attractiveness and value to the area or to Santa Fe."
16. Pursuant to SFCC § 14-3.7(C)(2), the Commission has given "due regard to the opinions of public agencies" and finds that the land will be suitable for the proposed subdivision if approved subject to the Conditions set out in the Staff Report.
17. Pursuant to SFCC § 14-3.7(C)(3), the Commission finds that the proposed final subdivision plat complies with the standards of Chapter 14, Article 9 (Infrastructure Design, Improvements and Dedication Standards).
18. Pursuant to SFCC § 14-3.7(C)(4)-(5), the Commission finds that the proposed final subdivision plat will not create a nonconformity or increase the extent or degree of an existing nonconformity with the provisions of Chapter 14, and accordingly, the final subdivision plat may be approved without the granting of any variance or exception.

CONCLUSIONS OF LAW

Under the circumstances and given the evidence and testimony submitted during the hearing, the Commission CONCLUDES as follows:

1. The Project was properly and sufficiently noticed via mail, publication, and posting of signs in accordance with Code requirements.
2. The pre-application conference and ENN meeting complied with the requirements established by the SFCC.
3. The Commission has the authority to review and approve the final plat, subject to conditions of approval.
4. The proposed final subdivision plat meets the approval criteria set forth in SFCC § 14-3.7(C) and conforms substantially to the preliminary subdivision plat as approved.

WHEREFORE, IT IS ORDERED ON THE 15TH DAY OF AUGUST 2019 BY THE PLANNING COMMISSION OF THE CITY OF SANTA FE:

Considering the foregoing findings and circumstances, the Commission approves the final subdivision plat, subject to the conditions of approval and technical corrections set forth in the Staff Report. This final subdivision plat approval shall be subject to expiration in accordance with applicable provisions in the Land Development Code governing the expiration of final subdivision plat approvals and extensions of such approvals.

John B. Hiatt
Chairperson

Date:

FILED:

Yolanda Y. Vigil
City Clerk

Date:

APPROVED AS TO FORM:

Sally A. Paez
Assistant City Attorney

Date:

July 19, 2019

Mayor Alan Webber
Santa Fe City Councilors
200 Lincoln Avenue
Santa Fe, NM 87504

RE: Dos Acequias Development Appeal for CASE NO. 2018-83

Dear Mayor Webber and City Council Members:

As residents of the Osito Place subdivision, we submit this document to be included in your packets for preparation of the Dos Acequias Appeal scheduled for July 31, 2019. Osito Place is the first street West of the proposed development.

We hoped to submit an appeal as well, but were unable to identify an attorney with knowledge of land use matters, without a conflict of interest, and who had time in their case load. We are in agreement with many points in the Appeal, but they are specific to a small number of neighbors residing on Nicole Place/Velarde St. This document covers concerns of the greater surrounding neighborhood.

Members of the surrounding community have consistently and vigorously opposed the proposed development, from the first ENN on April 23, 2018 to the present. Meetings have been contentious, and developers have shown little consideration for both the neighborhood and the subdivision homeowners.

The attached document states our main concerns, which include:

- Density
- Roadway Infrastructure
- Mandela Magnet School Traffic
- Mandela Magnet School Emergency Easement
- Velarde Street
- Drainage
- Green Space
- Affordable Housing
- Architecture
- Safety

Thank you for your time in considering this complicated case. We would like to request that you visit the area of the proposed subdivision before the July 31st meeting, in order to better understand the points in our document. Comparisons are made with two other subdivisions, and reviewing them as well will be important. They are the Homewise subdivision under construction (El Camino Crossing) and the upcoming Siler Road Arts & Creativity Center.

Respectfully yours,
Osito Place Core Group for a Safe and Responsible Community

Attachment

RESPONSE TO DOS ACEQUIAS APPEAL (CASE NO. 2018-83)

July 19, 2019

Submitted by Osito Place Residents

Following are comments from the Osito Place Core Group for a Safe and Responsible Community regarding the Dos Acequias Appeal.

DENSITY

- This development requires that 3 lots will be consolidated to accommodate the proposed subdivision.
- There is no law that indicates that all 3 lots must be combined.
- The proposed density of 68 homes is excessive for the existing neighborhood and infrastructure.
- This density will impact all of the following issues.

