



# Agenda

DATE 12/20/10 TIME 11:00 a  
PREPARED BY [Signature]  
APPROVED BY [Signature]

## **BUSINESS CAPITOL DISTRICT / DESIGN REVIEW COMMITTEE**

**Thursday – January 13, 2011 –5:30 P.M.  
200 LINCOLN AVE. SANTA FE, NM  
CITY COUNCIL CHAMBERS**

- A. ROLL CALL**
- B. APPROVAL OF AGENDA**
- C. APPROVAL OF MINUTES**  
Minutes of December 14<sup>th</sup>, 2010
- D. Findings of December 14<sup>th</sup>, 2010 (Case #BCD 2010-160)**
- E. OLD BUSINESS (None)**
- F. NEW BUSINESS (None)**
- F. BUSINESS FROM THE FLOOR**
- G. STAFF COMMUNICATIONS**  
BCD overview training
- H. MATTERS FROM THE COMMISSION**
- I. ADJOURNMENT**

**NOTES:**

1. Procedures in front of the Business Capitol District / Design Review Committee are governed by Roberts Rules of Order. Postponed cases are postponed to: (1) a specific date; or (2) indefinitely until specific conditions have been resolved; or (3) to a specific date with the provisions that specific conditions be resolved prior to that date. Postponed cases can be removed from the postponed by a motion and vote of the Business Capitol District / Design Review Committee.
2. Due to time constraints not all issues may be heard and may be scheduled to the next scheduled Business Capitol District / Design Review Committee meeting. This agenda is subject to change at the discretion of the Business Capitol District / Design Review Committee.
3. New Mexico law requires the following administrative procedures to be followed by zoning boards conducting "quasi-judicial" hearings. In "quasi-judicial" hearings before zoning boards, all witnesses must be sworn in, under oath, prior to testimony and be subject to cross examination. Witnesses have the right to have an attorney present at the hearing. The zoning board will, in its discretion, grant or deny requests to postpone hearings.

**\*\*An interpreter for the hearing impaired is available through the City Clerk's Office upon five days notice. Please call (505) 955-6521. \*\***

**SUMMARY INDEX OF  
CITY OF SANTA FE  
BUSINESS CAPITOL DISTRICT / DESIGN REVIEW COMMITTEE**

**January 13, 2011**

<b>ITEM</b>	<b>ACTION</b>	<b>PAGE</b>
A. ROLL CALL		1
B. APPROVAL OF AGENDA	Approved	1
C. APPROVAL OF MINUTES – December 14, 2010	Approved	1
FINDINGS/CONCLUSIONS- December 14, 2010	Approved	1-2
D. OLD BUSINESS	None	2
E. NEW BUSINESS	None	2
F. BUSINESS FROM THE FLOOR	None	2
G. STAFF COMMUNICATIONS BCD Overview Training	Discussed	2-6
H. MATTERS FROM THE COMMISSION	None	6-7
I. ADJOURNMENT	Adjourned at 6:42 p.m.	7

**CITY OF SANTA FE  
BUSINESS CAPITOL DISTRICT / DESIGN REVIEW COMMITTEE**

**THURSDAY – JANUARY 13, 2011 – 5:30 P.M.**

**A.** A regular meeting of the City of Santa Fe Business Capitol District/Design Review Committee was called to order by Chair Patti Bushee on the above date at approximately 5:30 p.m. in the City Councilor's Chambers, City Hall, 200 Lincoln Ave., Santa Fe, New Mexico.

**Roll Call**

Roll call indicated the presence of a quorum as follows:

**Members Present:**

Councilor Patti Bushee, Chair  
Elizabeth Bradley  
Michael A. Harris  
Daniel Pava  
Edmundo Lucero

**Members Absent:**

Lom Tryk (excused)  
Graciela Tomé

**Staff Present**

Matt O'Reilly, Director, Land Use Department  
Kelly Brennan, City Attorney's Office  
William Lamboy, Land Use Department  
Dan Esquibel, Senior Land Use Planner

**Others Present:**

Charmaine Clair, Stenographer

**NOTE: All items in the Committee packet for all agenda items are incorporated herewith by reference.**

**B. APPROVAL OF AGENDA**

**Ms. Bradley moved to approve the Agenda as presented. Mr. Harris seconded the motion and it passed by unanimous voice vote.**

**C. APPROVAL OF MINUTES AND FINDINGS/CONCLUSIONS**

**December 14, 2010**

Mr. Pava said he had a lot of minor things and was asked by Chair Bushee to leave them with the stenographer.

