



Agenda

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AMENDED

PLANNING COMMISSION

February 19, 2009 – 6:00 P.M.

CITY COUNCIL CHAMBERS

A. ROLL CALL

B. PLEDGE OF ALLEGIANCE

C. APPROVAL OF AGENDA

D. APPROVAL OF MINUTES AND FINDINGS/CONCLUSIONS

MINUTES: January 15, 2009 (POSTPONED FROM FEBRUARY 5, 2009)

FINDINGS/CONCLUSIONS

**Case #M 2008-43. 781 Stagecoach Road Escarpment Regulations Variance.
(POSTPONED FROM FEBRUARY 5, 2009)**

**Case #M 2008-45. Cielo Azul Subdivision Plat Time Extension.
(POSTPONED FROM FEBRUARY 5, 2009)**

E. OLD BUSINESS

F. NEW BUSINESS

1. An ordinance repealing Sections 14-8.11(G)(3), 14-8.13, 14-8.16 and 14-8.17 SFCC 1987 regarding annual water budget, water rights transfer requirements and water banking; creating a new Section 14-8.13 SFCC 1987 regarding development water budget requirements, a new Article 25-9 SFCC 1987 regarding the City water budget, a new Article 25-10 SFCC 1987 regarding the City water bank, a new Article 25-11 SFCC 1987 regarding the water rights transfer program, and a new Article 25-12 SFCC 1987 regarding the water conservation credit program; making other related changes as are necessary. (Councilor Wurzbarger) (Frank Katz)
2. **Santa Fe Rail Corridor Study.** The Rail Corridor Study is intended to introduce the ideas behind Transit Oriented Development to the Santa Fe community. The study is the result of a workshop series held in spring 2008 that involved hundreds of residents. Transit Oriented Development (TOD) consists of a variety of strategies addressing street design, transit systems, trails and open space and mixed-use development. There is no "typical" TOD, but there is a great diversity of examples around the country of successful use of these design strategies. (Richard Macpherson, case manager)

G. BUSINESS FROM THE FLOOR

H. STAFF COMMUNICATIONS

I. MATTERS FROM THE COMMISSION

J. ADJOURNMENT

NOTES:

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

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CITY OF SANTA FE
PLANNING COMMISSION

February 19, 2009

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2. <u>Santa Fe Rail Corridor Study</u> . The Rail Corridor Study is intended to introduce the ideas behind Transit Oriented Development to the Santa Fe community. The study is the result of a workshop series held in spring 2008 that involved hundreds of residents. Transit Oriented Development (TOD) consists of a variety of strategies addressing street design, transit systems, trails and open space and mixed-use development. There is no "typical" TOD, but there is a great diversity of examples around the country of successful use of these design strategies.	Approved	4-7
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MINUTES OF
CITY OF SANTA FE
PLANNING COMMISSION MEETING

February 19, 2009

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

A. ROLL CALL

Roll call indicated the presence of a quorum as follows:

MEMBERS PRESENT:

Bonifacio Armijo
Angela Schackel Bordegaray (late)
Estevan Gonzales
Gloria Lopez
Ruben Montes (late)
John Salazar, Vice Chair
Matthew O'Reilly, Chair

MEMBERS ABSENT:

Ken Hughes (excused)
Signe Lindell

STAFF PRESENT:

Tamara Baer, Planning Manager
Kelley Brennan, Assistant City Attorney
Frank Katz, City Attorney
Richard Macpherson, Senior Planner
Reed Liming, Director Long Range Planning
Denise Cox, Stenographer

B. PLEDGE OF ALLEGIANCE

Chair O'Reilly asked Commissioner Gonzales to lead the pledge of allegiance.

C. APPROVAL OF AGENDA

Chair O'Reilly suggested moving the findings/conclusions to the end of the meeting after new business as they are somewhat complicated.

With no objection, Chair O'Reilly said the agenda was approved.