ROADWAY INFRASTRUCTURE

- The effected stretch of Agua Fria is very narrow, and does not have a center turn lane.
- In case of emergency, there is no room or alternate way to divert or direct traffic.
- A traffic study was conducted by the developer. There is no way to determine if the data is accurate. Conducting our own study is cost prohibitive.
- The City traffic manager has indicated that a deceleration lane is needed for this subdivision, but there is no room. And yet, the Planning Commission still gave approval for the Preliminary Plat.
- A traffic study is one indicator, but those who use Agua Fria and live in the area can provide first-hand testimony.
 - Most homeowners directly across from the subdivision must back out onto Agua Fria, which creates congestion and cannot be remedied.
 - Homeowners in the area currently experience long wait times to enter Agua Fria.
 - Traffic routinely backs up in morning and afternoon peak hours, especially related to school hours.
- The Mandela Magnet School has a “no left turn” sign, but people still turn left into the school, which backs up traffic.



Agua Fria and Camino Alire
facing west
(see street sign in distance)

Tues, Oct 30, 2018
2:30 pm

- The proposed subdivision does not indicate a “no left turn” sign. Homeowners turning left into the subdivision will back up traffic for the subdivision and the school, especially during early morning and late afternoon peak hours.

- As an example, Agua Fria Nursery has 2 employees in orange vests directing traffic on Agua Fria, in order to facilitate getting in and out of their parking lot.
- Agua Fria is referred to as a “minor” thoroughfare, however it is the only alternative to Cerrillos, running all the way from the Plaza area to the south side. It is directly impacted by disturbances on Cerrillos and vice versa.
 - On July 10, 2019, a major accident shut down Cerrillos. The traffic was funneled to Agua Fria, resulting in a major backup that lasted for hours.
 - On July 18, 2019, police activity on Barela Lane slowed traffic on Agua Fria for 4 hours from Osage to Cristobol Colon, with drivers directed to Cerrillos.
 - In May 2018, an accident occurred at the intersection of Agua Fria and Velarde Street, requiring an ambulance, and backing up traffic for hours.
- Drivers who can't turn left into the school frequently turn into Osito Place and then double back. This will greatly increase with the subdivision and increased school traffic, increasing danger for Osito Place residents.
- Agua Fria is barely adequate for current traffic. Expecting both the subdivision, school, and existing homes to use this narrow part of Agua Fria, with no center lane, is irresponsible and a risk to safety of all who use Agua Fria.
- COMPARISON, the Homewise subdivision has a center turn lane on Agua Fria.
- COMPARISON, the Siler Road Center has a center turn lane, PLUS there will be a deceleration lane on Siler.

TRAFFIC CONCERNS FOR MANDELA MAGNET SCHOOL

- The traffic study does not include increased traffic from the Mandela Magnet School expansion. The school will expand from 225 students to 450 students over the next 2 years.
- We formally requested that the developer's traffic study be updated to include those numbers, but were told the existing study has been approved, and cannot be changed.
- The addition of school traffic is a major issue because of the close proximity of school and subdivision entrances.

Subdivision
Entrance School
Entrance



School traffic will increase from 225 to 450 students.

Proposed subdivision traffic will increase to min. 130 cars.

Velarde traffic will increase from existing 80 homes, and add 150 (approx.) subdivision cars.

