



# Agenda

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## AMENDED

### **PLANNING COMMISSION**

**April 19, 2007 – 6:00 P.M.**

### **CITY COUNCIL CHAMBERS**

#### **FIELD TRIP TO**

**Case #M 2007-01. Rosario Hill Compound Terrain Management Variance.**

**April 19, 2007 - 5:00P.M.**

**Current Planning Conference Room**

**City Hall 1<sup>st</sup> Floor Lincoln Avenue**

- A. ROLL CALL**
- B. PLEDGE OF ALLEGIANCE**
- C. APPROVAL OF AGENDA**
- D. APPROVAL OF MINUTES**

**March 15, 2007**

#### **E. OLD BUSINESS**

1. **Case #M 2007-01. Rosario Hill Compound Terrain Management Variance.** Linda Tigges, agent for Pete Dobbs, requests a variance to terrain management standards allowing a retaining wall on an existing slope cut into a grade over 30%. The area affected by the variance is within the escarpment overlay district. The property is located on Rosario Hill, north of Rosario Street, northeast of Rio Grande Drive. (Donna Wynant, case manager) **(POSTPONED FROM APRIL 05, 2007)**

#### **F. NEW BUSINESS**

1. An ordinance amending Section 14-6.3(C)(2) SFCC 1987 regarding home occupations. (David Tapia, case manager)
2. An ordinance amending Tables 14-6.1-1 and 14-8.6-1 SFCC 1987; amending Section 14-6.2(A)(6)(a) SFCC 1987; creating a new Section 14-6.2(C)(12); and making such other changes as are necessary; allowing short term rental of dwelling units in residential districts provided that certain conditions are met. (Jeanne Price, case manager)
3. An ordinance amending Section 14-6.2(A)(6)(a) SFCC 1987; creating a new Section 14-6.2(C)(12); amending Table 14-8.6-1 SFCC 1987; and making such other changes as are necessary; regarding the short term rental of dwelling units in residential districts. (Jeanne Price, case manager)

4. **Case #S 2007-04. Desert Sage Subdivision (Homewise Tract 4) Final Subdivision Plat.** Jennifer Jenkins, agent for Homewise, Inc. requests final subdivision plat approval creating 80 lots on 26.788 acres. The application includes a variance to the second-story side yard setback requirement from ten feet to zero feet. The property is zoned R-3 (Residential – 3 dwellings per acre and is located at the northeast corner of Richards Avenue and I-25. (Lou Baker, case manager)
5. **Case #M 2007-02. Kachina Ridge Phase III Final Development Plan.** James W. Siebert, agent for SBS, LLC requests final development plan approval to create a ten lot subdivision on approximately 2.55 ± acres located south of Avenida de las Americas and north of the main channel of the Arroyo de los Chamisos. The application also includes a variance to the setback from the top of the bank of the adjoining waterway. The property is zoned RM-1/PUD (Multi-Family Residential – Planned Unit Development, 21 units dwellings per acre). (Lou Baker, case manager)
6. **Case #S 2007-03. Kachina Ridge Phase III Final Subdivision Plat.** James W. Siebert, agent for SBS, LLC requests final subdivision plat approval to create a ten lot subdivision on approximately 2.55 ± acres located south of Avenida de las Americas and north of the main channel of the Arroyo de los Chamisos. The application also includes a variance to the setback from the top of the bank of the adjoining waterway. The property is zoned RM-1/PUD (Multi-Family Residential – Planned Unit Development, 21 units dwellings per acre). (Lou Baker, case manager)
7. **Case #M 2006-52. Old Las Vegas Highway Subdivision General Plan Amendment.** Jennifer Jenkins, agent for Homewise, Inc. requests approval of a General Plan future land use map amendment to change the designation of 15.35± acres of land from Mountain/Corridor to Residential, Very Low Density. The area is located east of Old Las Vegas Highway and south of Old Pecos Trail. (Donna Wynant, case manager) **(POSTPONED FROM FEBRUARY 15, 2007 AND MARCH 15, 2007) (TO BE POSTPONED)**
8. **Case #M 2006-53. Old Las Vegas Highway Subdivision Annexation.** Jennifer Jenkins, agent for Homewise, Inc. requests annexation of 15.35± acres of land located to the east of Old Las Vegas Highway and south of Old Pecos Trail. (Donna Wynant, case manager) **(POSTPONED FROM FEBRUARY 15, 2007 AND MARCH 15, 2007) (TO BE POSTPONED)**
9. **Case #ZA 2006-21. Old Las Vegas Highway Subdivision Rezoning from R-1 to R-3.** Jennifer Jenkins, agent for Homewise, Inc. requests rezoning of 15.35± acres of land from R-1 (Residential, one dwelling unit per acre) to R-3 (Residential, three dwelling units per acre). The property is located east of Old Las Vegas Highway and south of Old Pecos Trail. (Donna Wynant, case manager) **(POSTPONED FROM FEBRUARY 15, 2007 AND MARCH 15, 2007) (TO BE POSTPONED)**