D. APPROVAL OF MINUTES AND FINDINGS/CONCLUSIONS

MINUTES: *January 15, 2009 (POSTPONED FROM FEBRUARY 5, 2009)*

Commissioner Lopez moved to approve the minutes of January 15, 2009, Commissioner Armijo seconded the motion which passed by unanimous voice vote.

FINDINGS/CONCLUSIONS

**Case #M 2008-43. 781 Stagecoach Road Escarpment Regulations Variance.
(POSTPONED FROM FEBRUARY 5, 2009)**

**Case #M 2008-45. Cielo Azul Subdivision Plat Time Extension.
(POSTPONED FROM FEBRUARY 5, 2009)**

This item was moved to after new business per approval of the agenda.

E. OLD BUSINESS - None

F. NEW BUSINESS

- 1. An ordinance repealing Sections 14-8.11(G)(3), 14-8.13, 14-8.16 and 14-8.17 SFCC 1987 regarding annual water budget, water rights transfer requirements and water banking; creating a new Section 14-8.13 SFCC 1987 regarding development water budget requirements, a new Article 25-9 SFCC 1987 regarding the City water budget, a new Article 25-10 SFCC 1987 regarding the City water bank, a new Article 25-11 SFCC 1987 regarding the water rights transfer program, and a new Article 25-12 SFCC 1987 regarding the water conservation credit program; making other related changes as are necessary. (Councilor Wurzbarger) (Frank Katz)**

Memorandum prepared February 9, 2009 for February 19, 2009 Planning Commission meeting by Frank Katz, City Attorney, is incorporated herewith to these minutes as Exhibit "1."

Suggested changes to the draft as signified in the margins with red ink prepared by Jim Brockman, dated February 16, 2009 is incorporated herewith to these minutes as Exhibit "1(A)."

Recommendations from James Siebert, dated February 17, 2009, are incorporated herewith to these minutes as Exhibit "1(B)."

Frank Katz presented the staff report included in Exhibit "1." He said they should add to Option B that if somebody uses more water than allowed they should have the opportunity to bring the credit rather than be charged. He suggested adding to page 7 that they allow someone that has gone over the limit to provide extra water. He sees some problems where developers agree to a certain usage and then the homeowner signs the deed agreeing to that when that may not be what they intend.

Chair O'Reilly asked for suggested language.

Frank Katz suggested the following:

Page 7, line 14, after and *...shall notify the customer of the additional water rights or conservation credits needed to meet the new budget or contract. If the customer has not transferred the additional water rights or conservation credits to the city within 90 days, the water Division shall*

Page 24, under C, line 14, after water usage *...or water customer subject to an alternative development water budget implementation....*

Chair O'Reilly asked the subcommittee members if they were aware of these changes.

Commissioner Armijo commented that these are minor changes and he has no problem with them.

Commissioner Salazar said this was mentioned in the last meeting and he agrees with the changes.

Public Hearing

Merritt Brown, 2905 Rodeo Park East, stated that he received this draft along with the development community and they have been working to get their comments in order. He agreed there are some technical things that need to get worked out. He was unsure of the time frame and process because he wanted to ensure that they still have time to work on this with staff. He asked to enter comments into the record which are included in Exhibit "1(A)." He said the major differences are minor.

Mr. Katz said this has to go to Council. He has looked over the comments and mostly they are helpful. There are some that they disagree on. The amendments go to Public Works, Finance and Public Utilities then to Council for publication and then a hearing one month later. There is lots of time to hash out these issues.

Commissioner Montes arrived at this time.

Jim Siebert, 915 Mercer, he agreed there has been considerable improvement although there are some issues and clarifications they have. He reviewed the comments included in Exhibit "1(B)." He added to his comments that the ordinance does not address what happens when water use goes down and if there is any type of credit for that, especially in cases of a re-use of the property.

Mr. Katz explained that in reference to the re-use of property now they could transfer use and enter into a conservation contract and have access to the water they had been using. He agreed and added that this is the main purpose of the contract.