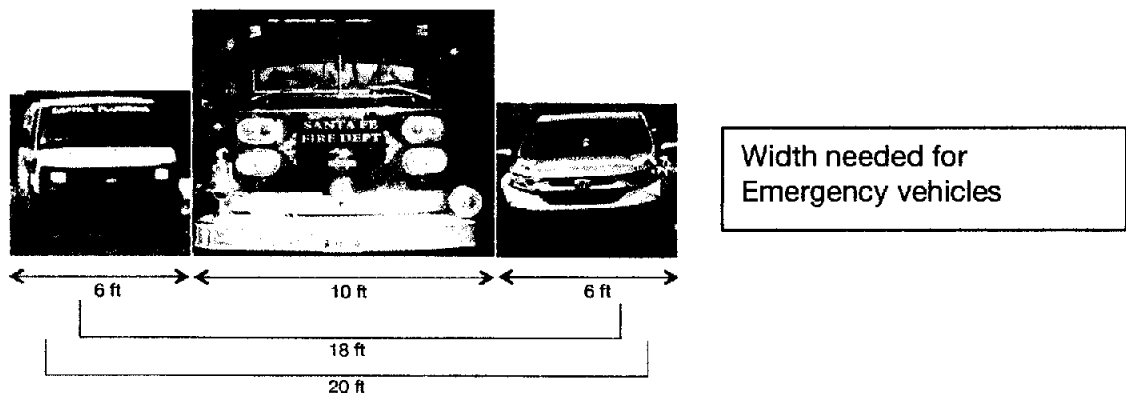
Osito Place will be used as a turnaround.

EMERGENCY EASEMENT/EXIT ON MANDELA SCHOOL PROPERTY

- Because Velarde Street is substandard, particularly for emergency vehicles, the developer is relying on SFPS to install an emergency easement/gate on the Mandela Magnet School property.
- The approval process for this easement was inconsistent.
 - On April 4, 2019, the Planning Commission approved the Preliminary Plat, because they were told the School Board had already approved the emergency easement. Not true.
 - On April 16, 2019, the School Board approved the emergency easement because they believed the Planning Commission had already passed the final approval. Not true.
 - The School Board only looked at the emergency easement at that meeting, but acknowledged they did not consider traffic in front of the Mandela Magnet School. They indicated a new traffic study will be done when the school expansion is being developed. Unfortunately, that will be too late.
- Please consider why a public school should be exploited for the sole benefit of the developers.

VELARDE STREET AS 2ND ACCESS

- Both the developer and City characterize Velarde St. as “substandard.”
- It does not meet code, and is only 16’ wide in some places. It cannot be remedied.
- The Fire Marshall agreed that Velarde is not adequate for emergency vehicles.



- Because it is inadequate, the developer states:
 - Velarde will not be used by subdivision residents. However, they generously estimate that 20% of residents will use it.
 - Instead, they are relying on Mandela Magnet School for emergency access.
- Two cars cannot enter and exit Agua Fria at the same time.
- Wait times to enter/exit Agua Fria are excessive, and the intersection has had accidents.
- Parked vehicles line the street, allowing only one car to pass at times. Larger vehicles like garbage and mail trucks leave no room for cars to pass at all.
- Zoning states that developments of 30-100 homes require 2 access points.
- Velarde is the only access point for approximately 80 existing homes.
- Adding 68 homes from the proposed subdivision equals approx. 150 homes, which exceeds code and jeopardizes safety.

- In the event of a disaster, it would be impossible to evacuate cars and provide access for emergency vehicles at the same time, with all using crowded Agua Fria.
- Osito Place is sandwiched between the proposed subdivision entrance and Velarde. In the event of an evacuation or emergency, we would be directly affected.
- COMPARISON: Velarde St as irresponsible 2nd access.
- COMPARISON: Harrison St as responsible 2nd access.



Velarde Street



Harrison Street – 2nd access for Homewise subdivision; access to Agua Fria with a center lane, and also Cerrillos Road

DRAINAGE

- Paving over 12.5 acres will create a risk of flooding.
- The 2 existing acequias already hold storm water, which can overflow in a major storm.
- Storm water from the subdivision will overflow in to acequias and a series of retention ponds.
- There is little confidence that the proposed drainage plan will handle a major storm.
- Osito residents will be directly impacted in case of a storm incident similar to July of 2018, where acequias overflowed.
- Subdivision homeowners will be solely responsible for maintaining the drainage system, which includes a network of retention ponds. What happens if the homeowners fail to properly maintain them, resulting in damage outside of the subdivision?
- After many requests, the developer and the City have never clarified who will be responsible in the event of property damage outside of the subdivision due to flooding.



