



Agenda

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AMENDED

PLANNING COMMISSION

March 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: February 5, 2009
February 19, 2009

FINDINGS/CONCLUSIONS:

- Case #M 2008-35. 1413 Agua Fria Street General Plan Amendment.
- Case #ZA 2008-14. 1413 Agua Fria Street Rezoning.
- Case #ZA 2008-19. St. John's College PUD Rezoning.
- Case #M 2008-48. St. John's College Master Development Plan Amendment.
- Case #M 2008-46. 4789 Airport Road Annexation.
- Case #ZA 2008-17. 4789 Airport Road Rezoning.
- Case #M 2008-47. 1111 Agua Fria Street General Plan Amendment.
- Case #ZA 2008-18. 1111 Agua Fria Street Rezoning.

E. OLD 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 Wurzburger) (Frank Katz) **(POSTPONED FROM FEBRUARY 19, 2009)**

F. NEW BUSINESS

1. An ordinance amending Section 14-4.3(I) SFCC 1987 regarding the purpose and requirements of PRC Planning Residential Community Districts. (Jeanne Price, case manager)
2. An ordinance amending Section 14-8.10 SFCC 1987 permitting off site temporary signs for holiday tree vendors. (Councilor Ortiz) (Jeanne Price, case manager)

3. An ordinance amending Section 14-8.10 SFCC 1987 establishing the purpose of the sign code; establishing requirements for electronic messaging signs; and making such other changes as are necessary. (Jeanne Price, case manager)
4. An ordinance amending Section 14.3-17 SFCC 1987 Appeals regarding appeal procedures for decisions made pursuant to Chapter 14 SFCC 1987, including provisions for standing to appeal, provision of notice for public hearings on appeals, proceedings before a hearing officer and proceedings before the various commissions, boards and the governing body. (Greg Smith, case manager)
5. **Case #M 2009-01. 2901 Alamosa Drive Variance.** Karen Williamson, requests a variance to construct a 400 square foot addition partially within the 25 foot required subdivision setback. The property is located within the La Resolana Addition Subdivision and is zoned R-5 (Residential, 5 dwelling units per acre). (Lucas Cruse, case manager)
6. **Case #M 2009-02. San Isidro Plaza Signage Development Plan Amendment.** Branch Design and Development, agent for C&Z LLC, requests approval of an amendment to the development plan for the San Isidro Plaza. The plan includes a variance to permit one additional free standing sign, to allow the sign to be located within the required 35 foot street setback, to exceed the area of freestanding signs allowed, and to exceed the area of total signage allowed. The property is located at the northwest corner of Cerrillos and Zafarano Drive and is zoned C-2 PUD (General Commercial, Planned Unit Development). (Lucas Cruse, case manager)

G. STUDY SESSION

1. Chapter 14 Rewrite Amendments to Sections 14-1, 14-2, 14-3, 14-4, 14-6, 14-7, 14-9, 14-10, 14-12 SFCC 1987. Study and provide policy direction to staff and to the rewrite consultant team concerning the content of the amendments, and provide direction regarding scheduling of public hearings on the proposed amendments. (Greg Smith, case manager)

H. BUSINESS FROM THE FLOOR

I. STAFF COMMUNICATIONS

J. MATTERS FROM THE COMMISSION

K. 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.
*An interpreter for the hearing impaired is available through the City Clerk's Office (955-6521) upon 5 days notice.

INDEX OF
CITY OF SANTA FE
PLANNING COMMISSION

March 19, 2009

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<u>Case #ZA 2008-14.</u> 1413 Agua Fria Street Rezoning.		
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E. OLD 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.	Approved	5-8
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6.	Case #M 2009-02. San Isidro Plaza Signage Development Plan Amendment. Branch Design and Development, agent for C&Z LLC, requests approval of an amendment to the development plan for the San Isidro Plaza. The plan includes a variance to permit one additional free standing sign, to allow the sign to be located within the required 35 foot street setback, to exceed the area of freestanding signs allowed, and to exceed the area of total signage allowed. The property is located at the northwest corner of Cerrillos and Zafarano Drive and is zoned C-2 PUD (General Commercial, Planned Unit Development). Denied	4-5
G. STUDY SESSION		
1.	Chapter 14 Rewrite Amendments to Sections 14-1, 14-2, 14-3, 14-4, 14-6, 14-7, 14-9, 14-10, 14-12 SFCC 1987. Study and provide policy direction to staff and to the rewrite consultant team concerning the content of the amendments, and provide direction regarding scheduling of public hearings on the proposed amendments.	16-18
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MINUTES OF
CITY OF SANTA FE
PLANNING COMMISSION MEETING

March 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:

Angela Schackel Bordegaray
Ken Hughes
Signe Lindell
Gloria Lopez
John Salazar, Vice Chair
Matthew O'Reilly, Chair

MEMBERS ABSENT:

Bonifacio Armijo (excused)
Estevan Gonzales (excused)
Ruben Montes(excused)

STAFF PRESENT:

Greg Smith, Director Current Planning Division
Kelley Brennan, Assistant City Attorney
Frank Katz, City Attorney
Jeanne Price, Legislative Liaison
Lucas Cruse, Senior Planner
Dale Lyons, Water Division
Denise Cox, Stenographer

B. PLEDGE OF ALLEGIANCE

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

C. APPROVAL OF AGENDA

Mr. Smith stated that there are some changes to the findings, but he had no changes to the agenda.