- 10. Case #M 2006-46. Galisteo Commons Preliminary Development Plan.** C.R. Walbridge & Associates, LLC, agent for Galco, LLC request preliminary development plan approval to create 41 condominium dwelling units on 6.6414 acres. This property is located in the 2000 block of Galisteo Road, south of the intersection of St. Michael's Drive and Galisteo Road and is zoned R-6 (Single Family Residential, 6 dwellings per acre). (Gary Park, case manager) **(POSTPONED FROM APRIL 05, 2007)**

**G. BUSINESS FROM THE FLOOR**

**H. STAFF COMMUNICATIONS**

**I. MATTERS FROM THE COMMISSION**

**J. ADJOURNMENT**

**NOTES:**

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

**INDEX OF**  
**CITY OF SANTA FE**  
**PLANNING COMMISSION**

**April 19, 2007**

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<b>B. PLEDGE OF ALLEGIANCE</b>		1
<b>C. APPROVAL OF AGENDA</b>	Approved	1-2
<b>D. APPROVAL OF MINUTES</b> March 15, 2007	Approved	2
<b>E. OLD BUSINESS</b>		
1. <u>Case #M 2007-01.</u> <i>Rosario Hill Compound Terrain Management Variance. Linda Tigges, agent for Pete Dobbs, requests a variance to terrain management standards allowing a retaining wall on an existing slope cut into a grade over 30%. The area affected by the variance is within the escarpment overlay district. The property is located on Rosario Hill, north of Rosario Street, northeast of Rio Grande Drive.</i>	Approved	2-4
<b>F. NEW BUSINESS</b>		
1. An ordinance amending Section 14-6.3(C)(2) SFCC 1987 regarding home occupations.	Postponed to June 7 <sup>th</sup>	4-8
2. An ordinance amending Tables 14-6.1-1 and 14-8.6-1 SFCC 1987; amending Section 14-6.2(A)(6)(a) SFCC 1987; creating a new Section 14-6.2(C)(12); and making such other changes as are necessary; allowing short term rental of dwelling units in residential districts provided that certain conditions are met.	Postponed to June 7 <sup>th</sup>	8-22
3. An ordinance amending Section 14-6.2(A)(6)(a) SFCC 1987; creating a new Section 14-6.2(C)(12); amending Table 14-8.6-1 SFCC 1987; and making such other changes as are necessary; regarding the short term rental of dwelling units in residential districts.	Postponed to June 7 <sup>th</sup>	8-22
4. <u>Case #S 2007-04.</u> Desert Sage Subdivision (Homewise Tract 4) Final Subdivision Plat.	Postponed to May 17 <sup>th</sup>	22
5. <u>Case #M 2007-02.</u> Kachina Ridge Phase III Final Development Plan. James W. Siebert, agent for SBS, LLC requests final development plan approval to create a ten lot subdivision on approximately 2.55 ± acres located south of Avenida de las Americas and north of the main channel of the Arroyo de los Chamisos. The application also includes a variance to the setback from the top of the bank of the adjoining waterway. The property is zoned RM-1/PUD	Approved	22-24