JUL 2018 Extreme Storm – Acequia Medio



MAR 2019 Rainstorm – Acequia Medio



GREEN SPACE

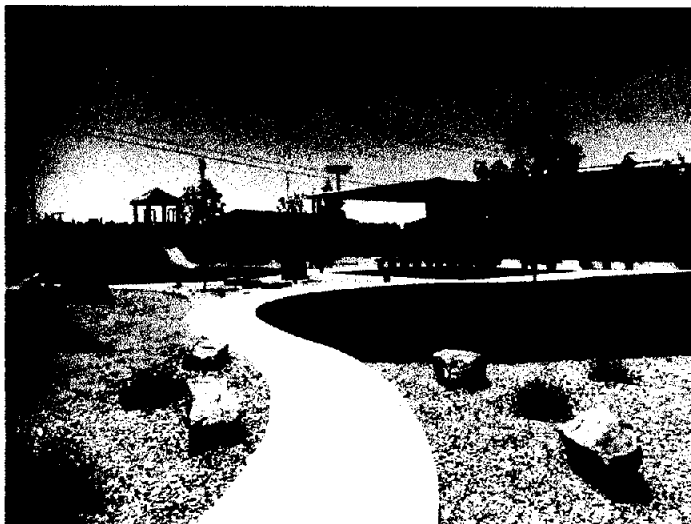
- The developer is proud to say that they are providing more green space than code requires.
- The only green space is the easement areas around the 2 acequias.
- The developer has not provided any renderings of what green space would look like.



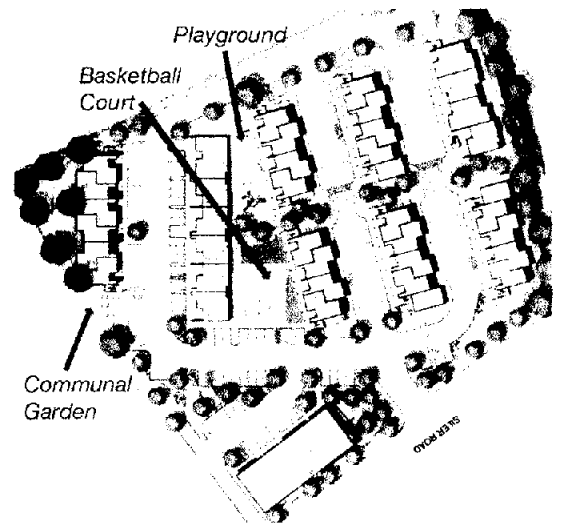
Acequia Medio

Acequia Madre

- COMPARISON, the Homewise subdivision has a friendly park with a play area, green grass, and a covered pavilion.
- COMPARISON, the Siler Road Center has a playground, basketball court, communal vegetable gardens, plus green space around the perimeter of the development.



