



# Agenda

CITY CLERK'S OFFICE

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**PLANNING COMMISSION**  
*August 20, 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: July 2, 2009, July 16, 2009, July 23, 2009 Field Trip

**FINDINGS/CONCLUSIONS**

- Case #M 2009-05. Northwest Quadrant General Plan Amendment.
- Case #ZA 2009-02. Northwest Quadrant Rezoning.
- Case #M 2009-06. Northwest Quadrant Escarpment Variance.
- Case #M 2009-08. Northwest Quadrant Terrain Management Variance.
- Case #M 2009-11. Vista Bonitas Phase II General Plan Amendment.
- Case #ZA 2009-03. Vista Bonitas Phase II Rezoning.

**E. OLD BUSINESS**

1. **Chapter 14 Update, Bill No. \_\_\_\_\_.** Public hearing to consider recommending approval of an ordinance amending the following sections of the Land Development Code Chapter 14 SFCC 1987: Section 14-1, General Provisions; 14-2, Review and Decision-Making Bodies; 14-4, Zoning Districts; 14-10, Nonconformities; 14-11, Enforcement; and 14-12, Definitions. The Planning Commission has established a Sub-Committee to study the proposed amendments and report back to the full Commission. (Greg Smith, case manager) **(POSTPONED FROM APRIL 16, 2009 AND JUNE 18, 2009) (TO BE POSTPONED IDEFINITELY)**
2. **Case #S 2009-02. Mirasol Preliminary Subdivision Plat.** JenkinsGavin Design and Development, Inc., agent for McDowell Construction, requests preliminary subdivision plat approval for 13 lots on 22.83 acres. The property is located on the east side of Old Santa Fe Trail north of Zia Road and is zoned R-1 (Residential, 1 dwelling unit per acre). (Donna Wynant, case manager) **(POSTPONED FROM JULY 2, 2009)**

**F. NEW BUSINESS**

1. **Case #M 2009-13. First Mesa Preliminary Subdivision Plat Time Extension.** James W. Siebert agent for First Mesa LLC, requests time extension for preliminary subdivision plat for 20 lots on 2.88± acres. The property is zoned RM-LD/PUD (Multiple Family Residential, Planned Unit Development) and is located to the south of Cerrillos Road, west of Kachina Ridge Phase II, and north of the Arroyo de los Chamisos. (Donna Wynant, 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 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.**

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<b><u>INDEX</u></b>	<b><u>ACTION TAKEN</u></b>	<b><u>PAGE(S)</u></b>
Cover Sheet		1
Call to Order	Chair O'Reilly called the meeting to order at 6:05 pm	2
Roll Call	Roll call declared a quorum, one excused absence.	2
<p><b>Approval of minutes and Finding/Conclusions</b></p> <p>July 2, 2009 July 16, 2009 July 23, 2009 (Field Trip)</p> <p><b><u>Findings and Conclusions:</u></b> <b><u>Case #M 2009-05.</u></b> Northwest Quadrant General Plan Amendment <b><u>Case #ZA 2009-02.</u></b> Northwest Quadrant Rezoning. <b><u>Case #M 2009-06.</u></b> Northwest Quadrant Escarpment Variance. <b><u>Case #M 2009-08.</u></b> Northwest Quadrant Terrain Management Variance.</p> <p><b><u>Case #M 2009-11.</u></b> Vista Bonitas Phase II General Plan Amendment. <b><u>Case #ZA 2009-03.</u></b> Vista Bonitas Phase II Rezoning.</p>	<p><b><i>Commissioner Hughes made the motion to defer approval of minutes to allow for typographical and grammatical corrections, second by Commissioner Salazar, motion carried by unanimous voice vote.</i></b></p> <p><b><i>Commissioner Hughes made the motion to approve the four Northwest Quadrant Findings of Fact and Conclusions of Law, second by Commissioner Lindell, motion carried by unanimous voice vote.</i></b></p> <p><b><i>Commissioner Salazar made the motion to approve the Vista Bonitas Phase II Findings of Fact and Conclusions of Law, second by Commissioner Montes, motion carried by unanimous voice vote.</i></b></p>	
Approval of the Agenda	<b><i>Without objection, the Agenda is approved as Amended.</i></b>	2
<p>Old Business</p> <p>1. <b>Chapter 14 Update, Bill No. _____.</b> Public hearing to consider recommending approval of an ordinance amending the following sections of the Land Development Code Chapter 14 SFCC 1987; Section 14-1, General Provisions; 14-2, Review and Decision Making Bodies; 14-4, Zoning Districts; 14-</p>	Ms. Barer informed the commission that the sub-committee is considering all the changes before they bring them to the full committee and that work is still in process. The chair will add comments to the update on Chapter 14 under Matters from the Commission.	2-12