<b>ITEM</b>	<b>ACTION TAKEN</b>	<b>PAGE(S)</b>
6.	<b><u>Case #S 2007-03.</u> Kachina Ridge Phase III Final Subdivision Plat. James W. Siebert, agent for SBS, LLC requests final subdivision plat approval to create a ten lot subdivision on approximately 2.55 ± acres located south of Avenida de las Americas and north of the main channel of the Arroyo de los Chamisos. The application also includes a variance to the setback from the top of the bank of the adjoining waterway. The property is zoned RM-1/PUD</b>	
	<b>Approved</b>	<b>24-25</b>
7.	<b><u>Case #M 2006-52.</u> Old Las Vegas Highway Subdivision General Plan Amendment.</b>	
	<b>Postponed to May 3<sup>rd</sup></b>	<b>25</b>
8.	<b><u>Case #M 2006-53.</u> Old Las Vegas Highway Subdivision Annexation.</b>	
	<b>Postponed to May 3<sup>rd</sup></b>	<b>25</b>
9.	<b><u>Case #ZA 2006-21.</u> Old Las Vegas Highway Subdivision Rezoning from R-1 to R-3.</b>	
	<b>Postponed to May 3<sup>rd</sup></b>	<b>25</b>
10.	<b><u>Case #M 2006-46.</u> Galisteo Commons Preliminary Development Plan.</b>	
	<b>Postponed to May 17<sup>th</sup></b>	<b>25</b>
G.	<b>BUSINESS FROM THE FLOOR</b>	<b>26</b>
H.	<b>STAFF COMMUNICATIONS</b>	<b>26</b>
I.	<b>MATTERS FROM THE COMMISSION</b>	<b>26</b>
J.	<b>ADJOURNMENT</b>	<b>26</b>

**MINUTES OF**  
**CITY OF SANTA FE**  
**PLANNING COMMISSION MEETING**

**April 19, 2007**

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

**A. ROLL CALL**

Roll call indicated the presence of a quorum as follows:

**MEMBERS PRESENT:**

Robert Werner, Chair  
Bonifacio Armijo  
Michael Trujillo  
Estevan Gonzales, Vice Chair  
Harriet Heltman  
Ken Hughes  
Signe Lindell  
Eric Lujan

**MEMBERS ABSENT:**

Vacancy

**STAFF PRESENT:**

Greg Smith, Development Review Division Director  
Donna Wynant, Senior Planner  
Jeanne Price, Legislative Liaison  
Lou Baker, Senior Planner  
Anne Lovely, Assistant City Attorney  
John Romero, Traffic Engineer  
Ron Pacheco, Office of Affordable Housing

**B. PLEDGE OF ALLEGIANCE**

Chair Werner asked Commissioner Trujillo to lead the pledge of allegiance.

**C. APPROVAL OF AGENDA**

Mr. Smith recommended postponement of the following items:

Under New Business: Item 4- Case #S-2007-04 - Desert Sage Subdivision Final Subdivision Plat – applicant requested postponement to May 17<sup>th</sup>

Item 7, 8 and 9 – Case #M-2006-52, Case #M-2006-53 and Case #ZA-2006-21 - Old Las Vegas Highway – applicant requested postponement to May 3<sup>rd</sup>

Item 10- Case #M-2006-46 – Galisteo Commons Preliminary Development Plan – staff requests postponement to May 17<sup>th</sup> due to notification error as it is not a preliminary

Commissioner Lujan asked how Galisteo Commons was advertised at the previous hearing when it was postponed.

Mr. Smith said this was postponed at the last meeting and was advertised incorrectly for that hearing as well.

Commissioner Lujan thought they should just hear the case.

Chair Werner said they have heard the advice of the City Attorney and said they do not have the authority to approve more than what the public was noticed for. He asked the applicant, Mr. Geiss to speak.