Chair O'Reilly suggested moving the two cases to the front and hearing all the ordinance amendments after those.

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

D. APPROVAL OF MINUTES AND FINDINGS/CONCLUSIONS

MINUTES: February 5, 2009

Chair O'Reilly asked that Commissioner Lopez be shown as excused.

Chair O'Reilly, said with no objections the minutes of February 5, 2009 are approved as amended.

February 19, 2009

Commissioner Salazar corrected the minutes to show Commissioner Lindell as excused.

Chair O'Reilly, said with no objections the minutes of February 19, 2009 are approved as amended.

FINDINGS/CONCLUSIONS:

Case #M 2008-35. 1413 Agua Fria Street General Plan Amendment.

Case #ZA 2008-14. 1413 Agua Fria Street Rezoning.

Case #ZA 2008-19. St. John's College PUD Rezoning.

Case #M 2008-48. St. John's College Master Development Plan Amendment.

Case #M 2008-46. 4789 Airport Road Annexation.

Case #ZA 2008-17. 4789 Airport Road Rezoning.

Findings of Fact and Conclusions for Law for Cases #M-2008-35, #ZA-2008-14, #ZA-2008-19, #M-2008-48, #M-2008-46, #M-2008-47, #ZA-2008-17 and #ZA-2008-18 are incorporated herewith to these minutes as Exhibit "1."

Commissioner Salazar moved to approve the findings of fact and conclusions of law for the above cases, Commissioner Lopez seconded the motion which passed by unanimous voice vote.

Case #ZA 2008-18. 1111 Agua Fria Street Rezoning.

Case #M 2008-47. 1111 Agua Fria Street General Plan Amendment.

Ms. Brennan made corrections to page 3 of 6 on Case #M-2008-47, at the end of 19 (e): *developed organically through time in a neighborhood with mixed residential and business uses.* Page 4 of 6, item 25, second line refers to another paragraph and the reference should be 24 and on the fifth line after general plan delete everything and substituted: *and that the proposed rezoning is advantageous to the community as a whole and it will provide consistency to the plan and existing uses and conditions.*

Commissioner Hughes moved to approve the findings for Cases #ZA-2008-18 and #M-2008-47 as amended, Commissioner Bordegaray seconded the motion which passed by unanimous voice vote.

- 5. Case #M 2009-01. 2901 Alamosa Drive Variance. Karen Williamson, requests a variance to construct a 400 square foot addition partially within the 25 foot required subdivision setback. The property is located within the La Resolana Addition Subdivision and is zoned R-5 (Residential, 5 dwelling units per acre). (Lucas Cruse, case manager)**

Memorandum prepared March 9, 2009 for March 19, 2009 Planning Commission meeting by Dan Esquibel, Land Use Planner Senior, is incorporated herewith to these minutes as Exhibit "2."

Letters from neighbors; Roberto and Marie Maes, Robert Quintana, Gisele and George Gonzales and Colleen Lynch; are incorporated herewith to these minutes as Exhibit "2(a)."

Lucas Cruse on behalf of Dan Esquibel presented the staff report included in Exhibit "2."

Staff recommends:

Based on current code which requires a front yard setback of 7 feet, staff recommends approval of the variance request.

Public Hearing

Karen Williamson, applicant, 2901 Alamosa Drive, was sworn. She wanted it clear that on the corner they want 11 ½ feet into the setback. She explained that they have met with the neighbor that has concerns prior to making any decision to do this. She asked them for their concerns and they were worried about building to the property line, building an office and a pitched roof draining into their yard. None of the concerns were a part of the plans to begin with and still are not.

Colleen Lynch, 2902 Alamosa Drive, was sworn. She is present supporting the application.

The public testimony portion of the public hearing was closed.

Questions and comments from the Commission

Commissioner Hughes complimented the aerial and felt it shows this is more compatible with the neighborhood than it was before.

Commissioner Lindell asked if the roof would be pitched.

Ms. Williamson replied no.

Commissioner Lindell asked if the addition would make shade on the driveway.

Ms. Williamson did not believe it would. She stated that she measured 13 feet up in the corner to see what the shadow would be like and it went into the grass area halfway between the wall and the driveway.

Commissioner Lindell asked if the neighbors have a garage.

Ms. Williamson explained that they turned the garage into a den.

Commissioner Lindell understood the neighbors park outside. She asked if they back out or park so they drive forward onto the street.

Ms. Williamson said they always park by backing in so they leave pulling forward onto the street.

Commissioner Lindell confirmed that this is not intended as a home occupation.

Ms. Williamson said that is correct.

Commissioner Salazar moved to approve Case #M-2009-01, Commissioner Hughes seconded the motion which passed by majority voice vote of 4 to 1. Commissioner Lopez voted no.