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<p>10, Nonconformities, 14-11, Enforcement; and 14-12, Definitions. The Planning Commission has established a Sub-Committee to study the proposed amendments and report back to the full Commission. (Greg Smith, case manager) <b>(Postponed from April 16, 2009 and June 18, 2009) (To be postponed indefinitely).</b></p> <p>2. <b>#S2009-02 - Mirasol Preliminary Subdivision Plat.</b> JenksGavin Design and Development Inc., agent for McDowell Construction, requests preliminary subdivision plat approval for 13 lots on 22.83 acres. The property is located on the east side of Old Santa Fe Trail north of Zia Road and is zoned R-1 (Residential, 1 dwelling unit per acre). (Donna Wynant, Case Manager) <b>(Postponed from July 2, 2009)</b></p>	<p><i>Commissioner Lindell made the motion for approval of Case S2009-02 with staff recommendations and conditions, in addition incorporating the document from Mr. McDowell knowing that it does have a correction, and making them part of the plat, with the correction on affordable housing, add in the reconfiguring the road to the lot, in addition to eliminating the split entrance, and in addition to a diligent effort to a trail head. The corrections and restrictions are to be made part of the plat. It is noted that lot 12 stays as proposed by the applicant. Second by Commissioner Hughes, motion carried by unanimous voice vote.</i></p>	
<p><b><u>New Business</u></b></p> <p><b>Case #M 2009-13 First Mesa Preliminary Subdivision Plat Time Extension.</b> James W. Siebert agent for First Mesa LLC, requests time extension for preliminary subdivision plat for 20 lots on 2.88 ± acres. The property is zoned RM-LD/PUD (Multiple Family Residential, Planned Unit Development) and is located to the south of Cerrillos Road, west of Kachina Ridge</p>	<p><i>Commissioner Salazar made the motion to allow an extension of Case #M2009-13 for another year, second by Commissioner Montes, motion carried by unanimous voice vote.</i></p>	<p>13-14</p>
<p><b><u>Business from the Floor</u></b></p>	<p><i>None</i></p>	<p>14</p>
<p><b><u>Staff Communications</u></b></p>	<p><i>Informational, no action needed.</i></p>	<p>14-15</p>
<p><b><u>Matters from the Commission</u></b></p>	<p><i>Commissioner Lindell made the motion to nominate Matthew O'Reilly to serve as</i></p>	<p>15-16-17</p>

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	<p><b><i>chair for another year stating that there is an amount of time it take to get entrenched in this commission, and the amount of time it takes to meet with the city and that Chair O'Reilly has done an exceptional job this year, second by Commissioner Armijo, motion carried by unanimous voice vote.</i></b></p> <p><b><i>Commissioner Montes made a motion to institute a 2-year term for the Chair and all elected officers of the commission, second by Commissioner Hughes.</i></b></p> <p><b><u><i>Commissioner Montes withdrew his motion after discussion.</i></u></b></p> <p><b><i>Election of Vice Chair:</i></b></p> <p><b><i>Commissioner Hughes made the motion to nominate Commissioner Salazar as Vice Chair for the Planning Commission, second by Mr. Armijo, motion carried by unanimous voice vote.</i></b></p> <p><b><i>Commissioner Hughes made the motion to nominate Commissioner Bordegaray as Secretary for the Planning Commission, second by Commissioner Lindell, motion carried by unanimous voice vote.</i></b></p> <p><b><i>Commissioner Armijo made the motion to nominate John Salazar as Chair of the Summary Committee, second by Ms. Vigil, motion carried by unanimous voice vote.</i></b></p> <p><b><i>Commissioner Lindell will remain as the Secretary of the Summary Committee.</i></b></p>	
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	<i>Commissioner Vigil will become a member of the Summary Committee and Commissioner Armijo will move to the ELUC subcommittee.</i>	
<b><u>Long Range Planning Committee</u></b>	Presently Commissioner Hughes, Commissioner Bordegaray and Chair O'Reilly serve on the Long Range Planning Sub-committee. No volunteers came forward.	17
<b><u>Update on Chapter 14</u></b>	<i>In formational</i>	
<b><u>Adjournment</u></b>	<i>There being no further business to come before the Planning Commission the meeting adjourned at 8:10 pm</i>	18
<b><u>Signature Page</u></b>		18

CITY OF SANTA FE

# PLANNING COMMISSION

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## MEETING MINUTES



Fran Lucero

8/20/2009

DRAFT UNTIL APPROVED

**Planning Commission Meeting**  
**August 20, 2009**  
**City Council Chambers**

Regular meeting of the City of Santa Fe Planning Commission was called to order by Chair Matthew O'Reilly at 6:00 pm.

**A. Roll Call**

Present:

Matthew O'Reilly, Chair  
John Salazar, Vice Chair  
Dolores Vigil  
Angela Schackel Bordegaray  
Signe Lindell  
Ken Hughes  
Bonifacio Armijo

Absent:

Estevan Gonzales  
Reuben Montes, Excused

Staff Present

Kelley Brennan  
Tamara Baer  
Donna Wynant  
Wendy Blackwell

Others Present:

Fran Lucero, Stenographer

**B. Pledge of Allegiance**

The Pledge of Allegiance was led by Vice Chair, John Salazar.

**C. Approval of Agenda**

No changes from staff on Agenda.

The Chair announced that the commission would be considering elections for the Chair, Vice Chair and Secretary Position's under Matters from the Commission.

**Agenda was approved as amended.**

**D. Approval of minutes and Finding/Conclusions**

July 2, 2009

July 16, 2009

July 23, 2009 (Field Trip)



*Commissioner Hughes made the motion to defer approval of minutes to allow for typographical and grammatical corrections, second by Commissioner Salazar, motion carried by unanimous voice vote.*

**Findings and Conclusions:**

**Case #M 2009-05.** Northwest Quadrant General Plan Amendment  
**Case #ZA 2009-02.** Northwest Quadrant Rezoning.  
**Case #M 2009-06.** Northwest Quadrant Escarpment Variance.  
**Case #M 2009-08.** Northwest Quadrant Terrain Management Variance.

*Commissioner Hughes made the motion to approve the four Northwest Quadrant Findings of Fact and Conclusions of Law, second by Commissioner Lindell, motion carried by unanimous voice vote.*

**Case #M 2009-11.** Vista Bonitas Phase II General Plan Amendment.  
**Case #ZA 2009-03.** Vista Bonitas Phase II Rezoning.