**Bruce Geiss, 2011 Botolph Road, was sworn.** He stated that he understands the technicality, but they will come back anyways. He wondered if they could be heard as a preliminary development plan. When he applied, he was told that the procedures were being changed and normally they would have gone to preliminary and final hearing, but now it would be combined into one hearing. They were scheduled for a preliminary hearing in December, but when they were told that they would be required to have the full engineering they consented to coming back for one hearing. He said in good faith they have been planning for that. He asked to be heard as a preliminary.

Mr. Smith explained that the development plan is before the Commission as the general provision requires approval of a development plan for any development over 10,000 square feet in a residential district. The code does not make any provision for anything other than a simple development plan approval. This process is different than the Planned Unit Development District where there are specific provisions for preliminary and final development plans. He said there does not appear to be any proper way under the current code provisions to proceed. He apologized for the error, but said only a single hearing and only a single action is appropriate in this case under the code.

Mr. Geiss agreed.

**Commissioner Trujillo made a motion to approve the agenda as amended, Commissioner Heltman seconded the motion which passed by unanimous voice vote.**

#### **D. APPROVAL OF MINUTES** **March 15, 2007**

**Commissioner Heltman made a motion to approve the minutes as presented, Commissioner Gonzales seconded the motion which passed by unanimous voice vote.**

#### **E. OLD BUSINESS**

- 1. Case #M 2007-01. Rosario Hill Compound Terrain Management Variance. Linda Tigges, agent for Pete Dobbs, requests a variance to terrain management standards allowing a retaining wall on an existing slope cut into a grade over 30%. The area affected by the variance is within the escarpment overlay district. The property is located on Rosario Hill,***

***north of Rosario Street, northeast of Rio Grande Drive. (Donna Wynant, case manager) (POSTPONED FROM APRIL 05, 2007)***

Chair Werner noted that the Commission completed a field trip to this area. He added that everything said at the previous hearing is on the record so there is no need for anyone to feel they need to restate what was said. He ruled that the only testimony relevant is regarding drainage or other planning issues dealing with the construction of the retaining wall. No additional testimony on other issues involving this development that cannot be acted on by this Commission during this application process would be heard.

Memorandum from Donna Wynant, Senior Planner, prepared for the April 5, 2007 Planning Commission meeting is incorporated herewith to these minutes as Exhibit "1."

Letter from Paul DeDomenico, Member, Rosario Hill Compound, dated April 16, 2007 is incorporated herewith to these minutes as Exhibit "1(A)."

Mr. Smith said that staff does not have any additional comments, but they will respond to questions.

**Staff recommends:**

Approval of the variance from the Terrain Management ordinance for a retaining wall on the Rosario Hill Condominium property located at 501 Rio Grande which is adjacent to a lot at 335 Rosario Hill Blvd. This will make for a safer environment and prevent erosion.

The Planning Commission needs to determine that the criteria for a variance have been satisfied and justify the need for a variance to allow reasonable use of the property. According to Article 14-3.7(F) Variances from Subdivision Regulations: *"Where the Planning Commission finds that extraordinary hardship may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and the public interest secured; provided that such variation shall not have the effect of mollifying the intent and purpose of these regulations"*

If in the process of review the Planning Commission determines that a hardship exists that is unique to the subject property, thereby justifying the variance request, staff recommends the following conditions for this case:

- The retaining wall cannot exceed 6' high in the Escarpment Overlay District, SFCC 14-5.6(G)(8).
- Any variance granted and conditions of approval be applied to both the current lot configuration and to the possible future lot configuration.

**Public Hearing**

**Karl Sommer, PO Box 1984, Santa Fe, 87504, was sworn.** He said that he has reviewed the record for the previous meeting. The origins of the application originate from a desire by staff to follow an orderly progression to clean up any issues that relate to this property. The wall will benefit the adjoining property, Ms. Parks, so there will not be continued erosion on the cut placed.

**The public testimony portion of the public hearing was closed.**

**Questions and comments from the Commission**

Commissioner Lujan asked about the area where the retaining wall will be going up. He said the aggregate is loose and open so he suggested closing that up.

Commissioner Gonzales asked if the retaining wall could have some sort of catchment system to divert water to a channel somewhere else. He asked if the retaining wall will erode from the water passing over it.



