



Agenda

CITY CLERK'S OFFICE

DATE 9-24-09 TIME 2:40

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PLANNING COMMISSION
October 15, 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: September 17, 2009

FINDINGS/CONCLUSIONS

Case #M 2009-10. Villa Alegre Final Development Plan.

Case #S 2009-02. Mirasol Preliminary Subdivision Plat. (POSTPONED FROM SEPTEMBER 17, 2009)

Case #M 2009-13. First Mesa Preliminary Subdivision Plat Time Extension. (POSTPONED FROM SEPTEMBER 17, 2009)

- E. OLD BUSINESS
- F. NEW BUSINESS

1. An ordinance amending Sections 14-9.2(F)(1)(j) and 14-9.2(H) SFCC 1987 regarding sidewalks and curb and gutters in the City's Historic Districts. (Councilor Bushee and Councilor Wurzburger) (Jeanne Price, case manager)
2. An ordinance amending Sections 14-8.3(C)(2) and 14-8.3(C)(3) SFCC 1987 regarding development within a Special Flood Hazard Area and permitted uses within a floodway. (Councilor Calvert) (Wendy Blackwell, case manager)
3. An ordinance annexing approximately 1,956 acres (Phase 1) in accordance with the "Annexation Phasing Agreement between the City of Santa Fe and Santa Fe County" executed in February 2009. The Phase 1 annexation includes Areas 3, 6, 8, 9, 10, 11, 13, 15, 16, 17 and the Interstate 25 right-of-way between Old Pecos Trail and NM Highway 599. (Reed Liming, case manager)
4. Case #S 2009-01. Governor Miles Business Park Preliminary Subdivision Plat. Linda Tigges, agent for Crowne Santa Fe, LLC requests preliminary subdivision plat approval for 10 lots on 6.485± acres. The property is located south of the Santa Fe Auto Park and north of Governor Miles Road and is zoned C-2 (General Commercial). (Donna Wynant, case manager) (POSTPONED FROM APRIL 16, 2009, JUNE 4, 2009 AND SEPTEMBER 17, 2009) (TO BE POSTPONED INDEFINITELY)

5. **Case #M 2009-03. Governor Miles Business Park Development Plan.** Linda Tigges, agent for Crowne Santa Fe, LLC requests development plan approval for a total of 76,350 square feet on 6.485± acres. The property is located south of the Santa Fe Auto Park and north of Governor Miles Road and is zoned C-2 (General Commercial). (Donna Wynant, case manager) **(POSTPONED FROM APRIL 16, 2009, JUNE 4, 2009 AND SEPTEMBER 17, 2009) (TO BE POSTPONED INDEFINITELY)**
6. **Case #M 2009-14. Nature's Creations Final Development Plan.** Paul Mifsud agent, Dave Schneider applicant, requests Final Development Plan approval to construct a 15,486 square feet building on 1.62± acres. The property is located on the east side of Academy Road, south of Airport Road within the Presumptive City limits and within Phase 1 of the City-initiated annexation. The property is zoned I-1 PUD (Light Industrial Planned Unit Development). (Dan Esquibel, case manager)
7. **Case #M 2009-15. Komis Business Park Final Development Plan and Final Subdivision Plat Time Extension.** Scott Hoeft, agent for Peter Komis, requests a time extension for Final Development Plan and Final Subdivision Plat for 18 lots on 58.5± acres located north of the intersection of I-25 and NM 599. The property is zoned C-2 (General Commercial) and is in Phase 2 of the City-initiated annexation. (Donna Wynant, case manager)

G. BUSINESS FROM THE FLOOR

H. STAFF COMMUNICATIONS

1. **The City of Santa Fe EPA National Pollution Discharge Elimination System (NPDES) Storm Water Quality Program.** City of Santa Fe Storm Water Management staff will make a brief presentation on the City's Municipal Separate Storm Sewer System (MS4) permit, the Storm Water Management Plan and storm water quality treatment requirements relating to construction and new land developments. (Jim L. Salazar, CFM, Storm Water Manager)

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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CITY OF SANTA FE
PLANNING COMMISSION
October 15, 2009

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AN ORDINANCE ANNEXING APPROXIMATELY 1,956 ACRES (PHASE 1) IN ACCORDANCE WITH THE "ANNEXATION PHASING AGREEMENT BETWEEN THE CITY OF SANTA FE AND SANTA FE COUNTY," EXECUTED IN FEBRUARY 2009. THE PHASE 1 ANNEXATION INCLUDES AREAS 3, 6, 8, 9, 10, 11, 13, 15, 16, 17 AND THE INTERSTATE 25 RIGHT-OF-WAY BETWEEN OLD PECOS TRAIL AND NM HIGHWAY 599	Approved	5-9

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CASE #S-2009-01. GOVERNOR MILES BUSINESS PARK PRELIMINARY SUBDIVISION PLAT. LINDA TIGGES, AGENT FOR CROWNE SANTA FE, LLC., REQUESTS PRELIMINARY SUBDIVISION PLAT APPROVAL FOR 10 LOTS ON 6.485± ACRES. THE PROPERTY IS LOCATED SOUTH OF THE SANTA FE AUTO PARK AND NORTH OF GOVERNOR MILES ROAD AND IS ZONED C-2 (GENERAL COMMERCIAL)

Postponed to 11/05/09

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CASE #M-2009-03. GOVERNOR MILES BUSINESS PARK DEVELOPMENT PLAN. LINDA TIGGES, AGENT FOR CROWNE SANTA FE, LLC, REQUESTS DEVELOPMENT PLAN APPROVAL FOR A TOTAL OF 76,350 SQUARE FEET ON 6.485± ACRES. THE PROPERTY IS LOCATED SOUTH OF THE SANTA FE AUTO PARK AND NORTH OF GOVERNOR MILES ROAD AND IS ZONED C-2 (GENERAL COMMERCIAL)

Postponed to 11/05/09

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CASE #M-2009-14. NATURES CREATIONS FINAL DEVELOPMENT PLAN. PAUL MIFSUD AGENT, DAVE SCHNEIDER, APPLICANT, REQUESTS FINAL DEVELOPMENT PLAN APPROVAL TO CONSTRUCT A 15,486 SQUARE FEET BUILDING ON 1.62± ACRES. THE PROPERTY IS LOCATED ON THE EAST SIDE OF ACADEMY ROAD, SOUTH OF AIRPORT ROAD WITHIN THE PRESUMPTIVE CITY LIMITS AND WITHIN PHASE 1 OF THE CITY-INITIATED ANNEXATION. THE PROPERTY IS ZONE I-1 PUD (LIGHT INDUSTRIAL PLANNED UNIT DEVELOPMENT)