*Commissioner Salazar made the motion to approve the Vista Bonitas Phase II Findings of Fact and Conclusions of Law, second by Commissioner Montes, motion carried by unanimous voice vote.*

**E. Old Business**

- 1. Chapter 14 Update, Bill No. \_\_\_\_\_.** Public hearing to consider recommending approval of an ordinance amending the following sections of the Land Development Code Chapter 14 SFCC 1987; Section 14-1, General Provisions; 14-2, Review and Decision Making Bodies; 14-4, Zoning Districts; 14-10, Nonconformities, 14-11, Enforcement; and 14-12, Definitions. The Planning Commission has established a Sub-Committee to study the proposed amendments and report back to the full Commission. (Greg Smith, case manager) **(Postponed from April 16, 2009 and June 18, 2009) (To be postponed indefinitely).**

Ms. Baer informed the commission that the sub-committee is considering all the changes before they bring them to the full committee and that work is still in process. The chair will add comments to the update on Chapter 14 under Matters from the Commission.

- 2. #S2009-02 - Mirasol Preliminary Subdivision Plat.** JenksGavin Design and Development Inc., agent for McDowell Construction, requests preliminary subdivision plat approval for 13 lots on 22.83 acres. The property is located on the east side of Old Santa Fe Trail north of Zia Road and is zoned R-1 (Residential, 1 dwelling unit per acre). (Donna Wynant, Case Manager) **(Postponed from July 2, 2009)**

Ms. Baer stated that this case had been originally heard by the Planning Commission at the meeting of July 2, 2009. Field trip was done on the 23<sup>rd</sup> of July and minutes were included in the packet for review. At that field trip, Commissioner Armijo asked the applicant to provide some graphic material and the applicant does have that information for this evening. (All of the drawings from the initial application as well as the packet from the July 23<sup>rd</sup> site visit were presented to the commission).

The general plan land use map was referred to showing the existing zoning is R1 and staff recommended approval and finds that it is in compliance with general plan and Chapter 14.

The Chair asked the commission if they needed any points clarified with staff before allowing the applicant to present. There being none, the meeting proceeded with the applicant presentation and the public hearing.

### **Applicant**

Colleen Gavin, (Jennifer Jenkins, distributed documents indicating the commitments made from the last meeting). 130 Grant Avenue, Santa Fe, NM

Ms. Jenkins passed out a list of commitments made by McDowell Construction. Ms. Gavin asked that these commitments be documented and recorded as part of the approval. It was reiterated that Mr. McDowell is very committed to the quality of this development and has gone to extensive lengths to make sure that they are providing a sensitive development and satisfying the concerns that were brought forth from the last meeting. (Exhibit A) Ms. Gavin proceeded to read the conditions of approval for Mirasol.

Ms. Gavin expressed her thanks to Steven Post for putting these items in writing. Mr. McDowell has worked very close with Mr. Post and other members of the neighborhood.

Ms. Gavin presented a recap stating that Mirasol is a subdivision that has been designed and conceived with care. They are coming in compliant with all code requirements and they are not asking for any variances. They are meeting the intent and requirements of the escarpment overlay district and have worked diligently, gone above and beyond for devices in screening of roadways and proposed screening for built structures to meet that intent. They have voluntarily provided for 46% of their property for open space, almost 50% of their property. They are also providing trail easements so there is public access to that open space and to the existing open space to the east. They are allowed under code density for 19 lots and voluntarily they have reduced by a third to 13 lots; Mr. McDowell feels this is the appropriate for the property. They want to reiterate that they have taken the time and care to work as sensitively with this property and thank Mr. McDowell for being open to this process.

*Colleen Gavin was sworn in and confirmed that testimony presented above is the truth.*

Ms. Gavin stated that at the request of the commission the applicant was asked to provide a city photograph with digitized elevations showing the exact points of the building envelopes showing a visualization of what the subdivision will look like at build out. (Exhibit B)

Photo 1 was provided by city staff taken at Arroyo Chamiso Road towards the Mirasol subdivision.

Photo 2 shows where they have digitally inserted the elevations of the additional homes that are being proposed on this lot. It was explained that it is a true eye view, not enlarged or zoomed in. She said that it is extremely difficult to see anything at the base of Sun Mountain.

**Sworn in to Testify: Jennifer Jenkins, 130 Grant Avenue, Santa Fe, NM**

Jennifer showed a view of the photograph zoomed in at 250%, you can see some parapets and she indicated where. The property to the south is the Lawrence residence. She showed the lots looking east from the Arroyo Chamiso Rd. Fire Department. It was reiterated that the photos being used were provided by the city staff.

Ms. Gavin confirmed that no one else from the applicant's team would testify at this time.

***Public Testimony Swearing in as a Group:***

**Jennie Parks, 1315 Escalante Street, Santa Fe, New Mexico**

Introduced herself as the State Director of the Trust for Public Land. She stated that she was at the meeting of July 2<sup>nd</sup> and watched over 50 people opposing the Mirasol subdivision. She said that the Commission had listened very intently and she had left the meeting feeling grateful for living in a democracy and expressed her thanks to listening to the community. She said that she was not at the meeting to oppose the plan, but rather to tell a story about the community. It is a story as planners and architects she felt that they would find fascinating and appreciate. In late April she was approached by a group of people that were concerned about the fact that a portion of Sun Mountain was going to be developed. She works for a land conservation organization that has been in New Mexico for 25 years. They asked her to get involved to help buy the property and she met with Mr. McDowell in early May regarding this request. Mr. McDowell was very amenable from the beginning as this is his community as well, to see if there was a solution that would work for everyone. In the last several months, the Trust for Public Lands, the Save Sun Mountain Coalition and Mr. McDowell have been redefining how community can work together. She continued; how people with different ideas can talk and listen to find a solution. She has great respect and admiration for Doug and Peggy McDowell and for the Save Sun Mountain group. They have all worked together with dignity, respect, maturity and integrity. She also admires the Watson family and respects that they have different opinions on this piece of land. In her role she was able to negotiate a contact