Rick Borrego, 3056 Agua Fria, said he was part of the group that has been working on the recommendations with Mr. Siebert, Mr. Brown and Mr. Brockman. He pointed out that there are 94 proposed clarifications or comments in Exhibit "1(A)." Staff has been cooperative and receptive, so he believes they can work out their differences. He suggested coming back after working out the differences. In his opinion, the schedule does not afford much time to work out the changes. He proposed tabling the ordinance so they could have another 30 days to work on the issues with the document.

The public testimony portion of the public hearing was closed.

Questions and comments from the Commission

Mr. Katz hoped they do not delay. Several of the changes are matters discussed at length and then they do not agree on some policy decisions. The rest can be worked out.

Commissioner Gonzales commented that it is refreshing to see the public and staff working hard on this together. He would favor allowing the community another month to

work on this with staff. He noted that this has been worked on for a year and one more month does not seem excessive.

Commissioner Armijo agreed that they been working on this and have pushed this far. He said Mr. Katz and Mr. Lyons have worked hard on this. Some of the issues brought up are legit and he thought they could wrap up in one more meeting. He added that the developers were not in the subcommittee meetings. He would be willing to meet one more time.

Chair O'Reilly commented that throughout the document it states small or smaller development projects and they need a definition for that term. He asked if the Engineering section of the Water Division has the personnel and staff to review what they will be asking of them. The ordinance talks about a project demonstrating satisfaction so they need to make sure they are using the most up to date information about water saving fixtures and appliances. He agreed with needing a definition on secondary plumbing. He asked where the 10% came from in allocating an extra amount and did not understand the line loss.

Mr. Katz believed that there is about a 6% line loss. When lines are new they work well and after five years there is a diminution in efficiency. He thinks it is a good change regarding satisfaction of the Water Division.

Commissioner Armijo requested that the loss be identified and used exactly rather than a 10% estimate.

Chair O'Reilly shared the concern in the random choice of 5 or 10 acre feet on mixed use projects and agreed there should be some middle ground for mixed use. The ordinance calls for an annual water budget report to go to the Governing Body and this does not include a section on losses in the system. He said they need to know how the water lines are performing and requested that be added to Page 17.

Commissioner Salazar commented that what they have is far better and it sounds like they only have some minor things to change. He thanked staff for all the work put into this and the commissioners for coming to the subcommittee meetings. In his opinion, they have a good ordinance, although things tend to change once they leave the Commission.

Commissioner Gonzales moved to postpone a decision until the March 19th meeting and have the subcommittee, staff and working group sit down to hash out a final draft. Commissioner Armijo seconded the motion.

Chair O'Reilly thanked the subcommittee and asked the comments be taken into consideration.

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

- 2. Santa Fe Rail Corridor Study. The Rail Corridor Study is intended to introduce the ideas behind Transit Oriented Development to the Santa Fe community. The study is the result of a workshop series held in spring 2008 that involved hundreds of residents. Transit Oriented Development**

(TOD) consists of a variety of strategies addressing street design, transit systems, trails and open space and mixed-use development. There is no "typical" TOD, but there is a great diversity of examples around the country of successful use of these design strategies. (Richard Macpherson, case manager)

Memorandum prepared February 4, 2009 for February 19, 2009 Planning Commission meeting by Richard Macpherson, Senior Planner, Long Range Planning Division, is incorporated herewith to these minutes as Exhibit "2."

Rail Corridor Study dated December 8, 2008 is incorporated herewith to these minutes as Exhibit "2(A)."

Transit Oriented Development Impacts, Design and Traffic Issues prepared by Celeste Newbrough dated February 19, 2009 is incorporated herewith to these minutes as Exhibit "2(B)."

Reed Liming reviewed the history on this study included in Exhibit "2."

Richard Macpherson presented an overview of the study included in Exhibit "2(A)." He reviewed the design principles for Santa Fe's Rail Corridor which included land use mix, transit connections, complete streets, trail connections, parks, plazas and public places, and neighborhood protection and enhancement.