Approved

10-14

CASE #M-2009-15. KOMIS BUSINESS PARK, FINAL DEVELOPMENT PLAN AND FINAL SUBDIVISION PLAT TIME EXTENSION. SCOTT HOEFT, AGENT FOR PETER KOMIS, REQUESTS A TIME EXTENSION FOR FINAL DEVELOPMENT PLAN AND FINAL SUBDIVISION PLAT FOR 18 LOTS ON 58.5± ACRES LOCATED NORTH OF THE INTERSECTION OF 8-25 AND NM 599. THE PROPERTY IS ZONED C-2 (GENERAL COMMERCIAL), AND IS IN PHASE 2 OF THE CITY-INITIATED ANNEXATION

Postponed to 11/05/09

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AN ORDINANCE AMENDING SECTIONS 14-8.3(C)(2) AND 14-8.3(C)(3) SFCC 1987, REGARDING DEVELOPMENT WITHIN A SPECIAL FLOOD HAZARD AREA AND PERMITTED USES WITHIN A FLOODWAY	Approved	14-17
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THE CITY OF SANTA FE EPA NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER QUALITY PROGRAM. CITY OF SANTA FE STORM WATER MANAGEMENT STAFF WILL MAKE A BRIEF PRESENTATION ON THE CITY'S MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) PERMIT, THE STORM WATER MANAGEMENT PLAN AND STORM WATER QUALITY TREATMENT REQUIREMENTS RELATING TO CONSTRUCTION AND NEW LAND DEVELOPMENTS	Postponed to 11/05/09	18
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**MINUTES OF THE MEETING
OF THE
PLANNING COMMISSION
October 15, 2009**

A regular meeting of the City of Santa Fe Planning Commission, was called to order by Chair John Salazar, at approximately 6:00 p.m., on October 14, 2009, in the City Council Chambers, City Hall, Santa Fe, New Mexico.

A. ROLL CALL

MEMBERS PRESENT:

John Salazar, Chair
Boni Armijo
Estevan Gonzales
Ken Hughes
Dr. Signe Lindell
Dr. Mike Mier
Ruben Montes
Angela Schackel-Bordegary [arrived at 6:25 p.m.]
Dolores Vigil

OTHERS PRESENT:

Greg Smith, Staff Liaison – Land Use Department
Frank Katz, City Attorney
Kelley Brennan, Assistant City Attorney
Matthew O'Reilly, Director, Land Use Department
Melessia Helberg, Stenographer

There was a quorum of the membership in attendance for the conducting of official business.

Chair Salazar welcomed Dr. Mike Mier to the Planning Commission, thanked him for his willingness to serve, and believes he will be a great addition.

Commissioner Gonzales also welcomed Dr. Mier, and said his experience and expertise will be of value to the Commission.

B. PLEDGE OF ALLEGIANCE

C. APPROVAL OF AGENDA

Mr. Smith said it is requested that under Item D, Findings and Conclusions, Case #M-2009-10 be postponed to the meeting of November 5, 2009. The applicant has requested that Items F(4) Case #S-

2009-01 and (5) Case #M-2009-03 under New Business, be postponed indefinitely. On Item F(7) under New Business, Case #M-2009-15, following discussion with staff this afternoon, the Applicant has agreed to provide additional documentation with regard to the case, and requests postponement of this case to November 5, 2009. Jim Salazar has requested that Item H(1) the presentation on the NPDES Storm Water Quality Program, be postponed.

Commissioner Armijo asked, regarding the request to postpone Items F(4) and F(5) under New Business, how many postponements this Commission will allow this Applicant, noting he understood the limit was three postponements. He said since April 2009, there have been four requests for postponement including this one.

Mr. Smith said staff has discussed the policy of not allowing multiple postponements with the Commissioners, but there is no specific rule in Chapter 14 which requires the Commission to take an action to deny. He said, at this point, since there is a request for an indefinite postponement, that is almost tantamount to denial without prejudice or withdrawal. He said the Commission could take action to deny the postponement without prejudice and staff would require them to refile their application. The staff would consider whether credit toward the application fees already paid would be allowed, when and if they refile the application. He believes the applicant intends to postpone indefinitely, but the applicant's representative is not here to discuss this issue with the Commission.

Commissioner Armijo asked if a lot of time is spent on cases which are placed on the Commission agenda.

Mr. Smith said staff's primary concern is to continually schedule items for hearing which sometimes has the effect of pushing other cases off the agenda, and on occasion will result in inconvenience in the public who attend the meeting to testify on a particular case. The primary concern is the issue of convenience to the Commission and the public, as opposed to the staff review time on multiple postponements.

Ms. Brennan questions whether an indefinite postponement is really an extension without having to go to the trouble of making a request. She is unsure whether it has been, or should be, a practice to postpone indefinitely, but leaves this to the Commission.

MOTION: Commissioner Hughes moved, seconded by Commissioner Armijo, to approve the Agenda as proposed to be amended by staff, and to bring Case #S-2009-01, Case #M-2009-03 to the next meeting for a decision.

FRIENDLY AMENDMENT: Chair Salazar noted that Charlie Gonzales is supposed to present Item #2, the Ordinance dealing with a Special Flood Hazard Area, and he is running late because he is attending the County Development Review Committee. Chair Salazar asked to amend the agenda to move this item to the end of the agenda. Mr. Smith noted the sponsor, Councilor Calvert is in attendance, and staff can present this matter. Councilor Calvert noted he is willing to wait until Mr. Gonzales arrives. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE COMMISSION.**

VOTE:

There was no voice vote, and the Chair declared the minutes to be approved in the absence of an objection by a member of the Commission.

D. APPROVAL OF MINUTES AND FINDINGS/CONCLUSIONS

1. MINUTES – September 17, 2009

MOTION:

VOTE:

There was no motion nor second to approve the minutes, and the Chair declared the minutes to be approved in the absence of an objection by a member of the Commission.

2. FINDINGS/CONCLUSIONS

The Findings of Fact and Conclusions of Law in Case #S-2009-02 and Case #S-2009-13 are incorporated herewith to these minutes as Exhibit "1."

a) CASE #M-2009-10. VILLA ALEGRE FINAL DEVELOPMENT PLAN

This case was postponed to the meeting of November 5, 2009.

**b) CASE #S-2009-02. MIRASOL PRELIMINARY SUBDIVISION PLAT.
(Postponed from September 17, 2009)**

MOTION:

VOTE:

There was no motion nor second to approve the Findings of Fact and Conclusions of Law in Case #S-2009-02, and the Chair declared the Findings and Conclusions to be approved in the absence of an objection by a member of the Commission..