with Mr. McDowell whereby for \$3.2 million dollars the Trust for Public Land could acquire the 23 acre property once Mr. McDowell would acquire it from the Watsons. Now they are at a point where over \$2.6 million dollars has been raised. Again, she was very skeptical and couldn't believe that this would happen; 100 people have given from \$1 to \$1 million dollars and collected over 3000 signature on a petition. Mr. McDowell has given them an extension, free of charge. They were supposed to have until August 17<sup>th</sup> to raise the money; they now have until September 30<sup>th</sup> and need to raise the \$600,000 in about 40 days. One of the gifts, the \$1.4 million anonymous gift is not an outright gift, there has been some misconception. They would need to involve private ownership in part of the land, and the land they are talking about is that which is nearest the Old Santa Fe Trail, includes the Watson house and goes below the Watson house. The donor felt like it could not give an outright \$1.4 million dollar gift but they would be willing to basically strip the development rights off, retain one or two house lots, nothing that would be built to the east or south of the existing Watson home. In this scenario the trails on this property would be dedicated to the public and the remaining land would be donated to the city. The Save Sun Mountain group has already talked about forming a volunteer group that would manage these trails and the city land. As part of this deal with Mr. McDowell there is a provision in this contract that allows him to go forward with his development plans while they raise the money for the property. They are hopeful that they can raise the remaining funds so their beloved Sun Mountain is never developed or if developed that it is greatly curtailed. She is very pleased to be a part of this effort. Another note is that the lots that are most important for protection are the highest lots which are 9, 11, 12, and 13. She is hopeful that if they are not able to raise the \$600,000 that Mr. McDowell will reduce the heights of these lots and use the money to work with the site.

**Jeff Lawrence, 2019 N Spur Road, SFNM**

Stated that he is impressed with Doug and his team, they seem to be bending over backwards to make this work. One impression he has had, for future as well as for consideration tonight is that although the city has GIS experts on staff and are acting responsibly and not asking designers to do GIS functions; the picture looks very inaccurate to him. He feels that for Land Use to direct someone who is not an expert in the field to perform a GIS function is pretty irresponsible. He urged the commission to keep this in mind.

**Barbara Chatterjee, 228 Alta Vista, SFNM – (Exhibit C)**

Her comments are detailed in Exhibit C.

**Debra Post, 3920 Old Santa Fe Trail, Santa Fe, New Mexico**

*(Petitions presented and part of the meeting records).* She stated that they will no longer be collecting signatures. She expressed her thanks to the McDowell's for being so cooperative and for hearing what the community is saying.

**Celia Ludy, 944 Old Ridge Court, across from Mirasol Development**

She said that she too was impressed by this whole process. She said that it is not usual for people who support or don't care about any kind of project to say "this is ok with us", or people who care to get energized. She supports this development as proposed and has said this before. She thinks this is a development that is beautifully conceived and it will be a beautifully executed development if done. She feels that this is the type of development that should be looked at in Santa Fe, not only on the east side. It is also inevitable that development will happen on the foot of Sun Mountain. The Watson property is not the only privately owned piece of property there. She hopes that whatever is built there, one or two houses, or thirteen is as thoughtfully conceived as this one has been.

*The Chair asked if there was anyone else who would like to testify on this project. There being no further testimony the applicant was allowed to respond.*

**Applicant Response:**

Ms. Gavin wanted to close and state that according to the agreement that is in place, the neighborhood group has the right to proceed with the fund raising for \$3.4 million dollars. The approval tonight will not affect that process, therefore she asked for approval of the Mirasol Subdivision.

**The chair asked if there was any rebuttal from the audience.**

**Doug McDowell, 1312 Cerro Gordo, Santa Fe, New Mexico (sworn in)**

Mr. McDowell wanted to clarify that the price did not go up to \$3.4 million dollars from \$3.2; Ms. Gavin had said \$3.4 million.

***Public Testimony Closed***

Commissioner Hughes stated that the applicant presented a plan and asks for approval to build and the audience asks for approval not to build and it is hard to put the two together because what is being asked for is approval to build. He asked if Kelly or Tamara wanted to comment. Approving this with the potential of the purchase he asked if legally the development has the right to proceed if this fund raising doesn't affect it.

Ms. Brennan responded that as it stands there is an agreement between the private parties regarding the application before the commission. The application before the commission should be approached and decided on the facts that have been heard through testimony and the presentations by various parties and staff and what was observed at the site as applies to the ordinance.

Commissioner Bordegaray asked a question regarding the two views, struggling with the vantage points at Arroyo Chamiso Road. She asked where they were standing when the picture was taken. (Standing in the median of the fire station).

Ms. Baer added that this was the 2<sup>nd</sup> stop on the field trip and explained that staff only considered places that the commission had visited and most of the commissioners were able to see this view on the field trip.

Commissioner Bordegaray's second question regarding the statement made by Ms. Parks in terms of an alternative; the desire of the neighbors or residents in the area to, if the deal goes through, if there would be room for negotiating to protect lot 9, 11, 12 and 13. Given that lot 12 would scar the land if it was moved down, her question was that the money would be used to work with the site. She asked what does this mean. Is the reference to build fewer homes, would the homes be bigger, would they not be the same standards of what is being proposed, what is the speculation for the alternatives to the development should the deal go through?