Public Hearing

Barbara Levin, 2200 Ardor Street, stated that all the objections from the previous hearing would still be stated. One question that surfaced was how representative was the steering committee of the Candelight Neighborhood. The neighborhood has completed a questionnaire that was sent to 339 residences with 150 responding. She said they should have a copy of the results of the study. The results suggest that they like the protections afforded by existing zoning, they are willing to accept a commercial zone around the station but are not in favor of mixed use and would like to keep the R-1 zoning for the residential area.

Celeste Newbrough, 2175 Candelaro, clarified that the 150 surveys returned were from households. She said she is speaking personally. She read thoroughly the strategy and thinks some of the goals and ideals are laudable. She felt the study used industry based information. Academic or institutional studies are more in-depth and there is no interest in the results of the studies. She studied some published Transit Oriented Development assessments and these found that the negative aspects regarding accidents, pollution and congestion have managed to exceed the level of positive effects overall. Some aspects of transit oriented design work well and generally speaking the results are still in doubt. Cities and governments need to assess what the situation is for a given area. She presented a four page summary included in Exhibit "2(B)" and requested that this be placed as an addendum to the rail corridor study.

Mark Bertram, developer of Zia Station, 2805 Plaza Verde, stated that he thinks TOD is a great thing. He pointed out that Zia Station is not what they are dealing with. This is the corridor study that will affect many areas other than Zia Station. The DOT redevelopment site is state land and they will try to adhere to TOD standards if this

proceeds. This is much wider than Zia Station. He understands they have many concerned neighbors, but hopes they consider what will be best for the City. This is the kind of thing they need to be doing. If these projects came forward earlier then they would not be having the issues they are currently.

Carolyn Egard, 2218 Brillante Street, Candelight Neighborhood, requested they take into consideration the existing neighborhood that is there. This neighborhood has been there for over 30 years. She said they have to be careful how this is developed. They have to look all the way down the line to see how this will affect every single neighborhood.

Mary Dykton, Arroyo Chamiso Road, said she has been working with the neighbors since April of 1997 on the pumice plant. She has a report that she will mail to everyone. She expressed concern with the traffic and emissions even though the pumice plant is gone. Although some walk their dogs in the arroyo, there are permanent street people living in the underpasses. She said this must be considered. People are afraid of walking in the area and she personally would not allow her children to walk in this area. She added that she would not walk across St. Francis for anything.

Merritt Brown, 2905 Rodeo Park East, partner in Zia Station project, stated that they have been studying issues revolving around TOD's. They want to make sure that this is not a referendum on potential development at Zia Station. He has been working with the neighbors. It is important that the Rail Corridor study be adopted in some form because there are so many principles in this that are important considerations as they develop and live in Santa Fe. This is a chance to eliminate some vehicular traffic.

Thomas Copeland, 2316 Calle Luminoso, Candelight Townhouses, said he lives close to the Zia Station and due to his efforts the railroad was realigned against St. Francis Drive. He noted that the station platform is done, although the trains are not stopping there. It is astonishing that the State would spend half a million dollars on a train and the city would prohibit the citizens from using the train. There are two arterials on that side of town; Zia Road and St. Francis. All the traffic is concentrated onto these roads. Whatever happens will only have a minimal impact on the traffic. On the 26th, they are having a meeting on the corridor studies. He said the city has not addressed the traffic issues so the burden falls to the state and the corridors will continue to have increased traffic. He was appalled at the zoning which is inappropriate for a residential neighborhood. He would like to see mixed use and commercial zoning. He fears that where any of the stations are if the city does not develop the areas effectively the state will come in and takeover. He commented that the questionnaire was not sent to him as he would like to see a nice development at Zia Station.

The public testimony portion of the public hearing was closed.

Questions and comments from the Commission

Commissioner Armijo asked why the Rail Runner has no tie in to the Richards area.