**c) CASE #M-2009-13. FIRST MESA PRELIMINARY SUBDIVISION PLAT
TIME EXTENSION. (Postponed from September 17, 2009)**

MOTION:

VOTE:

There was no motion nor second to approve the Findings of Fact and Conclusions of Law in Case #M-2009-13, and the Chair declared the Findings and Conclusions to be approved in the absence of an objection by a member of the Commission.

E. OLD BUSINESS

There was no old business.

F. NEW BUSINESS

- 1. AN ORDINANCE AMENDING SECTIONS 14-9.2(F)(L)(j) AND 14-9.2(H) SFCC 1987, REGARDING SIDEWALKS AND CURB AND GUTTERS IN THE CITY'S HISTORIC DISTRICTS (COUNCILOR BUSHEE AND COUNCILOR WURZBURGER). (JEANNE PRICE, CASE MANAGER).**

A copy of a Memorandum prepared October 2, 2009 for the Planning Commission meeting of October 15, 2009, with attachment, to the Planning Commission, from Jeanne Price, Legislative Liaison, is incorporated herewith to these minutes as Exhibit "2."

Jeanne Price presented information regarding this matter from Exhibit "2." Please see Exhibit "2" for specifics of this presentation.

Public Hearing

There was no one speaking for or against the Ordinance.

The Public Testimony Portion of the Public Hearing was Closed

Commissioner Armijo asked if there will be three different choices of brown tones from which to choose, so it's not just one common color throughout.

Ms. Price said this is the decision made by the H-Board, noting she wasn't there for the discussion, so she is unsure what they discussed.

Commissioner Armijo said if they're leaving it to the contractor, there could be three different colors for three different homes next to each other, which doesn't seem to be a good choice.

Ms. Price said she would think that if there already is a color there, they should try to match that color.

Commissioner Armijo said for the record, he isn't crazy about this. He said 100% of his work is done in the Historical Districts and he believes there is already too much brown tone. He said with this being mandated of sidewalks, curbs and gutters, he believes it is "major excessive." He would not personally recommend this, especially with having to choose between three colors, and believes this would be a mis-matched with all the units next together. His recommendation is not to approve this Ordinance.

Responding to a question from Commissioner Hughes, Commissioner Armijo said that is just part of it, and if you go with a lighter tone it adds cost, the darker the colored concrete the higher the cost, so it depends on the color. He estimates an additional 30% and up for colored concrete. His concern is the appearance of three different colors for three different homes next to each other, and he is surprised Historic is recommending this.

Ms. Price reiterated she wasn't there for the conversation. She said perhaps it would still be up to the Historic Design Review Board to dictate within the color palette.

Mr. Armijo said a lot of the colors recommended by the H-Board are the earth tones, so you already are looking at the walls of the house in earth tones, and to have the curb and gutter the same seems excessive to him.

Commissioner Gonzales said, in terms of public safety, drivers may not notice there is a curb, think it is dirt and crash and hurt themselves and/or others. He asked if there has been a test program where traffic safety could be evaluated for this type of concept.

Ms. Price is unaware of that, but there is a precedent of having colored concrete, but doesn't know where or how often it is occurring, but they have been doing that.

Mr. Smith said there has been a policy that earth tone concrete should be used throughout the Historic District, and that policy has been followed in a haphazard fashion, but he doesn't know to what extent it has been applied in the past, but it is not uncommon for sidewalks to be built in earthtone concrete. He understands that the Public Works Department has agreed with the Historic Board with regard to the color palette being appropriate.

Commissioner Gonzales said he appreciates the intent of the Bill, noting he worked with the DOT and engineers and planners consider things like this all the time, but he has no evidence to show whether it is or is not safe. He said there is expert testimony that it does increase the cost of doing business in the City and at this time, we definitely have to be careful about these things.

MOTION: Commissioner Hughes moved, seconded by [*There was no second to the motion*], to temporarily postpone this item to the meeting of November 5, 2009, until the staff and Historic Preservation can explain the reasons for this proposed Ordinance.

VOTE: The motion was approved on a voice vote, with one nay vote [*the nay vote was not identified*].

Commissioner Gonzales asked that the presentation include "graphical representations," photos and such. Commissioner Armijo said, since they are recommending three choices of colors, he would like to see those colors, reiterating that the darker the color of concrete, the more expensive the materials become.

Ms. Bordegaray arrived sometime during the previous Agenda Item

3. **AN ORDINANCE ANNEXING APPROXIMATELY 1,956 ACRES (PHASE 1) IN ACCORDANCE WITH THE "ANNEXATION PHASING AGREEMENT BETWEEN THE CITY OF SANTA FE AND SANTA FE COUNTY," EXECUTED IN FEBRUARY 2009. THE PHASE 1 ANNEXATION INCLUDES AREAS 3, 6, 8, 9, 10, 11, 13, 15, 16, 17 AND THE INTERSTATE 25 RIGHT-OF-WAY BETWEEN OLD PECOS TRAIL AND NM HIGHWAY 599. (REED LIMING, CASE MANAGER)**

A Memorandum dated for the public hearing of Thursday, October 15, 2009, with attachments, to the Planning Commission, from Reed Liming, Long Range Planning Division Director, regarding City-Initiated Annexation, Phase 1, is incorporated herewith to these minutes as Exhibit "4".

STAFF PRESENTATION

Reed Liming presented the Staff report, which is contained in Exhibit "4," beginning with a summary of the various agreements between the City and County, presenting information via display maps on easels, followed by a presentation by Jennifer Jenkins on the ENN meetings. Please see Exhibit "4" for specifics of these presentations.

RECOMMENDATION: Staff requests that the Planning Commission recommend the Phase 1 Annexation ordinance (Exhibit A) to the Governing Body. On Thursday, September 24, 2009, the Extraterritorial Land Use Authority approved the City's petition to annex Phase 1.

Mr. Liming noted, per Chapter 14 requirements, more than 500 letters were mailed to property owners and physical addresses, announcing this public hearing, as well as the Council's public hearing on Tuesday, November 10, 2009.

Public Hearing

There was no one speaking for or against the Ordinance.

The Public Testimony Portion of the Public Hearing was Closed

Questions from the Commission

Commissioner Vigil asked Ms. Jenkins to give more detail on her response to the public's questions with regard to their existing water wells.

Ms. Jenkins said, under the Annexation Agreement, properties currently having a private well and septic systems will not be required to abandon those and hook-up to City water, even if the City happens to have a water line in the road. They would be permitted to replace the well after annexation if there were problems with the well.

Commissioner Vigil asked if a new development were to come into, Area 2, for example, would they be required to abandon their wells at the time they come in with a development plan and they do plan to hook up to City infrastructure.