Ms. Parks responded that related to that specific scenario of not raising the 3.2 million has not been discussed with Mr. McDowell. They are a land conservation organization and her hope is that they have come so far raising 81% of the funds, that if there is a way to work out a deal and Mr. McDowell has indicated that he is open to that whereby there could be some lesser development scenario that would still create some type of conservation solution, but no details of that scenario have been discussed. It was reiterated that he is under no legal obligation to do that. If they are successful to raise the 3.2 million along with the 1.4 million conditional gift right now; the part that would become private is the part from Old Santa Fe Trail up to the Watson house, there would be no houses built either south or east of the Watson house. That would be the part to dedicated to the city, and the conditional donor would be willing to dedicate trails through the private property.

Commissioner Hughes asked Ms. Parks if they would use the existing road or build another.

Ms. Parks responded that she wasn't sure; they have not gotten that far in their conversations.

Commissioner Bordegaray said that she saw that there is a proposal for a subdivision for the lot to the north and one of the members of the audience brought up there is other developable land in that area? She believes it is the Wirth property and asked for a status of that proposal.

Ms. Baer responded that the Wirth applicant asked to postpone that until October. As a point of clarification they are not proposing to do any construction on that property. The proposal that has been received is to allow the son of Mrs. Wirth, who already lives on the second house to own the house outright.

Commissioner Bordegaray asked if this was postponed due to this development proposal.

Ms. Baer responded that it might have but she could not speak for them.

Commissioner Lindell directed a question to the applicant or their representative. She inquired about the paper that was given to them tonight wherein item #8 says that the size of the proposed residence on all lots with the exception of the affordable lots will not be more than 4,000 sq. ft., which is awesome, that the affordable are going to be 4,000 sq. ft. Mr. McDowell said thank you, and stated that the sentence to be changed to “less than” 4,000 sq. ft.

Commissioner Lindell inquired about Lot #12 and the alternate site and the statement that it would scar the mountain side more than the original proposed site. It is clear enough that it would be built up and scarred there and also if the houses moved to the alternative site that it would have a 20' height on it. She asked if there was another way to go about this with the alternative site other than an unsightly build up for the hammer head.

McDowell responded that he wished there was, but there isn't. There are fire regulations they have to meet, there are slopes and grading issues that need to be met to put the road in, there is a road width that needs to be maintained to that site. He digressed for a moment; when they first planned the subdivision they discussed having a loop road and there were three more lots that road actually looped at what was lot #14 and is now lot #12, the road kept going around and looping. When Mr. McDowell and his wife walked the site after the neighborhood meeting they noted that from that point forward even with grading and drainage and terrain management guidelines that the scarring, they knew that it was going to be visible. They took it out and felt that up to lot 12 and 14 they could put in where road could not be seen. Now he is being asked to put the road back when they felt was very visible plus dropping a driveway that would drop directly down the hill from the hammer head to the house. This kind of driveway, in his experience; when you start dropping down from a high area on a slope to a house, those tan or grey cuts really become visible from far away. There may be things to mitigate the extent of the damage, but he can guarantee that it will be seen, and it will be seen from all over town. The issue is not that he wants to build a house up higher; the issue is that he doesn't want to scar the land. He doesn't want to take out another 195 trees and cut the roadway and drop the driveway into the house. For that reason when they asked to maintain lot 12 they restricted the height of the house to 14'.

Commissioner Lindell asked Mr. McDowell if he genuinely felt that the alternative site of lot 12 would be much more visible than the proposed site.

Mr. McDowell responded that taking the roadway into account in addition to the height of the house that could be built there that he felt strongly that if this subdivision moves forward, he would be tempted to appeal a decision to move it. He feels it would be a tragedy to the land to cut the road in.

Ms. Jenkins proceeded to explain the slope line from the drawing.

Commissioner Lindell commented that it is pleasing to see a process be so civilized. Her wish for Mr. McDowell, the neighbors and the community that the \$3.2 million could be raised, that would make everyone quite happy. She also thanked everyone for how civil

this process has been. The commission and the city have put a lot of time into it and she is very pleased of how it has progressed. Thank you.

Commissioner Vigil asked a question of the application. She said that walking the site was a wonderful idea. She said that as she was walking she saw a lot of trails that have been used for quite sometime and she recognized the petition that is against the development. She said that she believes it might be because they want to continue to use those trails. She sees on the conservation plan that you are proposing to put in that conservation easement to use those trails.

McDowell stated that some of the neighbors brought up the fact that the north-south trails are not being maintained. He said that they are allowing the public to come up the roadway and across north to south and enter in an area that will be designated as an access. Although some of the trails may not be there in their state now, it has been brought to his attention in the last few weeks that they weren't used that much, this was the reason for leaving the roadway open.

Commissioner Vigil said that she would like to see in the form of a suggestion adding a commitment to putting in a trail head for cars, so others who don't live around there could use the trails also.

Mr. McDowell said that he would consider the trail parking but he would strongly like to get the feedback from the neighbors. Different people would have different ideas for and against. He thinks it is a great idea, but he would want to hear from the neighbors before he put it in writing.

Commissioner Montes didn't have questions, more so comments and observations. He felt compelled tonight to communicate the following. He commended the community for the harmony that has been displayed in this process. They have been very complimentary to the developer. He said that in going through the notes from the July 2<sup>nd</sup> meeting and all the comments from those who testified, almost every other one talk about the land being sacred at Sun Mountain. He said that something that has stuck with him since the meeting of July 2<sup>nd</sup> was the comment that Ms. Ludi made, "I think you should approve his application, I have lived here all my life, and I think all the land here is sacred land not just Sun Mountain". He agrees with what she is saying and is fond of where he lives on the south side. He said they are really going down a slippery slope when they classify certain areas sacred, or not sacred; he said he did not want to get into a sacred designation. Convey to the audience; acknowledge we live in a sacred county, state or part of the world that really concerns me.