Homewise park/pavilion



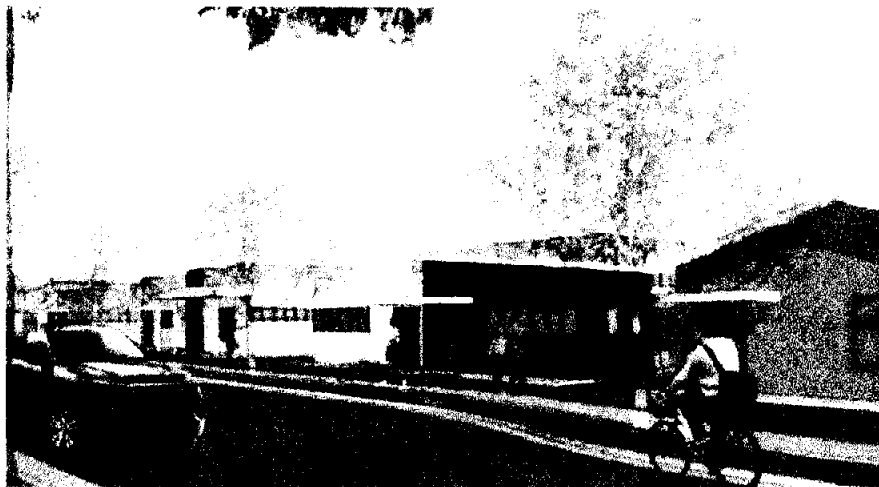
Siler Road Center

AFFORDABLE HOUSING

- The subdivision is proposed to have 68 homes; 54 market price and 14 affordable.
- The developer receives a density bonus because of the 14 affordable homes, which increases the number of homes and wipes out any good from the affordable homes.
- The GMP clearly states that the purpose of increased infill is affordable housing.
- Numbers for the median income for Santa Fe vary, but they average out to be **\$32,000 Individual** and **\$53,000 Household**.
- On March 7th, the developer stated that someone earning around \$22-26/hr, (\$45,760/yr) could afford a home costing \$400,000.
- According to **Bankrate.com** the actual income needed is almost double, at **\$86,860**.
- **Convertunits.com** calculates the hourly rate for \$86,860 is **\$43/hr**.
- For those who don't qualify for affordable housing, it will be impossible to afford the market rate homes.

ARCHITECTURE

- City Code indicates that the architecture of the proposed subdivision shall be compatible with the existing neighborhood.
- Early in the process, the developer promised the subdivision would be tasteful with Santa Fe and Territorial architecture.
- At the March 6, 2019 ENN meeting, the developer sternly informed the community that we have no say on the architecture, and we must accept anything they propose.
- The developer only provided small renderings of the currently proposed architecture. They are entirely incompatible with the existing neighborhood, looking more like an industrial park, not a part of an old Santa Fe neighborhood.
- The rendering does not show 2 story homes.
- The developer has never confirmed the number of one story vs two story homes.
- Before a vote is taken, we ask that the developer provide this information and related renderings.



BOTTOM LINE: SAFETY

- The developer is cramming in as many homes as possible, compromising the living conditions and safety.
- The safety of many stakeholders will be compromised by this subdivision.
 - Velarde residents will have increased traffic on a substandard street.
 - Subdivision residents will have difficulty entering and exiting.
 - Surrounding streets will find it more difficult to access Agua Fria.
 - Regular users of Agua Fria will be burdened with increased traffic delays.

CONCLUSION

- Although we all strongly agree there is a dire need for affordable family housing in Santa Fe, we do not believe the proposed subdivision will contribute to easing the City's needs.
- We do not believe that the developer has sufficiently proven that the proposed subdivision meets the compatibility and safety standards of our community.

RECOMMENDATIONS:

After careful review, residents of Osito Place strongly support the following recommendations as the optimal solution for a development.

1. Approval of 29 homes, built in two phases. Consolidation of only 2 of the 3 lots.
 - **Result:** less density to absorb into our crowded neighborhood.
2. A single ingress/egress on Agua Fria, using exit and enter lanes described in the application.
 - **Result:** Removes need for both Velarde and the Mandela School emergency easement.
3. Stronger assessment and requirements for engineering of Acequia Medio alterations.
 - **Result:** Safer conditions during extreme storms.
4. Specific description of requirements for ongoing maintenance of retention ponds.
 - **Result:** Safer conditions for all storms.
5. Clarification of responsible party(ies) in the event that flooding results in property damage outside of the subdivision.
 - **Result:** Neighborhood covered in case of damage.
6. Redesign of architecture that is appropriately compatible with the old Santa Fe style of the existing neighborhood.
 - **Result:** A subdivision that is a pleasant addition to the neighborhood.

The Osito Place Core Group for a Healthy and Safe Community recommends that a member of the Governing Body makes a motion to exercise Option 3:

“Grant the appeal and reverse the Planning Commission’s approval of the preliminary subdivision plat.”

This recommendation is based on our understanding that our rights as neighbors have been neglected, violated and inadequately addressed throughout the subdivision application process. Our rights are documented in “A Resolution Establishing a Neighborhood Bill of Rights,” Resolution No 2005-89, Passed, Approved and Adopted by the Governing Body on October 26, 2005 and signed by Larry Delgado, Mayor.

The rights we believe have been most seriously aggrieved are indicated below:

Page 1, Line 20

“WHEREAS, many residents of Santa Fe feel that the input they try to provide the city about changes in their neighborhood goes unheeded; and”

Comment: Although the application has gone through the recommended process, we do not believe the well-documented opposition has been heeded, with issues and recommendations being dismissed.