Ms. Jenkins said this is a typical condition of getting a contract to be served by City water – that they would agree to abandon the existing wells on the property.

Commissioner Armijo said there are no estimated annual expenditures for solid waste, streets, parks, land use and such, and asked how annexation can happen without the cost of infrastructure being in the report for these functions.

Mr. Liming said this is a Fiscal Impact Report [FIR] which the City requires for annexation, noting police and fire costs are included because the Fire Chief and Police Chief advised him of those costs. He said there are no additional costs for Solid Waste in terms of personnel, and these areas will be served. There is an additional up-front cost to purchase carts which Mr. DeGrande indicates already are on hand, and they are ready to service the area after a detailed assessment of businesses and residences. He said the carts are paid over a five-month period with service charges. He said annually there is no net cost for Solid Waste.

Mr. Liming said, regarding Streets & Drainage, there is a Memorandum of Understanding [MOU] between the City Public Works and County Public Works Departments, which he believes has been approved by the Council. The MOU requests \$300,000 in improvements to Ocate Road and Lopez Lane prior to the City assuming maintenance responsibilities for those, and prior to the final approval of the Phase 1 Annexation. He these are the two roads in the Phase 1 Annexation which the County has indicated it typically maintains, and these would be turned over to the City for maintenance in the future, reiterating that agreements will be worked out between the City and County Public Works Departments as to maintenance issues.

Responding to Commissioner Anaya, Mr. Liming said the City is requesting the equivalent of the \$300,000 for improvements to these to roads from the County.

Commissioner Armijo noted Fire has \$119,000, and the Police has \$17,000, and thinks those should be very near in costs.

Mr. Liming said the additional Police costs are due to our responsibility with respect to the segment of I-25 which the City would be annexing, and there are no additional costs for the other areas, noting we currently serve adjacent areas.

Mr. Liming said the Fire Chief believes she would need a new fire inspector and the \$119,000 is for salary and benefits.

Mr. Liming said staff has estimated property taxes based on County Tax Assessor information in the City GIS. He said the tougher revenue to estimate is GRT, because the State isn't forthcoming with detailed GRT information, and that figure is a very conservative estimate. He currently is revisiting the

information to get a better estimate for GRTs. He said this won't be a significant amount, other than the Outlet Mall, and businesses around the Airport.

Commissioner Armijo said then the estimates are for the first year of annexation, and should change considerably. Mr. Liming said these are annual revenues and expenditures which could increase over time.

Commissioner Armijo said he is concerned about those which aren't showing any additional costs – streets, parks, enforcement, and the impact fees coming in..

Mr. Liming said Parks costs will not increase because the City isn't annexing any Parks, so there is no additional operation and maintenance for that. He said he has discussed the streets costs. He said, with regard to Land Use and Code Enforcement, he has not heard from the Land Use Department, but believes it would be relatively minor, considering the areas we are annexing. Mr. Liming said Phase 2 will be a different story, but the Phase 1 costs are minimal on an annual basis.

Commissioner Hughes said at the Extra-Territorial Commission meeting quite a bit of concern was expressed by the people living in Area 15, and asked if their concerns were addressed.

Frank Katz, City Attorney, said he doesn't know what to make of them not being here this evening. He believes their concerns were largely that "we don't want to be in the City and to pay a small additional tax, \$300 per year, to be in the City." He said they felt they wouldn't benefit, because they already are being served by City Police and Fire, because the City goes to these areas because they are in an unincorporated area which is in the City. He said there was a concern about a City road which leads to their subdivision, which is Galisteo, and the very southern portion isn't paved and is in a shoddy shape. He said our Public Works Department got that nicely graded for them between that meeting and this one.

Mr. Smith said he, Mr. Katz and other City staff met directly with those concerned citizens in a sort of "private ENN" meeting, subsequent to the discussion at the Extra-Territorial hearing.

Commissioner Meir asked the if the City annexed area of I-25 will continue to be maintained by the State.

Mr. Liming said yes, the State has ownership and title to interstate highways and will have maintenance responsibility. The City primarily will have responsibility for first Police response to accidents, but control, maintenance, etc., will remain with the State.

Commissioner Mier said the costs estimated for Police and Fire are estimates, and there is no guarantee that Police and Fire will receive this funding, and may need additional personnel, but will have to manage with existing personnel. Mr. Liming said yes, this is their estimate of their additional costs for the annexation area.

Commissioner Mier said then there may be no additional Fire or Police personnel because of budgetary constraints, and Mr. Liming said this could be the case.

Commissioner Gonzales asked if the additional property tax of \$300 for each taxpayer annually is a final figure.

Mr. Liming said for residents it would be an additional property tax of \$50 per \$100,000 of assessed value, and for businesses it is about \$82 per \$100,000 of assessed value, to come into the City.

Commissioner Gonzales asked if there will be a need to hire additional Fire and Police personnel, commenting that he is trying to ascertain what these additional revenues will fund.

Mr. Liming said the GRTs are estimated and the Property Tax is \$95,000 annually, which will be used to help to pay for some of the additional costs. He said the residents of the newly annexed area will not see an increase on their tax bill until the November 2010 tax bill.

Commissioner Lindell, referring to the map for Annexation Phases City-County Agreement 2008, said it seems that there is a glaring omission in Phase 1 which is Area 12, and asked why this is not included in Phase 1.

Mr. Liming said this is part of what was negotiated in the City-County Settlement Agreement, and came primarily from the County Commission – specifically not to include this in Phase 1.

Commissioner Lindell asked if it was for any purpose other than to placate the residents, and Mr. Liming said he doesn't know, reiterating this is in the Settlement Agreement.

Commissioner Lindell said it is a glaring omission of an area with a small number of homes and residents which will be annexed, and asked when that will happen, and Mr. Liming said the petition would be done by the end of 2012.

Commissioner Lindell said she is sorry to see this omission, noting this is a "donut hole" which is left there and she has heard no good reason for this. She asked Mr. Katz if he knows a good reason.

Mr. Katz said it was in the Settlement Agreement which was reached with the County and that is the agreement. He said it probably is not terribly great planning, but there were other considerations. He said there's isn't a whole lot we can do about it now. We can't just add it – there has been no notice to the people in the area nor ENNs. He said it would be necessary to go to the County and amend the Phasing Agreement. He said the Settlement Agreement called for a phasing agreement, and the Phasing Agreement was agreed upon between the City and County. He understands her concern, and it doesn't make a lot of sense not to plug that donut hole. He said the only response he has is that we can't do everything perfectly, and sometimes it is not quite as good as we would like, but "we go with what we got."