Commissioner Lindell commented about the trail head. She said it is astounding about the amount of money that has been raised but that it didn't just come from just a 1 mile radius. She encouraged the neighbors to try and make this accessible to more than the neighbors who live on the site. She encouraged the neighbors to show their generosity and spirit by allowing Mr. McDowell to pursue a trail head on this site. It has been done before not too far from this site. She suspects that the trails on this site are probably



trespassing trails that are across private property and people have used them forever. She said they are going to have their trails with this conservation easement and if they had a trailhead it would be very meaningful. She encouraged the neighborhood, to please support this. It seems like the right thing to do, thank you.

*The Chair proceeded with his questions.*

He directed the question to either Charlie Gonzales or Wendy Blackwell.

On lots, 9, 11, 12, 13 there is quite a bit of buildable area, what will happen when those houses come in for building permits? They are in the escarpment overlay district and they would be in the foothills district. Is it a policy of staff to make an applicant put those houses low on the property in terms of elevation?

Mr. Gonzales responded respectfully to the Chair, "Yes that is correct; we would have them move down as low as possible".

The next question was for the applicant.

The applicant has said that there is a lot of land that is under 20% slopes. Given that fact, say on lot 11, any house on lot 11 would probably be pushed down to the west closer to the boundary of lot 9. Is there any reason that the subdivision road has to come so high on to the property? Could the end of the road be moved down the slope and also lot 12 moved down with the end of the road. He said that his point is that both the development on lot 13 and 11 seem to be pushed down the hill. Would it be better if the subdivision road stopped at the lower end of the hill? The road could probably come in slightly to the west (of the dotted line on map), by lot 11. He said that he does not see an issue with the terrain and said that this might allow moving the house on lot 12 about another 8' to 10' down the hill. He asked if this was the reason for lot 11 being configured the way it was and if it could be moved down.

Mr. McDowell responded that one of the things that kept coming up in the ENN meeting with the neighborhood, was that even though the under line zoning does not require every lot to be 1 acre and in the original plans the lots were less than 1 acre; they felt that since the zoning was R-1 they wanted to have each house on at least one acre. With that in mind they reconfigured the subdivisions to make sure that each house was on 1 acre. In doing so that pushed the lot lines where they are now. There was a clear consensus, that even though it was not required by the under line zoning and the fact it is R-1, the neighbors felt that a lot should be 1 acre and that was his attempt to comply and address that issue.

Mr. Gonzales made the statement that there is a memo dated June 30, 2009 that did not make the packet. It was a memo from Charlie Gonzales and Wendy that did not make the packet. The Chair clarified that the addressed memo was in the last meeting packet.

***Swear In: Oralynn Guerrero-Ortiz***

**Oralynn Guerrero-Ortiz, PO Box 2758, Santa Fe, New Mexico**

The Chair asked if there is any technical reason why the end of the road could be moved down to the west.

Mr. Guerrero-Ortiz responded no, that it could be done. She said it was sincerely the 1 acre lot restriction that forced some of these locations to the road.

The Chair stated that given these facts that surrounding all these lots is the open space, he thought it might be possible to shift the lot lines around a little bit and reclaim this lost acreage and try and get them back to 1 acre.

Ms. Guerrero-Ortiz said that they cheated a little on lot 11 in that lot 11 includes the roadway in its acreage, so it is a smaller lot than normal to begin with. I don't know if that is cheating but legally it will have 1 acre but maybe we pushed the limit on the interpretation of that. Whether or not it could be squeezed is the question because of the proposed conservation easement. They are looking at how the houses will look when they are built and having buffers between the houses. More important you do not want to look up the mountain and see the roof of one line and the base of another. They would want some vegetation break up so it doesn't look like houses moving up the hill. Another reason, the site circles are areas where there was a lack of vegetation already due to death of trees or no trees. They were centered in areas where they make logical sense from the field perspective and there is a nice green buffer. She can see the desire to move it down but the end result is that there might be more visibility. Where things are now are less visible than if you bring it down.

The Chair stated to Mr. Gonzales; that his experience with the escarpment overlay ordinance is that staff doesn't have a whole lot of latitude; they basically push a house applicant down the hill. He has not seen staff consider the fact that there might be another house in the future that might be near it. They tend to treat each lot as an individual application. Is that a wrong interpretation of the way staff administers the ordinance?

Mr. Gonzales responded that they look at the application house by house.

The Chair asked Mr. Gonzales respond to Ms. Guerrero-Ortiz comment: Say if there is a house at lot 9 and a building permit came in for lot 11, you would not move the house on lot 11 up the hill, you would move the house on lot 11 down the hill, would you not?

Mr. Gonzalez said yes, he would move it down as much as he could to be in compliance with the 50/50 terrain management and move it down to the west.

The Chair asked Ms. Jenkins to refer to Lot 13 on the screen. The Chair asked Mr. Gonzales if he would push the development down to the lower left hand corner, left hand side of lot 13.

Mr. Gonzales responded yes he would.

The Chair said that it did not make sense to him for the subdivision road to come in so high if the house is going to be pushed down so low on lot 13, which means a longer driveway and subdivision road. He said that it would be nice to draw a line at lot 11 and designate it as mineral vegetation with a road on one side and a house on the other side.

The Chair asked the applicant or engineer to respond. Ms. Guerrero-Ortiz responded that they could work with that to bring it down, hopefully 8 feet to accomplish the request on the conservation easement and the statement made by the Chair above.

The Chair asked about the conditions of approval that the consultant had suggested, did not see where had been included. One of the suggestions from the previous hearing which addressed limiting the entrance for the subdivision to one road vs. a split entrance. Does the current request include doing a split entrance?

McDowell responded that it is on the application but his anticipation was if the preliminary plat was approved the commission would suggest having a single entrance, the commission was very clear on this but it also did not come up in the neighborhood meeting.