6. ***Case #M 2009-02. San Isidro Plaza Signage Development Plan Amendment. Branch Design and Development, agent for C&Z LLC, requests approval of an amendment to the development plan for the San Isidro Plaza. The plan includes a variance to permit one additional free standing sign, to allow the sign to be located within the required 35 foot street setback, to exceed the area of freestanding signs allowed, and to exceed the area of total signage allowed. The property is located at the northwest corner of Cerrillos and Zafarano Drive and is zoned C-2 PUD (General Commercial, Planned Unit Development). (Lucas Cruse, case manager)***

Memorandum prepared March 9, 2009 for March 19, 2009 Planning Commission meeting by Lucas Cruse, Senior Planner, is incorporated herewith to these minutes as Exhibit "3."

Photographs of Burger King and the proposed signage are incorporated herewith to these minutes as Exhibit "3(A)."

Lucas Cruse presented the staff report included in Exhibit "3."

Staff recommends:

It is not clear that the proposed variances meet the purpose and intent of the Cerrillos Road Highway Corridor Protection District [14-5.5 (B)] and Signs [14-8.10 (G)(8)] sections of Chapter 14. The Planning Commission will need to determine if the requested variances are appropriate in relation to the overall development and their impact on surrounding properties.

Public Hearing

Gregg Way, PO Box 2328, Santa Fe, 87508, was sworn. He handed out a photograph of the area included in Exhibit "3(A)." He explained that Burger King was not built at the time of the application.

The public testimony portion of the public hearing was closed.

Questions and comments from the Commission

Commissioner Lindell said there seems to be an important part of the application not showing on the photo which is the reader sign.

Mr. Way said that is correct.

Commissioner Lindell thought that would be critical to show. She said at the bottom of the logo there would be an LED messaging sign.

Commissioner Hughes assumed Burger King could add themselves to the large sign for the shopping center.

Commissioner Salazar asked if the Wendy's would also ask for that type of sign.

Mr. Way explained that Wendy's is a different development.

Commissioner Salazar asked what the reader would say.

Mr. Way believed it would list specials.

Chair O'Reilly asked staff if the sign ordinance being heard at this meeting would affect this.

Mr. Smith said the changes are more specific on how the signs could be illuminated. He said they could require that the applicant comply with the amended ordinance.

Chair O'Reilly questioned if this was properly noticed because he does not see anything about a flashing reader sign.

Mr. Smith pointed out that the applicant has not asked for flashing or motion features, but have asked for an electronic panel which can be operated in compliance with the regulations that are in effect today. The message can be changed once per day. It can be installed under the current format.

Chair O'Reilly asked if the sign would be flashing or scrolling or changed once a day.

Mr. Way said the sign ordinance does not allow any rotating or flashing features.

Commissioner Lindell questioned if the variance is to allow the sign to be located within the 35 foot street setback or if it is for an additional sign.

Mr. Smith stated that it is for both.

Commissioner Hughes moved to deny Case #M-2009-02, Commissioner Lindell seconded the motion which passed by unanimous voice vote.

E. OLD 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 Wurzburger) (Frank Katz)
(POSTPONED FROM FEBRUARY 19, 2009)**

Memorandum prepared March 9, 2009 for March 19, 2009 Planning Commission meeting by Frank Katz, City Attorney, is incorporated herewith to these minutes as Exhibit "4."

Draft showing all the changes made since the last meeting is incorporated herewith to these minutes as Exhibit "4(A)."

Mr. Katz presented the staff report included in Exhibit "4."

Public Hearing

There were no members of the public present to speak.

The public testimony portion of the public hearing was closed.

Questions and comments from the Commission

Commissioner Salazar reported that the water ordinance subcommittee was assigned to this in June 2008 and have worked with staff during four meetings. He spoke to Commissioner Armijo prior to the meeting and he wanted his support voiced. All the Commissioners on the subcommittee agree that this should be approved and the subcommittee should be disbanded.

Chair O'Reilly thanked staff and the Commissioners for their hard work on this.

Commissioner Lindell asked for some thoughts on the proposed water bank and specifically on the matrix.

Mr. Katz said the concern the developers had was holding title to the water as they are turning it over to the city. The developers wanted to be able to hold title to the water. This concern came out of the fact that they spent money on the water rights and they are turning title over to the city to sit in the bank. The developers wanted a document that will represent an iron clad contract showing that they had the right to the water. There was some idea that later they might want to yank it out and sell it back to another city which the State Engineer would probably not be pleased with.

Commissioner Lindell asked if Mr. Katz was satisfied with this.

Mr. Katz replied yes and added that this is a valuable commodity that the developer can use on whatever project they choose, so it should be clear that it is their water.

Chair O'Reilly referred to page 6, under water conservation credits program. He asked if the conservation credit runs with the property. He wanted to know what would happen if someone sells their house and the new owner exceeds the water use.

Mr. Katz understood that binds the property to use only that amount of water. He said some were concerned with this.

Chair O'Reilly clarified that this would have to be disclosed to the buyer. He was concerned with the seemingly arbitrary line loss. He noticed the computed line loss and wanted to feel comfortable with where that comes from.

Dale Lyons explained that the most recent audit a few years ago came up with that number. He explained that the parameters are meter error and water used. This all falls under non-revenue water. Collectively this comprises 9.8%.

Chair O'Reilly imagined that is a huge amount of water lost.

Mr. Lyons stated that only 4.5% is actual water lost. The remainder is necessary for the function of the utility such as flushing.