Mr. Harris said during the session the cistern was discussed quite a bit. He remembered that Mr. Perry made a commitment to tie in his roof water to the existing system. He said he realized it was left to Staff to sort out but there was a commitment from Mr. Perry and that should be reflected in the minutes.

Chair Bushee asked that Ms. Brennan be sure that language was recoverable.

**Mr. Harris moved to approve the December 14, 2010 minutes as amended. Mr. Pava seconded the motion and it passed by unanimous voice vote.**

### **Findings and Conclusions of December 14, 2010:**

Chair Bushee asked that the concern raised for the Minutes also be added to the Findings.

Ms. Brennan stated she typically worked from the motion that was made and voted on and it wasn't reflected in the motion. She said the stenographer could probably pull that from the tape but since it wasn't in the motion, it should be in the Findings and Facts.

Chair Bushee said she believed the statement was included in the motion.

Mr. Harris said it was reflected in the motion and also reflected in the Findings on the final page at the top. He asked for the record, that Mr. Perry's commitment to make the cistern work be included.

Chair Bushee agreed and said as long as it was reflected in the Findings.

**Mr. Pava moved to approve the Findings of Fact of December 14, of Case # BCD 2010-160. Mr. Harris seconded the motion and it passed by unanimous voice vote.**

#### **D. OLD BUSINESS**

There was none.

#### **E. NEW BUSINESS**

There was none

#### **F. BUSINESS FROM THE FLOOR**

There was none.

#### **G. STAFF COMMUNICATIONS**

BCD Overview Training

Mr. Esquibel said before the Committee was an overview of the BCD-DRC (Business Capital District Design Review Committee) powers and duties. He said he would start with the ordinance and their authority which came directly from the code. The code provided the review process and request for recommendations for approval.

Mr. Esquibel said it was basically the same format for major projects and development plans. He said the major project plan had more architectural detail associated with the four districts related to the BCD.

Mr. Esquibel said the Process Packet identified the sub districts and a definition of major projects was defined in the Rail Yard packet (page 3) and gave criteria that trigger a major project. In BCD, only 4 districts trigger a major project; the sub districts for Cerrillos, Alameda, West Side Town and the Redevelopment.

He said the triggers were 10,000 ft.<sup>2</sup> or a quarter acre. A previous committee helped develop the checklist for applicants as to what BCD wanted for submittals and the checklist was included in the packet.

Mr. Esquibel reviewed a map of 15 townscape sub districts. He said each sub district had a different set of criteria for dimensional standards, lot coverage, architectural review, streetscape, height, etc. He pointed out the differences on San Francisco Street around the Lensic and the style where the County Courthouse was.

He pointed out the blue area as the HDRB (Historic Design Review Board) jurisdiction that superseded the BCD standards in architecture. HDRB determined height, style, streetscape, etc. and BCD was an independent body charged with the review of standards within their authority. The applicant had to achieve approval from both bodies.

Mr. Esquibel said if there was a conflict with the conditions of approval between HDRB and the BCD the applicant had to appeal before the City Council to see which was more appropriate. The appeal had to be filed within the window of time for both the bodies.

Mr. Esquibel said the Rail Yard had a more extensive standard of review than other districts and the height had a second component. The BCD had a handbook that referenced a pre-Clarion section. He explained the City updated the codebook and many of the amendments were codified but the pamphlet was left out. The handbook reflected the old section and gave more detail in the parameters than the code provided.

Chair Bushee asked if it was the Handbook or the code that determined where height was measured from.

Mr. Esquibel said on Chapter 14 height was measured from grade and an *averaging of grade* was defined. He said within the BCD there was confusion; it was left to elevations and between the applicant and Staff to determine what was needed.

Ms. Brennan said the Drury Redevelopment Plan for the St. Vincent Hospital and Marion Hall could be the only example where historic regulations permitted a higher height than the BCD. She said in historic districts on an existing building the height can be added to match the existing heights.

Mr. Esquibel read from the code 14-7 4c Measurement of Height. Chair Bushee asked that a copy be sent to the members to add to their packets.