The Chair asked the City Attorney about the conditions of approval as they are proposed by the applicant. It has been suggested that these be incorporated into their covenant and restrictions. Does the City of Santa Fe enforce private covenants and restrictions?

Ms. Brennan responded that the city does not; if the commission wants to see these embodied in the subdivision would need to make these conditions of approval.

The Chair asked if they were conditions of approval, would they be restrictions that could be placed on the subdivision plat.

Ms. Brennan responded she did believe so, yes.

The Chair asked for the pleasure of the commission.

***Commissioner Lindell made the motion for approval of Case S2009-02 with staff recommendations and conditions, in addition incorporating the document from Mr. McDowell knowing that it does have a correction, and making them part of the plat, with the correction on affordable housing, add in the reconfiguring the end of the road, in addition to eliminating the split entrance, and in addition to a diligent effort to a trail head. The corrections and restrictions are to be made part of the plat. It is noted that lot 12 stays as proposed by the applicant. Second by Commissioner Hughes, motion carried by unanimous voice vote.***

Commissioner Salazar reconfirmed that Lot 12 stays as applicant has proposed:

Commissioner Bordegaray asked the question if this proposal spells out that once all the properties are developed that you would not end up with one continuous wall blocking access except for the easements. She would like that topic reiterated. Looking at the neighbors comments who hike, she wanted to know if this will be entirely fenced except for easements, is the only way in to the trail through the road.

Mr. McDowell responded that he has no plans to fence the borders of the property and the trails that would be along the roadway and the trail that would come up from Old Santa Fe Trail up to Sun Mountain. Those would all be covenanted and open to public access, no walls. Trails that intercept into the Wirth property, in order to – those will not be opened, they can get on to the trails down the road, there will be a foot path on the side of the road, and that foot path will traverse along the indicated area. He will continue to work with the neighborhood. There will be two access points from the road.

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*Recess for 2 minutes – The Chair called the Commission Meeting back to order.*

**New Business**

**Case #M 2009-13 First Mesa Preliminary Subdivision Plat Time Extension. James W. Siebert agent for First Mesa LLC, requests time extension for preliminary subdivision plat for 20 lots on 2.88 ± acres. The property is zoned RM-LD/PUD (Multiple Family Residential, Planned Unit Development) and is located to the south of Cerrillos Road, west of Kachina Ridge**

*(Commissioner Bonifacio Armijo arrived at this time)*

Ms. Donna Wynant explained that this was a request for extension. Chapter 14 does allow for time extension. Applicant has indicated that the rationale is that sales of homes are slow due to the recession and it is an extreme hardship and it is a necessity request to ask for 1 year time extension. There haven't been any changes, there was a memo from storm water, and those can proceed when it becomes a final plat.

**Swear In: Mr. Jim Siebert**

Mr. Siebert as the applicant stated that it is hard to get reasonable financing at this time. He said before if you had 20% equity you could go forward with your development and now the banks are asking from 40-50%. It is hard to get a viable project. We are asking for a one year extension to hopefully let the financing environment change.

**No members of the public. Public Testimony Closed.**

Ms. Wynant stated that as a reminder there was a memorandum dated July 30, 2009 from the Stormwater Manager requesting revisions and addendum to be reflected on the final plat when submitted. Action on these items would be handled when the request comes back to the Commission.

### **Questions from the Commission:**

Commissioner Bordegaray recognized that the applicant is asking for an extension and asked if they could revisit the case.

Ms. Brennan, City Attorney responded that without knowing what the question is, it is hard to say. The question before the commission is the request for the extension and that further questions could be asked when the applicant comes back for final approval.

*Commissioner Salazar made the motion to allow an extension of Case #M2009-13 for another year, second by Commissioner Montes, motion carried by unanimous voice vote.*

### **Business from the Floor – None**

### **Staff Communications:**

### **Update on Plaza Pinones:**

Ms. Baer gave the update that the planning commission approved Plaza Pinones final development on April 16<sup>th</sup> and it was appealed by the neighborhood association, it went to council on August 12<sup>th</sup>. By the time it went to council staff had met with the applicant for the project and the neighborhood association and came to a settlement agreement. Basically what happened was that the main reason for the appeal was that the neighborhood association was concerned about the access on 5<sup>th</sup> street, they wanted more access on 5<sup>th</sup> street, and they wanted more access on Calle Sombra. They agreed that it would be OK to go right in and right out on 5<sup>th</sup> street. They also included in that settlement agreement and staff took that case to the governing body, they did approve and move forward.

Ms. Baer suggested that the commission discussed keeping the September 3<sup>rd</sup> meeting open and no cases, and September 17<sup>th</sup>, no new cases for September.

Some of the commissioners who have been on board attended a webinar – informed decisions from the APA and Lincoln Institute, it gave a lot of direction, and Ms. Baer has it on CD and would like to offer it again as a refresher or for those who would like to attend. She would be happy to schedule it, maybe do it at the planning commission meeting in September; it is audio and power point.

The Chair stated that by city code, the planning commission has to meet once a month, September 3<sup>rd</sup> or September 17<sup>th</sup> – preference is the 17<sup>th</sup>.

Preference of the commission would be to hold the next meeting on September 17, 2009.

## **Matters from the Commission:**

### ***Election of Chair, Vice Chair and Secretary of the Commission:***

Commissioner O'Reilly stated that it has been an honor to serve as the chair for the past year, a lot more work than he thought; it really was a satisfying experience. He knows that Commissioner Salazar is also interested in being chair; He said that there is no commissioner that has worked harder than Commissioner Salazar, and he has earned the right to be chair. He added, "To be honest, I have enjoyed being chair, but I would also be happy to serve under John. The most important thing is our spirit of working together".