Chair O'Reilly referred to section 25.12.4 on page 49, tender of water rights. He questioned the final land use approval of the subdivision plat and asked if that is recordation or when the findings of fact are approved.

Mr. Katz said it is the approval by the Planning Commission or Council. They wanted the tender to come fairly soon. He said they did not want people to have to come forward just because. He clarified that it is the final approval whatever that may be for the specific project.

Chair O'Reilly said there are things that can delay a project. He asked if Mr. Katz is comfortable knowing there are things that could stop the project.

Mr. Katz stated that it is in the interest of the developer to get this going. If the developer had to escrow it could tie up more of their money. He believes this is a better solution.

Chair O'Reilly asked if the fee in lieu for the balance of the water rights would allow a project to go forward.

Mr. Katz said that is the intent of the escrow because the State Engineer has not approved the water right yet.

Chair O'Reilly expressed concern that as competition heats up it may be more difficult to find water rights. He thought it might be possible to initiate a transfer of rights that he knows will be denied so they can pay the fee in lieu.

Mr. Katz explained that they will pay 150% of the value of water rights so it would be more reasonable to buy them. He said when the developer tenders the water rights the city will have a hydrologist and attorney look at them to make sure these are feasible. He thought it unlikely to have that circumstance as they have already bought water rights and paid a high escrow.

Chair O'Reilly said many developers have purchase agreements for water rights where the purchase falls through and they cannot transfer them.

Mr. Katz said sellers are typically required by the developers to get the water right approved by the city. The city would not accept bogus rights.

Chair O'Reilly was thinking more of a change in policy by the State Engineer or a public outcry regarding water transfers. He did not want the developer to be allowed to proceed with no water rights.

Commissioner Lopez understood if the property were sold the new owner would have to use the same amount of water as the previous owner.

Mr. Katz replied yes

Commissioner Lopez asked if there is any bending of that rule.

Mr. Katz explained that someone who does this contract can buy back the retrofit credits if they find they will need to use more water. He did not anticipate this costing an enormous amount of money.

Commissioner Lopez used the scenario of elderly people that have a large home using very little water and then a family buys that needing to use more water. This was concerning to her.

Mr. Smith said there are some communities that have allowances depending on the size of the family, but Santa Fe does not do this currently.

Chair O'Reilly understood once the water rights are transferred they cannot be removed, but asked if the water right could be moved into the county.

Mr. Katz explained that the annexation agreement anticipates the county will take over portions of the city water system and the city will take over some of the county water system. If the people in Aldea brought water rights to the city then those would transfer to the county.

Chair O'Reilly was thinking of some developers that do work in the outlying areas.

Mr. Katz said that is not in the bill, but there are ways this could be worked out.

Commissioner Salazar moved to approve the amended water ordinance with all the recommended changes, Commissioner Bordegaray seconded the motion which passed by unanimous voice vote.

F. NEW BUSINESS

- 1. An ordinance amending Section 14-4.3(l) SFCC 1987 regarding the purpose and requirements of PRC Planning Residential Community Districts. (Jeanne Price, case manager)**

Memorandum prepared March 6, 2009 for March 19, 2009 Planning Commission meeting by Jeanne Price, Legislative Liaison, is incorporated herewith to these minutes as Exhibit "5."

Jeanne Price presented the staff report included in Exhibit "5."

Staff requests a recommendation to the Governing Body.

Public Hearing

There were no members of the public present to speak.

The public testimony portion of the public hearing was closed.

Questions and comments from the Commission

Commissioner Hughes questioned if this will be incorporated into the Chapter 14 recommendations.

Mr. Smith explained that the rewrite will be in two phases. Regarding the issue of coordinating the rewrite amendments with the amendments that come through, the amendments coming through will take precedents over the generic language. This will be tracked carefully.

Commissioner Hughes understood this amends the PRC section, not the mixed use section.

Ms. Price said that is correct.

Commissioner Bordegaray asked for the birth date for the mixed use zone.

Ms. Price guessed three years.

Chair O'Reilly recalled in 2003 staff worked on that, although he is not sure when it was adopted.

Commissioner Bordegaray asked how often the mixed use zoning was applied.

Mr. Smith recalled 1-3 actual uses with only one that got as far as development plan approval. The Southwest Area Master Plan was the first time indication of the land use map showing transition districts. There still remains some space between the concept and the practice. The General Plan talked about a wider application of mixed use than is practical under the current regulations.

Commissioner Bordegaray asked what the mixed use areas are.

Mr. Smith said it has not been built out, but it is the south side of Agua Fria, west of Maes Road and Harrison Road.

Commissioner Bordegaray questioned how this zoning category came about.

Ms. Price said in 1986, they already had the PUD overlay that allows some flexibility and had PRC which was used first in Estancia Primera. This area had a commercial tract of land that was never developed. Tierra Contenta used it next. Las Soleras has requested zoning because they have much more commercial area than a PRC would allow.

Chair O'Reilly commented that they have been waiting for this for a long time. The PRC did not require a development plan if a project had a percentage that met the definition

of low priced unit. Multifamily developments are generally low income and need to move quickly through the process due to the financing. He said these were planned residential communities with master plans designating tracts for different uses. Section 14-31.7(B) disappeared from the code around 2000. He thought it should not be put back in.