MOTION: Commissioner Hughes moved, seconded by Commissioner Armijo, to recommend the Phase 1 Annexation ordinance (Exhibit A) as presented to the Governing Body

VOTE: The motion was approved unanimously on a voice vote.

4. **CASE #S-2009-01. GOVERNOR MILES BUSINESS PARK PRELIMINARY SUBDIVISION PLAT. LINDA TIGGES, AGENT FOR CROWNE SANTA FE, LLC., REQUESTS PRELIMINARY SUBDIVISION PLAT APPROVAL FOR 10 LOTS ON 6.485± ACRES. THE PROPERTY IS LOCATED SOUTH OF THE SANTA FE AUTO PARK AND NORTH OF GOVERNOR MILES ROAD AND IS ZONED C-2 (GENERAL COMMERCIAL). (DONNA WYNANT, CASE MANAGER). (Postponed from April 16, 2009, June 4, 2009 and September 17, 2009). (To be postponed indefinitely)**

5. **CASE #M-2009-03. GOVERNOR MILES BUSINESS PARK DEVELOPMENT PLAN. LINDA TIGGES, AGENT FOR CROWNE SANTA FE, LLC, REQUESTS DEVELOPMENT PLAN APPROVAL FOR A TOTAL OF 76,350 SQUARE FEET ON 6.485± ACRES. THE PROPERTY IS LOCATED SOUTH OF THE SANTA FE AUTO PARK AND NORTH OF GOVERNOR MILES ROAD AND IS ZONED C-2 (GENERAL COMMERCIAL). (DONNA WYNANT , CASE MANAGER). (Postponed from April 16, 2009, June 4, 2009 and September 17, 2009). (To be postponed indefinitely)**

A Memorandum dated October 6, 2009, for the October 15, 2009 Planning Commission Meeting, to the Planning Commission, from Donna Wynant, ICP, Senior Planner, Current Planning Division, regarding Cases #S-2009-01 and #M-2009-03, requesting the indefinite postponement of these cases due to current economic conditions, is incorporated herewith to these minutes as Exhibit "4."

There items were postponed to the meeting of November 11, 2009, for a decision by this Commission.

6. **CASE #M-2009-14. NATURES CREATIONS FINAL DEVELOPMENT PLAN. PAUL MIFSUD AGENT, DAVE SCHNEIDER, APPLICANT, REQUESTS FINAL DEVELOPMENT PLAN APPROVAL TO CONSTRUCT A 15,486 SQUARE FEET BUILDING ON 1.62± ACRES. THE PROPERTY IS LOCATED ON THE EAST SIDE OF ACADEMY ROAD, SOUTH OF AIRPORT ROAD WITHIN THE PRESUMPTIVE CITY LIMITS AND WITHIN PHASE 1 OF THE CITY-INITIATED ANNEXATION. THE PROPERTY IS ZONE I-1 PUD (LIGHT INDUSTRIAL PLANNED UNIT DEVELOPMENT). (DAN ESQUIBEL, CASE MANAGER)**

A Memorandum prepared October 7, 2009, for the October 15, 2009 meeting, with attachments, to the Planning Commission, from Daniel A. Esquibel, Land Use Planner Senior, is incorporated herewith to these minutes as Exhibit "5."

Staff Report

The staff report was presented by Daniel Esquibel, Case Manager, which is contained in Exhibit "5." Please see Exhibit "5," for specifics of this presentation.

Public Hearing

Presentation by Applicant

Paul Mifsud, 307 Camino Aire, was sworn. Mr. Mifsud said this is a straightforward project. He said as indicated by staff, this would have been a building permit and probably a development plan with administrative approval under the County's requirements. There are two conditions of approval with which they take issue. One is condition #6 which is very minor, and believes that is a typo by staff, where they are requiring standard car size parking spaces, but they provide "one size fits all," 8 ft. 4 in. by 18 ft, which has been approved by staff and believes that is just a mistake.

Mr. Mifsud said the Applicant is requesting that Condition #7 be removed. He said the City Traffic Engineer has not requested this easement, and John Romero confirmed that the Southwest Area Master Plan [SWMP] does not even show Academy Road continuing through to Entrada Business Park. He said the Applicant feels that this condition is an unwarranted encumbrance on the property, especially since the City currently has no plans to build this road. The Applicant thinks this should be a traffic issue, but John Romero did not find it to be a valid issue, so it was not included in his comments. He said this easement would constitute almost 20% of the lot area, and it would be more than 12,000 sq. ft. of land, almost the size of the footprint of the building.

Mr. Esquibel said he spoke with John Romero, and it is a condition which is being imposed by the Current Planning Division, and not by Public Works. He said Current Planning believes that the easement would serve future planning needs to provide for future circulation requirements as the City continues to grow. He said Santa Fe is not built on a grid, and staff felt by procuring this easement, and eventually getting an easement on the other side, that we would have the ability to plan for future connections within that area and continue the "spider web" of connections we need since Santa Fe isn't built on a grid.

Mr. Esquibel said, with regard to the condition regarding parking, staff did discuss this, and "one size fits all" is fine with staff.

Public Testimony

There was no one speaking for or against this request.

The Public Testimony Portion of the Public Hearing was Closed

Commissioner Vigil said she sees two different lists of conditions in the packet, and asked if the conditions referenced by Mr. Mifsud are in the flow chart.

Mr. Esquibel said this is correct. Responding to Commissioner Vigil, Mr. Esquibel said the Applicant is requesting that Condition #7 be removed. The other condition deals with parking standards – "one size fits all" versus standard parking spaces.

Commissioner Gonzales asked Mr. Esquibel to speak to the possibilities of future road connections in more depth.

Mr. Esquibel said during the discussion and evaluation, staff looks at the area. He said the connection which would lead from Airport Road, through Academy Road into the Valdes Business Park and eventually to Cerrillos Road, would be of advantage to the City in the future when we need those connections. He said that connection won't be there if the road were to dead end at the proposed location. He said Public Works doesn't foresee that connection happening any time soon, but they spoke with John Romero who felt it was a good idea to procure the easement for future needs.

Mr. Smith said it is unusual for the Public Works Department traffic engineers to recommend approval of a road which isn't shown on the MPO plans for a road which have been prioritized for federal funding, and funding from State and local sources. He said we are in a bit of a "Catch 22" here, where the Planning Commission finds itself on occasion where neither the City's General Plan nor the MPO Major Roads Plan goes to the level of a collector or sub-collector, or even local street. He said with this proposal we are not creating a road, nor requiring the Applicant to dedicate a road. Mr. Smith said the City is requiring the Applicant "to provide an easement which would prevent them from blocking a possible future road, when and the other property owners in the vicinity....." He said there are 4-5 easements involved in the existence of this road as it stands today, and this would be the 5th private easement. However, if we don't require the easement at this point, Academy Road will block the ability of the City to create that road in the future. Staff is proposing the option for that road opening for the future.