Page 1, Line 22

“WHEREAS, the governing body of the city of Santa Fe has passed many resolutions and ordinances to try to help Santa Fe’s neighborhoods protect themselves against the encroachment of inappropriate development; and”

Page 2, Line 6, Item 1

“1. Every neighborhood has the right to determine its own character and quality of life.”

Comment: Community members have vigorously opposed the development because it is inappropriate for the existing nature of our neighborhood, and will seriously affect quality of life.”

Page 2, Line 8, Item 2

“2. Every neighborhood has the right to be a safe, healthy place for people to live and raise their families.”

Page 2, Line 2

“WHEREAS, for many neighborhoods, the changes that are being carried out or being proposed for their area may cause permanent and irreparable harm if not dealt with immediately.”

Page 2, Line 16, Item 6

“6. Neighborhood residents have the right to have the city help protect the fiscal and emotional investment they have made in their homes.”

Page 3, Line 3, Item 1

“1. To ensure that land use staff’s dual obligations (to process development requests and to protect the health, safety, and welfare of the citizens of Santa Fe) are given equal consideration in the development review process.”

Page 3, Line 9, Item 3

“3. To enforce all section of the city code which protect residents against hazards and nuisances.”

Comment: Please see the Osito Place document in your packet. The effects of permanent and irreparable harm are outlined. Families have the right to health, safety and welfare, in this cohesive community that is their physical and emotional home.

Page 3, Line 10, Item 5

“5. An analysis of how to distinguish appropriate from inappropriate infill and proposed code amendments that prohibit inappropriate types of infill development.”

Comment: Although the proposed development looks good on paper, the density is entirely inappropriate infill for the neighborhood.

Page 3, Line 25, Item 10

“10. To re-institute the pilot project on neighborhood infill.”

Comment: What is the “pilot project on neighborhood infill”? What are the recommendations, and are they being followed?

Page 4, Lines 18-25, Item 1

“1. Within 60 days after the resolution is approved, the resolution shall be sent to the City Policy Commission, the Business and quality of Life Committee and the Planning Commission for recommendations on implementation and after the committees have reviewed it that staff shall return to the governing body within 90 days with a timetable for implementation.”

Comment: The resolution was passed on October 26, 2005. Was a “timetable for implementation” completed, and is it being routinely used in Planning Staff and Commission decisions?

On May 26, 2019, we asked for a copy of the Neighborhood Bill of Rights, but were told only a draft was available. The first time we saw the final, signed version was in the Memorandum by Sally Paez dated July 19, 2019, and made public on July 26, 2019.

We recommend that communities are given the Bill of Rights at the beginning of every development application process.

Traffic Report Review and Summary
from neighbors of proposed "Dos Acequias" project

REV. 4/30/19

Reviewed and compiled by John Pitts

1. 82 single-family housing units with city-estimated 2.4 cars per unit yields 197 more cars requiring daily access to Agua Fria, with both proposed roadways accessing Agua Fria.
2. 82 units at 9.2 trips per day (Trip Generation, 10th edition) equals 754 trips per day, or 1 trip every 2 minutes on this section of Agua Fria.
3. "West Santa Fe River Corridor Plan, 2017" calculated, with only a small addition of units (150-220), that traffic volume would increase to 14,723 cars per day on Agua Fria. With Acequia Lofts, El Camino Crossing, and Dos Acequias developments added, it will exceed that. (Attachment A)
 - a. How will the city increase housing without addressing traffic growth on Agua Fria?
4. While the Siler Street bridge helped relieve some traffic at the southern end of Agua Fria, it doesn't reduce the traffic that uses this 750 foot stretch of road that is simply a U-turn from Driveway A and Agua Fria to Velarde and Agua Fria. It does not increase connectivity.
5. Agua Fria traffic volume will increase by 5.5 to 10.0% within the next four years with the projects mentioned above. This doesn't include any other development, private construction that has happened on Agua Fria (e.g. lot across from Velarde on Agua Fria, with an average of 6-10 cars in its lot daily). (Attachment B)
6. The Level of Service (LOS) for Agua Fria and the development Driveway is already a poor D to E rating. (Attachment C)
 - a. What is the city's plan for improving Agua Fria traffic flow with this project?
7. The Traffic Impact Study says 150-175 foot deceleration lanes are warranted at Driveway A, but since there isn't room to build them in the existing road, the report merely disregards this safety

requirement. It is unacceptable to claim there is "minimal impact." This is not true when considered in context to the surrounding area, especially when considering the surrounding area includes a school with plans to expand. (Attachment D)