Commissioner Armijo commented that Estevan stayed on one year and he felt that the consistency should be there. He would like to see the Chair and Vice Chair stay at least a couple of years, he also thinks John is very qualified and he would have no problem if the Chair isn't interested. He would like to see it stay as it is.

The Chair commented that he remembers in the 90's when a chair would retain the position for up to 5 years and more. He would like to urge people to cycle through and not be chair for more than 2 years, this way other commission members could serve. He would like to see this be a policy for the commission.

Commissioner Lindell stated that she didn't think it is up to the commission to make that policy.

The Chair responded that the commission runs on Robert Rules of Order and as long as they don't do anything in contradiction to state law, the city code or the rules for committees adopted by council, they can decide to run the commission the way they would like to. For example, they could change the day or the time they meet or internal policies.

Commissioner Lindell stated that with that with all due respect to Commissioner Salazar she made the below motion.

***Commissioner Lindell made the motion to nominate Matthew O'Reilly to serve as chair for another year stating that there is an amount of time it takes to get entrenched in this commission, and the amount of time it takes to meet with the city and that Chair O'Reilly has done an exceptional job this year, second by Commissioner Armijo, motion carried by unanimous voice vote.***

***Thank you to Commissioner O'Reilly for his leadership and exceptional good job.***

The Chair accepted the position and said that he hoped that 11 months from now that the Commission would consider electing Commissioner Salazar to the Chair of this Commission.

***Commissioner Montes made a motion to institute a 2-year term for the Chair and all elected officers of the commission, second by Commissioner Hughes.***

Discussion:

Commissioner Bordegaray expressed her opposition to limiting terms in this particular case. She said that maybe they should have had terms in the past; they have had such a collegial fashion and everyone has respected each other's desires to serve on the commission. She felt that it should be left alone since it is working and in another year make the decision at that time. She said they all work on an equal basis. Two years really isn't that long. She would not want to constrain this commission but to allow them to take up those decisions when the time arrives.

The Chair responded that he appreciated this view. He has had many experiences with commissions, some that were more political than others and he saw that it created problems in the past. If the commission doesn't want to, that it is the prerogative of the Commission, however he would support a 2 year limitation.

Commissioner Lindell stated that she would not be supporting this either and she does not feel comfortable that 2 years be the maximum. The future might have a person where one person has the ability or others that may not have the ability or time, she would not support this.

***Commissioner Montes withdrew his motion.***

***Election of Vice Chair:***

***Commissioner Hughes made the motion to nominate Commissioner Salazar as Vice Chair for the Planning Commission, second by Mr. Armijo, motion carried by unanimous voice vote.***

***Commissioner Hughes made the motion to nominate Commissioner Bordegaray as Secretary for the Planning Commission, second by Commissioner Lindell, motion carried by unanimous voice vote.***

The Chair made the statement that he respects the decision of the commission however he will step down as chair in July 2010.

**Update on Chapter 14.**

The Chair reported that the sub-committee has been working diligently and that staff has been sidelined working on the annexation with the county. Their hope is to get back to work as soon as possible. Now that the annexations are handled that they should be able to get back to work on Chapter 14.

Commissioner Salazar reported that last Thursday the (Extra Territorial Land Use Commission) ELUC made a recommendation for the SPPAZO ordinance. County staff is expecting for it to be approved and it will go into effect 30 days after. He said that the commission will probably start to see many more planning cases.

The Chair referred to the recent DWI tragedies in Santa Fe. The City passed an ordinance on impounding vehicles taken from people involved in DWI's. The police department does not have the funds for a hearing officer. That program has been stalled. The Chair has spoken to the chief of police and deputy chief and has offered his services as a hearing officer for free. He asked the Planning Commission if any of them would consider serving on a hearing board if that would help the Police Department. Would any members like to serve?

Commissioners Lindell, Armijo, and Salazar (possibility) expressed their willingness to help.

Commissioner Armijo stated that this endeavor needs to get underway and this might be a way to assist. More information to follow

### **Summary Committee**

Commissioner Armijo stated that the summary committee meets once a month (1<sup>st</sup> Thursday, same day the commission meets); at 11:00 am and the meetings take about 1 hour. He has been the chair for 3 years and has served on the committee for 4 years. If someone wants to take over he will relinquish and if not he would continue for an additional year.

*Commissioner Armijo made the motion to nominate John Salazar as Chair of the Summary Committee, second by Ms. Vigil, motion carried by unanimous voice vote.*

*Commissioner Lindell will remain as the Secretary of the Summary Committee.*

*Commissioner Vigil will become a member of the Summary Committee and Commissioner Armijo will move to the ELUC sub committee.*

### **Long Range Planning Sub-committee:**

Presently Commissioner Hughes, Commissioner Bordegaray and Chair O'Reilly serve on the Long Range Planning Sub-committee. No other volunteers came forward. The sub-committee will stay the same.

### **Chapter 14 Sub Committee**

It was agreed that it should stay the same,

It was stated that Commissioner Gonzales is not on a sub-committee.



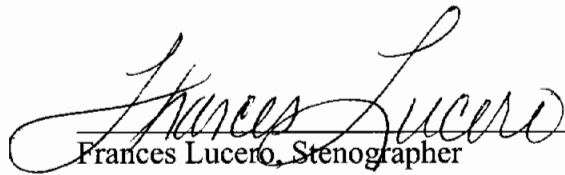
Commissioner Armijo will take the position on ELUC sub-committee and Commissioner Vigil will move to the Summary Committee.

There being no further business to come before the Planning Commission, the meeting was adjourned by the Chair at 8:10 p.m.

Signature:

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Chair Matthew O'Reilly



Frances Lucero, Stenographer