Commissioner Gonzales said the City has been "dinged" in the past for not planning appropriately for the traffic flow around the City, and knowing the information staff has discussed, he asked the Applicant why he disagrees with the Condition, and if he disagrees with the City's planning assessment for the future and the need for this.

Mr. Mifsud said he has dealt with three different case planners on this project during the past year. He said the first one told him to meet with John Romero, and if he doesn't require it, it won't be an issue. He met with John Romero, and "John Romero said, nope, not going to continue." As he met with subsequent case planners this issue came back. He said there is no plan to build a road there, and there is an existing 40 ft. easement on the property to the west of his property. This easement would make it a 65 ft. easement, which would be a pretty big road. He said his client probably would entertain an offer to dedicate right-of-way [ROW] if this did come about. However, requiring a recorded easement at this time doesn't seem to be a valid request.

Mr. Esquibel said, for the record, the 40 ft. easement is in place, and it was put in place on the Subdivision Plat as it was developed. However, in all fairness a building permit was issued, and the storage unit which sits on the other side of that property actually encroaches within that 40 ft. easement, and that also is a factor in the reason for suggesting the 25 ft., instead of 20 ft. to make it a total of 40 ft. all the way down.

Commissioner Bordegary asked if the other easements already in place are contiguous.

Mr. Esquibel said the easement is continuous all the way down the subdivision. There have been areas within the subdivision which were vacated, but really didn't encroach on the area they were looking to continue forward. Although there some areas which the City still needs to procure, staff felt there was enough there to continue the planning. He said if you will look on the maps you will see the Subdivision Plat, and the Development Plan, and it will say "Final Development Plan," and that Plan shows the storage units. He said as you run along the easement you can see where some areas were vacated and where it was maintained. He said if you look at the Vicinity Map and the graphics, you can identify how that connection may be a very needed road in the future as the City continues its planning process.

Commissioner Montes said then at some point Academy Road will connect with Cerrillos.

Mr. Esquibel said staff was looking at more of the spider web connections which would allow the connection.

Commissioner Mier asked if the road were to proceed, what percentage of the necessary easements currently are granted from point A to point B.

Mr. Esquibel said he doesn't have that information, although the Subdivision Plat does show that easement, and shows the other side having an easement. However, he is unsure whether or not the entire easement was dedicated for public use, and the City may have to get those as it needs them.

Commission Armijo noted Clifford Crouch's easement is 45 feet, and asked the width of the road.

Mr. Esquibel said the City would like a 40 ft. easement, but we're stuck with what was granted for the subdivision. He said staff was trying to estimate what is needed as the direct result of the building encroachment on the existing easement. The County nor the Applicant vacated that section of encroachment. He said there could be an issue, but he doesn't know that the City would seek to demolish the building for that easement. It might be easier to extend it further south so people can access through there.

Commissioner Armijo said easier might not be fair. He asked how much the building encroaches on the easement. Mr. Esquibel is unsure without a survey, and the City was provided only with the documentation which was approved by the County.

Commissioner Armijo asked, if the City needs a 40 ft. wide road and there are two open properties for easements, why doesn't the City request a 20 ft. easement from this Applicant and a 20 ft. easement from the adjacent property owned by Clifford Crouch to provide the 40 ft. easement.

Mr. Esquibel said this is up to this Commission, if it felt that would be a fair assessment. Responding to Commissioner Armijo, Mr. Esquibel said 40 ft. would work, because that's all we have along there. He said the County rules and regulations are very different from the City rules and regulations, so as we annex and have to work with some of these properties, issues will arise which are similar to this one.

Mr. Smith said, for the record, "on the exhibit that you showed, the bottom half of the road clearly has a note from its EZ approval of this Subdivision Plat, that within the solid boundary, the bottom half of the road, which is in fact the east half of the road, does have a dedication statement that includes that the portion of the road within the boundary of this particular Subdivision includes a right of public access. The top half of the road, as shown on that plat, the west half, if you want to call it that, it is not clear to staff... staff hasn't researched the dedication statement, I'm not certain that there is a public access dedication statement for the east half, for the last half of the road, the top half of the road. In addition to which it appears likely that south of the cul-de-sac, on the west half of the road, that there is a building that encroaches with them. So, if we continue the 20-40 split as suggest by Commissioner Armijo, it is likely that the west 40 ft., when and if the rights were secured, would also be obstructed partially by the building." He said those are the considerations as far as the wording of the condition as we presented it.

MOTION: Commissioner Gonzales moved, seconded by Commissioner Hughes, to approve Case #M-2009-14, with conditions as recommended by staff, and striking Condition #6.

VOTE: The motion was approved on a voice vote, with one no vote.

7. **CASE #M-2009-15. KOMIS BUSINESS PARK, FINAL DEVELOPMENT PLAN AND FINAL SUBDIVISION PLAT TIME EXTENSION. SCOTT HOEFT, AGENT FOR PETER KOMIS, REQUESTS A TIME EXTENSION FOR FINAL DEVELOPMENT PLAN AND FINAL SUBDIVISION PLAT FOR 18 LOTS ON 58.5± ACRES LOCATED NORTH OF THE INTERSECTION OF 8-25 AND NM 599. THE PROPERTY IS ZONED C-2 (GENERAL COMMERCIAL), AND IS IN PHASE 2 OF THE CITY-INITIATED ANNEXATION. (DONNA WYNANT, CASE MANAGER)**

A copy of a letter dated October 15, 2009, to Greg Smith from Scott Hoeft, requesting to reschedule this case to November 5, 2009, is incorporated herewith to these minutes as Exhibit "6."

This item was postponed to the meeting of November 5, 2009.

2. **AN ORDINANCE AMENDING SECTIONS 14-8.3(C)(2) AND 14-8.3(C)(3) SFCC 1987, REGARDING DEVELOPMENT WITHIN A SPECIAL FLOOD HAZARD AREA AND PERMITTED USES WITHIN A FLOODWAY (COUNCILOR CALVERT). (WENDY BLACKWELL, CASE MANAGER)**

A Memorandum dated October 5, 2009, for the Planning Commission meeting of October 15, 2009, with attachments, to the Planning Commission, from Wendy M. Blackwell, CFM, Technical Review Division Director, is incorporated herewith to these minutes as Exhibit "7."

Charlie Gonzales, Technical Review Coordinator, presented information regarding this matter from Ms. Blackwell's memorandum of October 5, 2009, which is in Exhibit "7." Please see Exhibit "7," for specifics of this presentation.