Ms. Price recalled that was in everything and was removed from all parts of the code. It was not saving any time and she recalled that developers said going through this process was not any faster.

Chair O'Reilly knows that it does take longer. There is already a plan in place, so in his opinion it is not necessary.

Mr. Smith said the next batch of Chapter 14 amendments will have the preliminary development plan as optional in all districts.

Commissioner Lopez favored this as the commercial makes it a healthy environment. She remembers growing up near Johnny's Market and the little ice cream store.

Commissioner Lopez moved to recommend approval of the ordinance amending section 14-4.3(l), Commissioner Hughes seconded the motion which passed by unanimous voice vote.

- 2. An ordinance amending Section 14-8.10 SFCC 1987 permitting off site temporary signs for holiday tree vendors. (Councilor Ortiz) (Jeanne Price, case manager)**

Memorandum prepared March 6, 2009 for March 19, 2009 Planning Commission meeting by Jeanne Price, Legislative Liaison, is incorporated herewith to these minutes as Exhibit "6."

Jeanne Price presented the staff report included in Exhibit "6."

Staff requests a recommendation to the Governing Body.

Public Hearing

David Rasch 21 Altura Road, spoke as a private citizen. He believed this would set a precedent to opening the ordinance up to additional signage which he does not support.

The public testimony portion of the public hearing was closed.

Questions and comments from the Commission

Commissioner Bordegaray commented that signage is a huge part of historic preservation's job. She asked if the city's sign code would regulate the number of signs.

Ms. Price said that is important and was not addressed.

Commissioner Bordegaray said from her experience this is hard to regulate and the signs tend to proliferate. This is like letting a genie out of the bottle. She expressed concern with how this would affect the city.

Commissioner Lindell referred to page 2 where it states no more than two freestanding signs. She asked if this would answer Commissioner Bordegaray's question.

Ms. Price said it would be appropriate to add to the bottom of page 2.

Commissioner Lindell agreed and said it is immaterial because the proper amount is zero. She was not clear on the purpose, but the visual clutter of more signs is not appealing in her opinion.

Commissioner Salazar asked if there is city staff that picks up the political signs.

Ms. Price said there is staff that tries and some signs have a charge if not taken down within a certain period of time such as the public notice meeting signs.

Commissioner Lindell recommended section 14-8.10 not be amended to include holiday tree vendors, Commissioner Lopez seconded the motion which passed by majority voice vote of 4 to 1. Commissioner Salazar voted against the motion.

- 3. An ordinance amending Section 14-8.10 SFCC 1987 establishing the purpose of the sign code; establishing requirements for electronic messaging signs; and making such other changes as are necessary. (Jeanne Price, case manager)**

Memorandum prepared March 6, 2009 for March 19, 2009 Planning Commission meeting by Jeanne Price, Legislative Liaison, is incorporated herewith to these minutes as Exhibit "7."

Jeanne Price presented the staff report included in Exhibit "7."

Staff requests a recommendation to the Governing Body.

Public Hearing

There were no members of the public present to speak.

The public testimony portion of the public hearing was closed.

Questions and comments from the Commission

Commissioner Lindell commented that there is nothing wrong in adopting modern sign technology. These signs are extremely expensive and distracting. This does not seem to be a level playing field for local businesses due to the expense. It seems nice not having the modern sign technology when driving. Menaul Blvd. is the example of the lack of a sign ordinance.

Commissioner Bordegaray questioned the sign at the Genoveva Chavez.

Mr. Smith said the advice is that the city is not subject to its own regulations. At all the hearings on that sign they approved it although it was not advised. He said they could limit the frequency of the change. If the sign was in the historic district they might have to follow the rules more closely.

Commissioner Bordegaray commented that some of the schools encountered controversy for putting up these types of signs.

Mr. Smith explained that the schools are not subject to traditional zoning, but may be subject to historic overlay regulations.

Commissioner Hughes referred to section 3 and 5 on page 5, the standard for illumination. He asked what meets this standard or would not be allowed. He was not familiar with this measurement.

Mr. Smith understood it is lumens per square meter. The standards in Albuquerque are the level of 500 nits. The proposal is one half the amounts allowed in Albuquerque.

Commissioner Hughes would have liked examples. He asked if this would be reviewed again with the Chapter 14 work or if there is a rush.

Mr. Smith said they have had many requests for this type of sign. They cannot cite anyone for a violation if they do not have better regulations.

Commissioner Lindell asked how many have been applied for.

Mr. Smith thought about 6 had been permitted. He said Walgreen's and Jiffy Lube are the ones he recalls.

Commissioner Lindell believed these are all national chains, so she did not see anything wrong with keeping the playing field level for local businesses as they would not be able to afford these.

Commissioner Lindell moved to recommend not amending section 14-8.10, Commissioner Lopez seconded the motion.

Mr. Smith understood the intent is to prohibit all reader signs. This would require a different draft because this amendment does not prohibit that type of sign. He said it would be a different regulation to not allow these signs.

Commissioner Lindell clarified that the recommendation is to not allow.

Ms. Price suggested recommending denial and she could come up with a substitute bill to prohibit electronic messaging.