8. Traffic on Agua Fria is constricted because the road narrows between Barela and Cristobal Colon, bike lanes shrink to nothing and there is only one side road (La Joya) between Osage and Cristobal Colon that can lead away from Agua Fria. There are no connecting roads that could mitigate congestion or be used to redirect traffic in case of vehicle accidents.
9. NOT MENTIONED IN THE PROPOSAL is the fact that the Mandela International Magnet School driveway is only 40 feet from the development's Driveway A (with the LOS rating D to E). This is a serious omission of the Development Plan and Traffic Impact Study given the impact the proposed development will have on this narrow section of Agua Fria at the school.
 - a. What alternate plan is offered to mitigate the gross increase in traffic from the development?
10. NOT MENTIONED IN THE PROPOSAL or Traffic Impact Study is the impact to the LOS at Driveway A when the Mandela International Magnet elementary school expands from its current student load of 225 to 450 within four to five years as reported by Shirley McDougal, SFPS, 11/8/18 letter.
 - a. How will the school expansion affect Agua Fria traffic?
11. "No Left Turn" signs are posted on Agua Fria across from the school, yet cars and buses turn left illegally into and out of the Mandela school daily causing further delays and stoppages in both directions on Agua Fria during peak traffic times. This will affect the proposed development egress.
12. We conducted our own traffic study at the school. Six persons measured incoming and outgoing traffic at the same peak times for the proposed new driveway using same format and timing as the Siebert/Brown traffic study. (Attachment E)

Average 1,175 vehicles on Agua Fria at Mandela school during AM Peak Hour (7:45-8:45 AM)

Mandela School traffic AM Peak	Number of Turns into school	Delays, stacking, stoppage	Notes
NB Right turn enter/exit school	157 avg.	6 stacking/stoppage events	Right turns also caused traffic stoppage on Agua Fria
SB Left turn enter/exit school	37 avg.	20 stacking/stoppage events	All illegal turns

NB: Anticipated doubling of school student load will impact these numbers causing more delays and greater congestion than already occur daily at this point on Agua Fria. Also, with no turn lanes for the school and no deceleration lane for the Dos Acequias project, increased traffic will exceed the LOS to a lower rating than D-E currently estimated.

13. There is NO MENTION of school traffic which is much closer to the development than Avenida Cristobal Colon. Also omitted are the delays caused by city buses stopping on their routes, and the trash and recycling trucks that stop and cause cars to stack up or dangerously pass around said vehicles. These omissions are egregious. These data should be included as integral to any traffic study of Agua Fria.

14. A police report of traffic accidents on Agua Fria was also analyzed. It reported 17 collisions, entailing 4 personal injuries, on Agua Fria between 2013-2018 in front of the school and even more at adjoining streets. This will inevitably increase with school expansion and additional traffic from Driveway A. (Attachment F)

Conclusion: The "Summary of Deficiencies" page 15 of the Traffic Impact Study claims "minimal impact to the transportation system can be mitigated by the recommendation above" which was then ignored. Based on the data presented in the Traffic Impact Study, and our own direct experience and study, the impact of the Dos Acequias development will, without a doubt,

have a major negative impact on the adjacent transportation system, significantly endangering the safety of persons and property.

Therefore, we strongly disagree with the conclusions of the report and **request the Planning Commission reject the Dos Acequias proposal.**

Attachments

- Attachment A: West Santa Fe River Corridor Plan, 2017, page 34
- Attachment B: Review of Traffic Data in TIA, rev. 10/3/18
- Attachment C: LOS chart Agua Fria and Driveway A in TIA, page 14
- Attachment D: "Summary of Deficiencies...", TIA, page 15
- Attachment E: Neighborhood Survey of Agua Fria Traffic at Mandela International Magnet School
- Attachment F: Accident report review

**Planning Commission Meeting
August 15, 2019
Osito Place Statement**

Our statement is approximately 6 minutes long, and represents 12 residents on Osito Place and surrounding area. We ask that we be given the time to read it in its entirety.