REQUESTED ACTION: Recommend proposed amendments to the Governing Body.

Councilor Calvert, sponsor of the Ordinance, said he had no comment at this time with regard to the proposed Ordinance change.

Public Hearing

Courtney Mattea, 2 Camino Pequeno, and said thanks to the staff and to Councilor Calvert for working on this Ordinance. This is an issue that affects him, and he supports the proposed Ordinance.

Brad Perkins, 3 Camino Pequeno, said this is an important ordinance, which fixes a problem faced by him and nine of his neighbors on Camino Pequeno and the east end of East Alameda as the result of the FEMA study. He said when he was notified of the new FEMA maps, and discovered that his home is now, overnight, in the 1% flood plain. He and his neighbors met with City people to understand the consequences. He said, since construction is not allowed in a flood zone, if our houses were damaged in a flood, or destroyed or damaged by fire, they would have to be abandoned and they would have no place to live. If they take out FEMA insurance, which is limited to \$250,000 coverage for the building and something more than \$100,000 for the contents, they might get the FEMA money, but that wouldn't begin to cover the costs even to clear the ground for him and his neighbors. He said this will be a disaster which is waiting to happen if the ordinance change proposed by Councilor Calvert isn't adopted.

Mr. Perkins said a house at the end of the street is listed for sale, and it will be impossible to sell, because no one will provide a mortgage on a house in a 1% flood zone under the current ordinance. He said it is very important for this Commission to adopt the Ordinance as proposed by Councilor Calvert.

The Public Testimony Portion of the Public Hearing was Closed

Commissioner Lindell asked if someone in a flood plain experiences a disaster of some kind, and they need to rebuild in a flood way, would be required to get a no rise certificate, and Mr. Gonzales said this is correct.

Responding to a question from Commissioner Lindell, Mr. Gonzales said a No Rise Certificate is prepared by an engineer which states that when the 100 year event comes through that the height of the water will not exceed the basic elevation of the flood plain.

Mr. Smith said the impact as he understands it is that no other property will be affected by a rise in flood waters of one foot. He said, by definition, since the proposed amendment requires them to replace the identical footprint almost by definition, there would not be an increase in the existing flood waters on other properties, per the proposed amendment.

Commissioner Lindell asked if this only has to do with a "rise" as it affects other properties, and Mr. Smith said that is his understanding.

Mr. Gonzales said as it affects the subject property and other properties as well, and Mr. Smith said this is correct.

Commissioner Lindell said then if someone is to rebuild they need a rise certificate which deals with how new structure are built.

Mr. Gonzales said, first we would try to push them to build out of the 100 year flood plain, then we would go for the flood fringe, and as a last resort we would go with the floodway. He said to build in the floodway or the flood fringe they would have to submit all of the engineering to do that.

Commissioner Lindell asked if there are situations where someone wouldn't qualify, and if they don't qualify then they don't get a building permit.

Matthew O'Reilley, Land Use Department Director, said when FEMA does these flow studies, and did the flood studies, in a number of the A zones in the City, it considered the structures already in the flood zone. So, if the houses are rebuilt exactly where they were, there will be no calculated rise in the flood waters. If someone was to try and build a bigger house, there could be a rise in the flood waters because it would be a bigger structure in the flood zone.

Commissioner Lindell asked if all of these houses which are affected by this currently are required to have flood insurance.

Mr. Gonzales said if FEMA knows about it, it will charge them for flood insurance. He said there are a lot of houses that don't have flood insurance. In a case such as this, they would be required to pay flood insurance.

Commissioner Lindell said these houses currently have to have flood insurance.

Mr. Gonzales said it is not a City rule, but it is a FEMA rule.

Commissioner Armijo said when the person comes in for a building permit, or for a refinance, at that point the insurance carrier will pick up that the person is in a flood area. He said if you have already done your mortgage and you're not doing any kind of building, then that issue probably would never come up.

Commissioner Lindell said then it is up to the individual owner to decide whether they want to have flood insurance, and Commissioner Armijo said that would be his guess.

Mr. Gonzales said many people come into the office who don't know about flood insurance, and the lenders find out they're in a flood plain and let them know they need to get flood insurance, and they then meet with staff. He doesn't know how they find out they're in a flood plain, commenting sometimes they don't.

Commissioner Lindell said there could be three 100-year floods for three years in a row, and it's risky to build in a flood plain. She has concern for the homeowners, but she wants to know the City is doing everything possible to mitigate what is already a bad situation.

Mr. Gonzales pointed out that there also can be 100-year flood storm events in different parts of the City and County, as well.

Commissioner Lindell said then this area previously wasn't in a FEMA flood zone.

Mr. Gonzales said it was. He said the FEMA map was amended. He said two years ago he issued a permit in the flood plain in error, and this is how it came to the City's attention, noting the permit was for a fence, not for a house.

Commissioner Lindell said then all of these homes originally were built in a flood plain, and Mr. Gonzales said this is correct.

Mr. Smith said it is accurate to say they were in a flood plain at the time they were constructed, but most were not in a FEMA designated flood plain when built. He said the adoption of the FEMA map was post construction of most of the house, and FEMA didn't make it official until after these houses were built.

Mr. Gonzales said the amendment brought them "more" into the flood plain.

Commissioner Vigil asked if there are other communities who are looking at ordinances to mitigate this situation.

Mr. Gonzales said the County is the only entity of which he is aware has worked on this, and its ordinance probably is close to the City's.

Commissioner Vigil said that ordinance is fairly new and hasn't been tested yet, and Mr. Gonzales said this is correct.

MOTION: Commissioner Gonzales moved, seconded by Commissioner Mier, that the Planning Commission makes a positive recommendation fo the Council for an Ordinance amending Sections 14-8.3(C)(2) and 14-8.3(C)(3) SFCC 1987 regarding development within a Special Flood Hazard Area and permitted uses within a floodway.

VOTE: The motion was approved unanimously on a voice vote.

G. BUSINESS FROM THE FLOOR

There was no business from the floor.

H. STAFF COMMUNICATIONS.

1. **THE CITY OF SANTA FE EPA NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER QUALITY PROGRAM. CITY OF SANTA FE STORM WATER MANAGEMENT STAFF WILL MAKE A BRIEF PRESENTATION ON THE CITY'S MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) PERMIT, THE STORM WATER MANAGEMENT PLAN AND STORM WATER QUALITY TREATMENT REQUIREMENTS RELATING TO CONSTRUCTION AND NEW LAND DEVELOPMENTS. (JIM L. SALAZAR, CFM, STORM WATER MANAGER)**

This item has been postponed to the meeting of November 5, 2009.