Commissioner Lindell said that would be acceptable.

Chair O'Reilly suggested withdrawing the motion.

Mr. Smith suggested amending the motion to recommend bill be amended to clearly prohibit reader signs then it would not require a separate sponsor. This would then be recommended to the Council as an amendment rather than a separate bill.

The motion failed by majority voice vote of 1 to 4. Commissioner Lindell voted for the motion.

Commissioner Lindell moved to recommend prohibiting electronic message board signs on all signs; Commissioner Hughes seconded approval with the condition that the ordinance be revised to prohibit all electronic messaging signs. The motion passed by unanimous voice vote.

- 4. An ordinance amending Section 14.3-17 SFCC 1987 Appeals regarding appeal procedures for decisions made pursuant to Chapter 14 SFCC 1987, including provisions for standing to appeal, provision of notice for public hearings on appeals, proceedings before a hearing officer and proceedings before the various commissions, boards and the governing body. (Greg Smith, case manager)**

Memorandum prepared March 11, 2009 for March 19, 2009 Planning Commission meeting by Greg Smith, Current Planning Division Director, is incorporated herewith to these minutes as Exhibit "8."

Letter from Santa Fe Neighborhood Law Center, written by Fred Rowe, dated March 3, 2009 is incorporated herewith to these minutes as Exhibit "8(A)."

Greg Smith presented the staff report included in Exhibit "8." He noted that Chris Graeser did the majority of the work on this.

Staff recommends approval of the appeals amendments to Chapter 14 and 26.

Public Hearing

Chris Graeser said one of the main goals was to be fair to all parties and have a level playing field as much as possible. The process is easier to understand and more consistent. The intent was to minimize the potential for abuse to attain other goals. He said they have to provide the material before it goes on up the ladder. The changes introduce the concept of final action. The idea is to make intermediate steps by staff so they have to wait until everyone is done with what they are doing. This eliminates multiple appeals while there is still a process going on that could have resolved the issue. Only someone with a legitimate complaint or significant impact can appeal. There is a mediation procedure early on for communication issues that parties have to comply with. A city staff member will represent the general public interest. In his research, he found that 15 days is a standard appeal period. They have amended the notice procedures for appeals. He said there is a balance in the stay of proceedings provision, the applicant can keep going through other steps up until the irreversible step such as filing the subdivision plat or tearing down a building for example. This introduces a hearing examiner stage prior to the Council hearing. This allows the Governing Body to accept the report and not have much of a public hearing on the appeal. They have modified the communication with Commissioners. There are no off the record discussions. This removes the Board of Appeals and you will go to the Board of Adjustment for the flood plain appeals.

The public testimony portion of the public hearing was closed.

Questions and comments from the Commission

Commissioner Bordegaray asked who would serve as the hearing examiner.

Mr. Graeser said it could be city staff or a private contractor, someone independent. He said the city usually goes out of house on contract. He suggested the fees for appeals come closer to covering the cost of the appeal.

Commissioner Bordegaray asked for comment on incorporating this into the ENN as the Neighborhood Law Center suggested.

Mr. Graeser said appeals are not part of the ENN process.

Mr. Smith added that staff has reviewed the suggestion and the conclusion was that it is worth considering as a revision to the ENN process. The ENN is clearly an opportunity to exchange information, although it does not give the concerned citizens any rights to have their opinions recognized. It simply provides opportunity to exchange positions and does not get to the point of mediation. This does not say that the developer is obligated to respond by changing the project.

Commissioner Bordegaray was concerned as two projects she knows of were short circuited as neighbors changed the design before the Commission even saw the project.

Mr. Smith said the ENN provisions are in Section 14-3 and should be in the next batch of amendments.

Commissioner Lindell asked when they received the letter from Mr. Rowe.

Mr. Smith said this was provided March 3, 2009. Staff discussed the letter and then asked Mr. Rowe if he wanted the letter included with the material.

Commissioner Lindell would have preferred seeing it sooner. She reviewed the issues raised in the letter included in Exhibit "8(A)." She asked if a longer period is required for the appeal.

Mr. Graeser clarified that the period starts when the findings of fact are adopted and recorded in the City Clerk's office. He said this is generally 30 days after the meeting.

Commissioner Lindell suggested putting the time frame under time for appeal in the ordinance. She referred to item 3 on Mr. Rowe's letter regarding the fees for non-profits.

Mr. Graeser pointed out that it seems inconsistent that one individual or an organization would pay nothing or less than someone else.

Commissioner Lindell asked what the fee schedule is.

Mr. Smith stated that currently the appeal fee is \$100. The intent is to increase the fee to represent the cost to the city, but it will not be so high that someone cannot afford to appeal. He noted that there are many hours involved in complicated appeals.

Mr. Graeser said his research found anywhere from \$0-3500 dollars for appeals.

Commissioner Lindell referred to item 2 in Exhibit "8(A)." This was regarding using Rules of Practice rather than Robert's Rules.

Mr. Graeser agreed with this comment although it is not in the scope of current contract. He said that is sensible.

Ms. Brennan agreed as well and noted that she asked Mr. Rowe to forward some examples of rules.

Commissioner Lindell agreed.