Mr. Harris asked if mean grade was established from finished grade. He said the HDRB measured from existing grade or whichever was more restrictive. He thought there was a different standard in the escarpment area.

Ms. Brennan said the HDRB applied its standard, escarpment was applied by the Planning Commission and when historic and BCD overlapped, that sometimes came up. She said usually BCD allowed height higher than historic.

Mr. Harris said it was left to Staff to determine that the building (Masque) would be in compliance with the definition in Chapter 14.

Mr. Esquibel said the measurement was made from the correct distance during the review process.

Chair Bushee said she had appreciated Ms. Baer's sketch and asked if there could be a time frame to brainstorm something when there were concerns.

Mr. O'Reilly said that happens but it wasn't possible to anticipate what the Committee would be concerned about. He said the Land Use Staff was conducting mock hearings to be prepared and to anticipate issues that might come up.

Mr. O'Reilly said if something came in that was clearly wrong, someone would be asked to work on it. That often happened during pre-application meetings. He said Staff was talented and had worked in the private sector and was why Ms. Baer had figured out the issue and was able to help.

Chair Bushee said concerns arose at the first meeting with the conceptual and then again at the next meeting. She said she wished there was a step in between to work with the applicants.

Mr. O'Reilly said there was time for that but it was a fine line between the City designing a project for someone and the applicant designing it. He said if the applicant listened to what the Committee was interested in and failed to respond, Staff could strongly suggest certain things but couldn't force them.

Chair said she would speak for herself; the Committee felt some decisions were made in advance and had a sense that the project would go through. She asked if a time frame could be built in and said it would have been great to have the sessions in advance of the second meeting.

Mr. O'Reilly said when he was a member of the BCD certain projects were scrutinized -an example was the Farmer's Market. He said it was before the Committee three times before the Committee was satisfied. In one study session the applicant brought their computer in and tried different designs.

He said BCD could have, after seeing the information Ms. Baer prepared, ask that she work on it more and return in two weeks.

Ms. Brennan said there were procedural requirements specifically in redevelopment sub districts that anticipate the process of preliminary plans, a review, a hearing and then come back and repeat the process. Staff was authorized to recommend alternative concepts and make recommendations and go back. She said even without that format, BCD had the authority as the decision maker to do that.

Ms. Brennan said the Governing Body granted an amendment to the Master Plan with respect to height and that was within their jurisdiction. She said that created a specific profile. She thought BCD had the authority to shrink the building but not to go above the height amendment.

Chair Bushee asked how the conflict of a different height would be resolved if that decision had been made by the Committee.

Mr. O'Reilly said if that decision was made it would be final unless appealed. He said BCD in most categories had final decision powers and the full power of the Planning Commission in those areas.

Chair Bushee asked why the plan procedurally was allowed to go to City Council before BCD.

Ms. Brennan said Council had been approving an amendment to change the height and that articulated the envelope within which the BCD looked at code requirements.

Chair Bushee said the Committee felt preempted and wasn't clear that BCD could overturn anything.

Mr. O'Reilly said the Rail Yard has a Master Plan that stated only the City Council could make an amendment to the Master Plan. The height change was an amendment to the Master Plan and had to go to the Governing Body.

Chair Bushee asked if City Council could have also sent the plan to BCD for their recommendation given BCD was the expert body.

Mr. O'Reilly agreed they could have done so before the amendment was approved.

Mr. Lucero asked if the decision was appealed, would the appeal go to the City Council. He learned it would and said then BCD would go back to advisory again.

Mr. O'Reilly said that was not unique; on appeals, the decider of the appeal was the Governing Body. He said the Governing Body grants authority to the Planning Commission and the other bodies of the City and could pull a case to hear.

Chair Bushee asked if the BCD could also pull a case from the Governing Body or appeal a case.

Mr. O'Reilly said no; the Planning Commission could come up with things for the Governing Body to consider but usually doesn't. Ms. Brennan added the reason the Planning Commission could do that was they had a separate statutory authority.

Mr. Harris asked if it was fair to say that in all sub districts including the Rail Yard, the BCD-DRC was the decision making body.

Mr. O'Reilly said it was all sub districts that the BCD has purview over; the four (sub districts). He said the majority of the work BCD would see they would have final authority over.