We are submitting three documents to be placed in the record:

1. Our statement to City Council regarding the Appeal, since it addresses many issues, not only those in the Appeal.
2. Our statement regarding Neighborhood Rights.
3. A traffic study, which was conducted by neighbors in 2018, which can be used as a base line assessment for traffic.
4. Our statement regarding conditions for approval of the subdivision, which I will now read.

The residents of Osito Place do not believe we have been heard, and want to be absolutely clear that, from the start, we have vigorously opposed the density of this development, not the development itself. There has never been neighborhood consensus on this project, although a small group of people on Nicole and Velarde negotiated with the developer to meet their specific needs.

No matter what has occurred up to this point, the fact remains that the size of this development in our already congested neighborhood is a health, safety and welfare threat to the community. The project is only possible because it has ignored several areas of concern:

1. A development of more than 29 homes must have 2 access points. In the recent Appeal to City Council, this requirement was disregarded even against advice of the City Attorney and staff. The approval of an emergency gate shuts off daily traffic thru the required 2nd access on Velarde. Consequently, 68 households will only have one access onto Agua Fria. This is a major safety issue for residents of the proposed subdivision, the Mandela School, and the community at large that uses Agua Fria daily.

Therefore, we once again state that the best solution to this complex situation is to allow 29 homes, which will require only one access, eliminating the need for 2 emergency gates, while reducing traffic on Agua Fria, and minimizing concerns about storm drainage.

2. Mandela International Magnet School approved a second emergency gate without taking traffic into consideration. The school is doubling in size, from 225 to 450 students, and the school entrance on Agua Fria is only feet away from the development entrance. We formally asked staff to update the traffic study to include the increased traffic due to the school expansion, but our request was denied.

3. Agua Fria has been identified as "substandard" by staff and the developer mainly because there is no center lane. The Traffic Engineer has indicated that a deceleration lane is needed, but once again, this important issue has been overruled.

In addition to traffic and density, we are highly concerned about drainage from paving over 12.5 acres and impacts to two existing acequias. Flooding of Acequia Medio will directly impact properties in our subdivision. Although the City Engineer has approved the developer's plans, we have never received an answer to our repeated question... "who will be responsible if there is damage to property outside of the development due to flooding storm waters?" Will it be the developer? Will it be the City?

→ Because we are deeply concerned about the effects of this development on the quality of life for our whole neighborhood, we want a guarantee that both the City and the developer will assume responsibility for the ongoing safety of our community if any future problems should arise. We therefore respectfully request that these reasonable and responsible conditions be included in any approval of this project.

1. TRAFFIC: The City and the Developer shall conduct an assessment of Agua Fria traffic 3 months after occupancy of each of the 3 phases of construction, specifically while school is in session, during peak morning and afternoon hours.
2. DRAINAGE: The City and the Developer shall conduct an assessment of the drainage system 3 months after occupancy of each of the 3 phases of construction, specifically after monsoon seasons.
3. COMMUNITY: The community shall be notified when the assessments are scheduled to begin, and shall concurrently submit comments to the Planning Department for inclusion in the reports at the end of each Phase. The community shall have access to the final reports.

These assessments will give the City and the Developer the opportunity to make adjustments in a timely manner, rather than waiting until it is too late to remedy any concerns.

We hope that you take our concerns seriously, and that the three conditions are part of any approval.

Thank you.

Jane Whitmore, 813 Osito Place
Joshua Rhine, 816 Osito Place
Rae Domenico, 817 Osito Place
Bill Buchsbaum, 821 Osito Place
Jane Buchsbaum, 821 Osito Place
Melanie Martinez, 825 Osito Place

Chris Dominguez, 825 Osito Place
Isabeth Hardy, 820 Osito Place
Kathleen DeCelle, 820 Osito Place
Teresa Reckard, 829 Osito Place
Anna Blyth, 836 Osito Place
Ron Martinez, 1624 Agua Fria