Commissioner Bordegaray questioned the timing. She recalled that Historic Design Review Board requires 7 days before the applicant can file for building permit.

Mr. Graeser believes the Historic Design Review Board definition has evolved due to a change in state statute.

Mr. Smith agreed the practice has changed. The Board now does formal findings of fact so those are approved approximately 30 days after the hearing.

Mr. Graeser added that the Supreme Court has driven that.

Commissioner Bordegaray pointed out that is a significant change.

Mr. Graeser added that the findings of fact can be approved at the same meeting and it does not have to wait until they are drafted, although it is tricky to try to do that.

Commissioner Bordegaray felt this may be added pressure for staff.

Mr. Graeser pointed out that the applicant can move forward as the appeal is pending.

Chair O'Reilly referred to page 10 of the ordinance, line 8. He asked why this is specific on demolition of structures.

Mr. Graeser explained that the current code has demolition in one place and approvals in another place, so they are tracking existing language. This may change with historic code rewrite.

Chair O'Reilly referred to page 11, line 10-11. He thought where it states approval of plat is the final action that they should add preliminary development plan.

Mr. Graeser agreed, but said if they do away with preliminary plans that it may go away.

Chair O'Reilly referred to page the bottom of page 12 and top of 13. He asked if it is necessary to say any party and any other party.

Mr. Graeser suggested capitalizing party as they are party to the appeal which is defined.

Chair O'Reilly appreciated this work. He questioned what keeps someone from appealing every single approval of every single part of a project in an effort to halt it.

Mr. Graeser explained that the appeal has to contain certain specific information including the way the decision deviates from city code and other laws. The land use

director can deny the appeal. He said this was the best balance given the constraints of the law. He said this could happen.

Chair O'Reilly thought this will depend upon who the land use administrator is. He does not want to keep people from making appeals, but does not want frivolous ones. He asked if the Neighborhood Law Center has some new rules that would be drafted.

Ms. Brennan did not want a reference to another book, but rules for this process that are fairly simple.

Chair O'Reilly cautioned that this Commission is not a court of law and he does not want to be running a legal proceeding. He said nobody on the Commission is an attorney. He was concerned with making legal errors. He hoped these rules take into account the nature of how meetings are run. He did not mind tightening up a bit.

Ms. Brennan agreed and said this was emphasized in discussions with Mr. Rowe.

Chair O'Reilly would like the rules to emanate from the city as opposed to a developer or someone else. He asked for an explanation of a cross appeal.

Mr. Graeser explained that if a developer and neighborhood are both unhappy then they can both appeal. The appeals are heard in the same hearing.

Mr. Smith noted that the current draft does not address the discussion where they decided not to restrict communication between the Commission or the Governing Body with staff.

Mr. Graeser agreed and said he had not made that change yet, but would.

Commissioner Bordegaray moved to recommend approval of the appeals amendments included in Section 14.3-17, Commissioner Salazar seconded the motion.

Mr. Smith clarified that this includes the amendment to the staff communication.

Commissioner Bordegaray agreed to include this.

Commissioner Lindell made a friendly amendment to consider the rules of practice and procedure as opposed to Robert's Rules. Commissioner Bordegaray accepted that as well.

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

G. STUDY SESSION

- 1. Chapter 14 Rewrite Amendments to Sections 14-1, 14-2, 14-3, 14-4, 14-6, 14-7, 14-9, 14-10, 14-12 SFCC 1987. Study and provide policy direction to staff and to the rewrite consultant team concerning the content of the amendments, and provide direction regarding scheduling of public hearings on the proposed amendments. (Greg Smith, case manager)**

Memorandum prepared March 10, 2009 for March 19, 2009 Planning Commission meeting by Christopher Graeser, Esq., Consultant, is incorporated herewith to these minutes as Exhibit "9."

Timetable for Chapter 14 Update Amendments is incorporated herewith to these minutes as Exhibit "9(A)."

Mr. Smith understands this is a daunting amount of information to digest. He originally thought there would be fewer items on the agenda. He would like feedback on how much the Commission can digest as a study session. He said they intended to get policy decision with a formal draft later. He needs to have a schedule to give to the Council on when they will see this. He referred to Exhibit "9(A)."

Chair O'Reilly said it is good that they have the information when they do not need to take action. He asked if it would be good to submit comments by email rather than review by the committee as a whole.

Mr. Smith anticipated making policy decisions and then going to more detail.

Commissioner Bordegaray said she would like an overview of the process. In her opinion it sounds like they need a subcommittee to look at this.

Chair O'Reilly pointed out that the first few pages are a summary of what has been done.

Commissioner Bordegaray wanted an overview of the entire sphere and what they are trying to achieve in what timeframe.

Mr. Smith explained that they are trying to get through a rewrite. This does not include a great deal of innovative, form based code type changes.

Commissioner Hughes requested that the draft define pervious surface since impervious is defined. He noted that the mixed use zoning definition seems to have a social purpose that is not in other zoning types. Transit zoning should be put in place as well as overlay zoning as discussed for St. Michael's Drive. He is not sure if that has to be stated implicitly or if the city has the right. He observed the General Plan was revised in 1998 and he thought the intent of this update was to reflect the General Plan rewrite.