Mr. Esquibel said when BCD was given authority it was applied throughout the BCD District and that created two sets of standards- one for the four districts the Committee had authority over and now a set of standards they didn't have before. He said if the project was 10,000 ft.<sup>2</sup> or greater and within 200 ft.<sup>2</sup> of a residential district, that required a development plan.

Mr. Esquibel said if downtown and within the BCD District but not within the four districts, and 20,000 ft.<sup>2</sup>, it wasn't within the radius of a residential district-that would become a *building permit* and wouldn't be seen by BCD but would go directly to the HDRB.

Mr. Esquibel said the other trigger for a development plan was a structure 30,000 ft.<sup>2</sup> or greater; that automatically became a development plan that the BCD would review as a *development plan* but not as a major project.

Ms. Bradley asked about the Masque decision and if appealed if it would go back to City Council.

Mr. Esquibel said it would. He said the applicant had a right to due process that allowed a challenge of a decision they thought incorrect. He said no decision was final until the window for the appeal process was closed (usually 30 days.)

He said with the Master Plan only the City Council could do something; the lower bodies did not have the right to review that process.

Mr. Harris asked if there were circumstances where the BCD would initiate or give direction to Staff. He talked about a problem at the Rail Yard.

Mr. Esquibel said that problem fell under separate categories outside of BCD altogether and was an enforcement issue.

Ms. Brennan thought there was an avenue where BCD could do that. She said the BCD chairperson as a member of the City Council, had the power to put BCD's concerns before the City Council.

Chair Bushee said she tried to get the last case sent to BCD before City Council made a decision.

Ms. Brennan said if Mr. Harris was referring to the hole in the ground at the Rail Yard, that was within BCD jurisdiction and could be brought up as to what the status was, the plan, what was happening, etc.

Ms. Bradley said several projects BCD looked at were sent back to Staff. She asked if possible to find out the results; the street on Baca in particular, that was to be a two way.

Ms. Brennan said the Planning Commission had Staff report back on projects when conditions were left to Staff and Chair Bushee could have reports from Staff on projects.

Mr. Esquibel invited members to call or e-mail him about code questions. Ms. Brennan agreed they could call or email and said different Staff could be asked to present topics of interest to BCD.

Mr. Lamboy mentioned that El Castillo was considering an addition that would span two different sub districts in the historic district and would come before the BCD in April.

## **H. MATTERS FROM THE COMMISSION**



Chair Bushee said regarding the hole in the ground, she thought because of the economy nothing would happen.

Mr. Harris said he would like to know the status. After some discussion it was determined that he could individually ask questions and get more information and he said he would then, if appropriate, raise the issue again.

Chair Bushee said she had a constituent who pursued a re-zoning and asked if BCD would see that. She was told they would if it was a zoning recommendation.

Ms. Bradley said she thought it would be good to review some of the cases BCD had looked at. She said Ms. Baer could come back with information on Masque; and they had discussed for an engineer to look at the intersection of Rail Fan and make recommendations on height.

Chair Bushee said that was not imminent but brought up another case she wasn't sure of the status; Crago.

Ms. Brennan said it couldn't be demolished until they knew what they were going to do and could be affected by the missing theater. She said if the parcel was vacant it could allow spread or lower to the ground but there was a series of economic factors.

Chair suggested an update meeting.

Mr. Esquibel said an e-mail update could be sent and BCD would get an immediate idea if anything was happening.

Chair Bushee asked if Santa Fe Clay was moving and learned they weren't.

She said she wanted "use" clarified at the Rail Yard and the BCD purview regarding use and BCD's role. She asked for an interpretation from legal with regard to the Rail Yard and the BCD; when they would weigh in, could weigh in or should etc.

Clarification of the areas BCD had asked for updates on was discussed; Tamara and the parking configuration; the cistern and other items on Masque. The Committee learned the traffic situation would remain one way; and the hole in the ground would be questioned on an individual basis.

Mr. Esquibel asked for contact information from everyone and said he would email everyone the next day.

## **I. ADJOURNMENT**

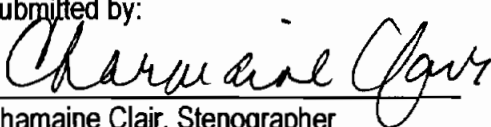
*Having no further business to discuss Chair Bushee adjourned the meeting at 6:42 pm.*

Approved by:

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Patti Bushee, Chair

Submitted by:

  
Chamaine Clair, Stenographer