Mr. Liming said the MPO discussed with the state a station at Richards and then Las Soleras entered the discussion and developed a station in their plans. There will be a tie in and stop eventually at I-25 and Las Soleras. He said with regards to the study, they

felt rather than looking at the entire corridor they should stick to the part of the rail line within the city.

Chair O'Reilly pointed out that the motion from the long range subcommittee is contained on the front of the memo. He requested removing c because the purpose was to study the rail corridor and not the entire transportation system in Santa Fe.

Commissioner Gonzales thought this was a worthy issue and the research he has seen regarding TOD is positive and he believes the direction they need to take for the city.

Commissioner Gonzales moved approval with all the conditions with the exception of item c. The conditions are as follows: 1) that the document be re-titled Rail Corridor Study; 2) that it include by further study phases that address: a) cost estimates and funding sources for implementation, b) required revisions to existing city land use codes, and 3) that these future study phases be completed before the document as a whole is approved by resolution. Commissioner Lopez seconded the motion.

Chair O'Reilly asked if the Commission wants to include the neighborhood research as an addendum. He said this could be included as part of the record.

Commissioner Gonzales said if they have provided information into the record the City Council will have all the information as this goes forward.

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

FINDINGS/CONCLUSIONS

***Case #M 2008-43. 781 Stagecoach Road Escarpment Regulations Variance.
(POSTPONED FROM FEBRUARY 5, 2009)***

***Case #M 2008-45. Cielo Azul Subdivision Plat Time Extension.
(POSTPONED FROM FEBRUARY 5, 2009)***

Findings of fact and Conclusions of Law for Case #M-2008-45 are incorporated herewith to these minutes as Exhibit "3."

Commissioner Gonzales moved to approve findings of fact and conclusions of law for Case #M-2008-45, Commissioner Montes seconded the motion which passed by unanimous voice vote.

Email and amended Findings of Fact and Conclusions of Law for Case #M-2008-43 are incorporated herewith to these minutes as Exhibit "4."

Original Findings of Fact and Conclusions of Law for Case #M-2008-43 are incorporated herewith to these minutes as Exhibit "4(A)."

Ms. Brennan referred to her email included in Exhibit "4." She said the case should have been more properly cited as an alternate siting by the Land Use Department staff. The applicant is entitled to a decision based upon criteria pertaining to the actual request rather than a variance to the criteria. She explained how a vote could be rescinded.

Chair O'Reilly understood this is a recommendation made on legal grounds by the City Attorney to the Commission.

Commissioner Armijo recalled other cases with similar issues. He was told at that time that it was not possible to re-open the case so there was a different opinion although there were no facts and finding yet.

Ms. Brennan said the question raised was a vote for reconsideration and the opportunity had passed. A vote for reconsideration is taken at the same meeting. This is a vote to rescind the application. Rescission would have to lead somewhere as they are rescinding the prior vote and remanding the case to the Director of Land Use to consider for alternate siting.

Commissioner Armijo asked if there are other cases that have been given approval that fall under the category they are looking at here. He thought staff should be looking at these cases visually.

Ms. Brennan said there may be other similar cases. She explained that this is an opportunity to correct some practices that need to be modified. She read the entire ordinance and was quite surprised. She was told it had been practice to have no development in the escarpment. There is this entire procedure for alternate siting which does not require a variance. There recently has been a working group that has worked on redefining the purposes and intents because it has been extremely problematic. There is a process where staff can and should review these matters. Those staff decisions could be appealed or the applicant could ask for a variance of the criteria that had not been met. She believes they would be hearing them based on the proper criteria and staff having gone through a process.

Commissioner Armijo asked why they would rescind this one case because it could open a can of worms. He suggested it might be better to say any case coming after this is open to that.

Ms. Brennan understood his concern. She said the policy at the time was to bring those forward. She noted that it is not an illegitimate process, but policy can change.

Chair O'Reilly noted that there is a rule about a body rescinding something previously approved. They cannot rescind once something happened as a result of that approval such as a building permit.