Mr. Smith said there is language that is being worked on regarding transit district zoning although it is not within the scope of this contract so that is on the way.

Commissioner Hughes commented that he does not want Las Soleras driving the whole thing.

Mr. Smith said the General Plan comment is well taken. There are much wider and deeper modifications that need to be made but some of those are not within the scope of the resources allocated. All the bases cannot be covered within this contract.

Chair O'Reilly asked how much of the revisions represent policy changes and how much is error correction.

Mr. Smith said the policy issues were on the memo.

Chair O'Reilly wanted a percentage.

Mr. Graeser estimated 70% is cleaning up the inconsistencies.

Chair O'Reilly said it seems the term master plan and development plan are thrown around in the code and he would like to choose one of those terms. He saw that this is recommending the BCD go away as the Railyard has been built. He liked the idea of getting rid of it because there was always the potential for review loops, although he was confused as to why they need a BOA.

Mr. Graeser was well aware of the issues and the confusion. He hopes to give something that addresses this to the best of his ability. He said they entertained the idea of getting rid of the BOA, but the working group wanted to keep it. He said they can go in a different direction.

Chair O'Reilly did not see a good reason to keep the BOA. In his opinion, the more Boards, the more staff time and cost.

Mr. Graeser commented that the BOA hears a range of issues and it would appear for the building code issues there might need to be a board.

Mr. Smith pointed out that roles are not distinguished as they were when the Boards were created back in the 1950's. There might be an administrative review, Planning Commission and Governing Body review levels. The direction was for sequential review rather than parallel review. There was citizen opposition to streamlining the process. The BOA has not had the number of cases that it used to. The BCD is very cyclical.

There was discussion regarding the timetable included in Exhibit "9(A)." There was agreement that this would work, although the Commission wanted the material as soon as possible so they had weeks to review prior to the discussion and hearing.

Mr. Graeser thanked his team of 5-6 colleagues working on this.

H. BUSINESS FROM THE FLOOR

Mr. Smith was asked to forward a request from Mr. Siebert for an informational session and a field trip to the Beaver Toyota site on May 9th. In the process of being annexed, they do not want the property owners to feel like they have fallen into a black hole, but this is not consistent with the practice in the past.

Chair O'Reilly said in the past the Commission has stated they are not happy with starting off with a site visit. He said five Commissioners have had experience with the case when it got referred to this Commission from the Extraterritorial Land Use Commission.

Commissioner Hughes said he raised the possibility of doing a site visit, but would prefer the staff report prior to making a field trip.

Ms. Brennan said they can direct staff to respond to this.

Chair O'Reilly directed staff that the Commission would like a packet after staff analysis has been completed and then the site visit will be considered.

Mr. Smith reported that there is also a submittal presented regarding the Northwest Quadrant from the Tano Road Association. They have requested their information be distributed. He asked the Commission if they want to receive this prior to the staff report, although it will be included again with the packet. He has the information with him if they would like it.

Chair O'Reilly stated that it is standard to place this in the packet. He did not want to set a precedent that they start getting early information randomly.

Ms. Brennan explained that everyone needs to have it and then it would need to be an exhibit to the minutes or nobody should have it. She added that they should not discuss it until they get the packet.

After brief discussion, Chair O'Reilly said they would not distribute the information at this meeting so they get everything at the same time.

Tom Egart, Candlelight Neighborhood, said he is representing a group that has spent hours studying best business practices for form and function based oriented development. They are concerned that Chapter 14 does not accommodate any transit conditions at all. They feel this is important and they want to be engaged and part of the process.

Chair O'Reilly asked if he is suggesting they not approve the proposed changes until staff and the Commission works with his group.

Mr. Egart explained that they would like to work with the staff reviewing best practices that could be implemented in developments going forward. Under the current practices, there is so much opportunity lost.

Commissioner Hughes said they have heard that there is a limited budget to work on that. At the long range planning subcommittee, this group could offer some language that would be appropriate. He invited Mr. Egart to contact staff and come to one of their meetings.

Chair O'Reilly added that the contract that the city has to repair Chapter 14 does not include that in the scope. He wanted everyone to be aware that as the repairs come forward those will not be addressed, but that is not to say that they cannot address them separately as the long range subcommittee.

Commissioner Hughes asked Mr. Egart to contact Reed Liming or Richard Macpherson in Long Range Planning to put this on the agenda.

I. STAFF COMMUNICATIONS

Mr. Smith reminded the Commissioners of the training March 27th. He said those responding have been registered and paid for.

J. MATTERS FROM THE COMMISSION

Commissioner Bordegaray noted that Las Soleras in the approval picked up a 20 acre park. She asked how that happened and where it would be.

Ms. Brennan said it was part of the Council hearing.

Mr. Smith noted that the Council delegated to the Planning Commission the decision as to where the boundaries of the park will be.

Commissioner Lindell asked if the Northwest Quadrant will have a pro forma.

Ms. Brennan agreed to ask for that.

K. ADJOURNMENT

There being no further matters to come before the Commission, and the Commission having completed its agenda, this meeting was adjourned at approximately 10:00 p.m.

Approved by:

Chair Matthew O'Reilly

Submitted by:



Denise Cox, Stenographer