2. MIRASOL DEVELOPMENT

Ms. Brennan said, with regard to the Mirasol development, she and Frank Katz met this week with the General Council from TPL, and it appears it has the funds to purchase the property, and they are now working on the details to arrange a conservation easement, collect the money and such. The Commission adopted the Findings tonight, but it looks as if that will become conservation land.

Commissioner Hughes asked if it will be completely conservation land, or will there be 1-2 homes.

Ms. Brennan said as it now stands, the \$1.4 million donor will get two building lots out of it down at the base, and a conservation easement will put on the rest of their property, so they can't develop more than that.

Commissioner Bordegary said she received an email after the last meeting from developer Doug McDowell, and asking that the City kick-in for another amount to make the deal work, and public money would complete that. She said under no circumstances was she ever going to support any public money to be spent to preserve this private property for the neighbors and the rest of the City. Commissioner Bordegary asked what happens to the access to the existing trails.

Ms. Brennan said that goes away, because that was a condition of your approval. She believes the City is going to be a vehicle, because we own conservation land there already, so there will be a role for the City to play – there will be an approval process, and the City will have an opportunity to weigh-in.

Ms. Bordegary asked staff to keep the Commission "in the loop," noting this is an absolute requirement based on the sentiment of this Board and absolutely must be part of whatever happens, otherwise they're looking at trespassers.

Ms. Brennan said the trail easement will remain and she believes the TPL wants to see a trail head, and they're playing a large role in this in drafting documents, so she thinks it may come to us with a trail head built in.

Ms. Bordegary said if it is up to our standards it will be great.

3. UPCOMING CONFERENCES

Mr. Smith said there is information in the Commission packets about the New Mexico Chapter of the American Planning Association Convention November 4-5 and 6. He said two of the Commissioners will be presenters at the Conference. He encouraged Commissioners to attend, but unfortunately he is unable to say there will be any City funding to defray the tuition for Commissioners this year.

Mr. Smith said he and Ms. Brennan will be presenters at the conference hosted by the Neighborhood Law Center, sponsored by Fred Rowe and other local attorneys, noting they will be presenting on Thursday, November 5, 2009. He understands Mr. Rowe had sent information on the conference to the Commissioner, but if that isn't the case he can forward that information to the Commissioners.

I. MATTERS FROM THE COMMISSION

Mr. Salazar said the next meeting of the Commission will be November 5, 2009.

Commissioner Armijo said the Northwest Quadrant was approved by the City Council, and asked if the Council also improved the variances.

Ms. Brennan said no, the City Council tabled the variances for not less than three months, and she believes the variance requests may be withdrawn, but doesn't know if that has happened. The City Council did approve the General Plan Amendment and the Rezoning and Master Plan, but not the variances.

Commissioner Armijo said he understood from the developer that the only way they could make this project happen was a variance for "the ridgetop being allowed."

Ms. Brennan said she didn't attend that meeting, but she believes the feeling was that there was not enough data and the variance criteria had not been sufficiently addressed, and they could come back and do that. She noted the vote on the General Plan Amendment was 5-4, and the vote on the Rezoning was 4-4 with the Mayor casting a vote in favor to vote the tie. However, the Mayor also said he was not in favor of the variances at that time. She said what Commissioner Armijo says is true, but probably the better time to address the variances would be at Development Plan approval.

Commissioner Armijo said, for the record, if the variances are allowed, this Planning Commission, as a fair group, would have to allow the same to all developers. He said this isn't a warning or a threat to the City. He said, "I'm just saying simply, those variances, open variances to me are unheard of, as far as this Planning Commission. And if the City is going to go ahead and proceed and allow those, then we'd have to do in kind to other developers coming forward to us."

Ms. Bordegary asked, regarding the Northwest Quadrant, if there was a condition of approval in the rezoning dealing with traffic.

Ms. Brennan said it was confusing and she is unsure that was a condition of the vote, but it seemed to be. She said there was a condition that sewer not connect to any lines running through Casa Solana, and the traffic was in that same segment of not going through Casa Solana, but doesn't think it made it into the motion, noting this is conceptual approval.

Responding to Commissioner Bordegary, Mr. Smith said if it is in an Ordinance, it is by constitutional principle subject to amendment by a future Council of that ordinance. She said no Council can perpetually restrict the action of any future Council.

Ms. Bordegary said then it would take a pro-active Council to rescind or amend that.

Mr. Smith said it would take action by a future Council to amend the ordinance adopted by this Council.

Ms. Bordegary said, "So, it was adopted by this Council that traffic will not go through Casa Solana. I'll remember that and track that. That's a lot of power of the neighborhoods."

Commissioner Armijo said in the Northwest Quadrant a portion of the land was dedicated from the Santa Fe Public Schools to the City, and there is now going to be a requirement for the Santa Fe Housing Program not to be a part of the area, and asked if that doesn't open the door for other developers to come and request the same thing for their development with no affordable housing.

Ms. Brennan noted that there is a purchase of property from the School and some land dedicated to it. There was discussion about an affordable housing requirement, but she can't remember the outcome of that.

Commissioner Armijo asked how this is fair to all of the other developers in Santa Fe, when the ordinance specifically reads that it applies to every property.

Ms. Brennan said the percentage of what is regarded as affordable in the project is so much higher than a normal developer is asked to provide, that it seems to compensate for that, but she isn't sure.

Commissioner Armijo said that doesn't happen for anyone else just because they do additional affordable housing.

Ms. Brennan understands this will be 70% affordable, and that includes step-up housing.

Commissioner Armijo doesn't see how it is possible to build on the hillsides in the Northwest Quadrant, but "time will tell."

Ms. Brennan said she has a note that the Motion at Council was to do an assessment of traffic options raised at the meeting, so that wasn't an exclusion of possibility.

Commissioner Gonzales asked if the Council approved a financing model for the Public Improvement District.

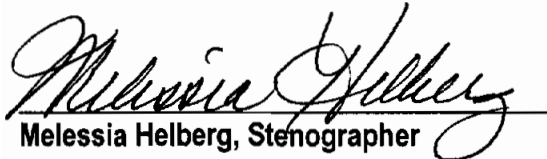
Ms. Brennan said no, they deferred that until the time that it might be more economically feasible, and not to bring it forward until can be financed.

Commissioner Gonzales said it would be interesting if they ever do that, and to see what the tax burden would be on the affordable housing units, and how much that would be.

J. ADJOURNMENT

There was no further business to come before the Commission and the meeting was adjourned at 7:50 p.m.

John Salazar, Chair



Melessia Helberg, Stenographer