Commissioner Gonzales asked if notification would be sent to the other parties. He hoped they would be afforded an opportunity.

Commissioner Armijo was not interested in one case at all. He did not want the Commission or City to be looked at as not treating the whole scenario fairly.

Commissioner Salazar understood since the policy changed and the findings were not done they can go back on this particular case.

Ms. Brennan said the findings have not been adopted so no action has been taken that cannot be undone. She did not want to classify as a policy shift that may not be correct. The reading of the ordinance led her to this conclusion and then she discussed it with Mr.

Katz. Others also concurred with this opinion. The ordinance has room to provide clarification and there is momentum for change until the revisions are adopted.

Commissioner Salazar understood it may be possible that the applicant will come back if staff does not agree with the alternate site.

Ms. Brennan said that is correct and they would hear it based on the alternate siting criteria.

Commissioner Montes asked if they move to rescind, if staff then contacts the applicant and all the public present.

Ms. Brennan stated that the rules provide for an unnoticed revision. She added that the applicant and representatives from the neighborhood have been notified. There will be notice of the appeal period.

Commissioner Armijo asked if the applicant was notified.

Ms. Brennan replied yes. She said they are aware of this recommendation and felt that it was within the purview of the Commission to decide and might be just as happy to have the matter considered under the alternate criteria.

Chair O'Reilly informed the Commission that anyone can make the motion.

Ms. Brennan said there were three variances. The only vote they are rescinding is the addition. The applicant withdrew the shed and approved the fence. She noted that there are revised conclusions included in Exhibit "4."

Commissioner Salazar moved to rescind to the motion to approve the addition so that it can be reconsidered as an alternate siting, Commissioner Montes seconded the motion.

Chair O'Reilly said they need four votes in the affirmative as two Commissioners did not receive notice prior to the meeting.

The motion failed on a voice vote of 3 to 2. Those voting for the motion: Commissioners Montes, Lopez and Salazar. Those voting against the motion: Commissioners Armijo and Gonzales.

Commissioner Armijo moved approval of the original findings for Case #M-2008-43 included in Exhibit "4(A)", Commissioner Lopez seconded the motion.

Commissioner Armijo explained that the reason he approved was because Charlie Gonzales said this was the best area for this to happen with the least tree removal. He thinks it is repeating this if they rescind.

The motion passed on a 4 to 1 voice vote with Commissioner Montes voting against the motion.

G. BUSINESS FROM THE FLOOR – None

H. STAFF COMMUNICATIONS

Ms. Baer reported that Las Soleras was approved unanimously at Council with all staff recommendations. She referred to the Planning Commission workshop that is coming up.

Commissioners Montes, Armijo, Salazar, Lopez and Gonzales expressed interest in the workshop along with Chair O'Reilly. Chair O'Reilly noted that Commissioner Bordegaray was interested.

Ms. Baer said there was a webinar yesterday and she will have some CD's available.

Ms. Brennan added that Las Soleras agreed to another 20 acre active park and installation of a collector road feeding past Monte Del Sol.

Ms. Baer said the Council also approved the 100 foot variable setback along the highway corridor.

Handout on Ex Parte Communications is incorporated herewith to these minutes as Exhibit "5."

Ms. Brennan reviewed ex parte communication included in Exhibit "5."

Commissioner Bordegaray arrived at this time.

Commissioner Gonzales understood that ordinance changes were not subject to these rules.

Ms. Brennan clarified that it is any case where the matter affects a property's interest.

I. MATTERS FROM THE COMMISSION – None

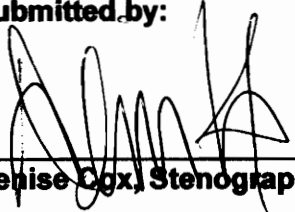
J. ADJOURNMENT

There being no further matters to come before the Commission, and the Commission having completed its agenda, this meeting was adjourned at 8:30 p.m.

Approved by:

Chair Matthew O'Reilly

Submitted by:



Denise Cox, Stenographer