**Morey Walker, Walker Engineering, 905 Camino Sierra Vista, was sworn. He showed on a map the swell they plan to have so it will not drain over the top.**

Commissioner Trujillo said this is a safety issue and he thinks the runoff will be in a good location.

**Commissioner Trujillo made a motion to approve Case #M-2007-01 with staff conditions and findings. Commissioner Heltman seconded the motion.**

Commissioner Hughes thanked the Chair for indulging his request to have a field trip as it helped him.

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

#### **F. NEW BUSINESS**

##### **1. An ordinance amending Section 14-6.3(C)(2) SFCC 1987 regarding home occupations. (David Tapia, case manager)**

Memorandum from David Tapia, Business and Licensing, prepared March 28, 2007 for the April 19, 2007 Planning Commission meeting is herewith incorporated to these minutes as Exhibit "2."

Letter from Peg Denney dated April 19, 2007 is incorporated herewith to these minutes as Exhibit "2(A)."

David Tapia, Project Specialist with the Finance Division, made the staff presentation included in Exhibit "2." The intent of the changes is to make it easier for those that simply work from computers at home. Businesses that meet these criteria would be able to establish a business license immediately. He said many times small business owners get intimidated by the process. He reviewed the changes to the ordinance.

Georgia Urioste, Zoning Manager, reviewed the changes included in Exhibit "2."

Councilor Heldmeyer said she is representing Councilor Chavez and herself. She said the history of the ordinance is that there was a need in the town for people who have small owner businesses to have a reasonable place to find commercial property. She said if the business did not have a high impact a home seemed a reasonable place to do so. When the ordinance was worked on there was a large group of people from all sectors of the City working on this and the Committee came to a consensus opinion. There are no home occupations that are out and out forbidden in a neighborhood, but neighbors would be allowed to have a voice regarding what is going on in their neighborhood. She said what is an imposition in one neighborhood may not be in another. Different rules were applied to computer and fax businesses. If a business had clients coming to the home or employees coming to the home there were stricter criteria including notification to the neighbors. She does know of cases where neighbors have objected to businesses. She agreed that generally the requests are reasonable. Neighborhood notification is important for uses that are not appropriate. She added that the ordinance won an award. She entered Exhibit "2(A)" into the record.

## **Public Hearing**

**David Kaseman, 217 Sena Street**, is a member of the Business and Quality of Life Committee; they have worked on the changes to the ordinance. He feels the main issue and reason for the changes are to make the city a more favorable place for small businesses to operate. He personally experienced some of the issues brought up. He feels that the changes are specifically trying to make it easier for those that are working on a computer in their home with no employees.

**Jay Russell**, President of homeowner's association directly north of downtown Santa Fe. The association was formed in the 1980's primarily to keep commercialization out of the neighborhood. He checks frequently to see if there have been licenses issued and when they are issued there has been no notification of neighbors. He said home occupations violate the covenants although he realized the City does not enforce covenants. He does not want the notice provision taken out of the ordinance. Many things the City has done over the years forces the neighbors into policing their neighborhood. He said it seems that the City is directed toward reworking residential neighborhoods. He said it can cost a great deal of money to right the wrongs. He will not let the neighborhood go down the drain. He hates to see commercialization ruin the neighborhoods.

**Ray Bulic, member of the Business and Quality of Life Committee**, assumes everyone is aware of the concept of telecommuting. This has developed over the last few years as internet communication improves. He does not think that neighbors need to be notified that someone is working on their computer and he has never heard anyone suggest this. Under the current ordinance, the people who own the businesses operate under the same conditions. He questions why the neighbors would have to be notified because they can complain if they see anything odd happening.

**Marilyn Bane, 622 ½B Canyon Road**, said it is rare that the City does anything right. She suggested thinking twice before making changes to something that by all accounts works reasonably well. She encouraged them not to make changes.

Councilor Wurzbarger, Chair of the Business and Quality of Life Committee, stated that they worked for five months on the issue of how to expedite business permits for a small person working out of their home. She said many times these people do not register due to the hassle. She said currently the ordinance does not reflect the year 2007. She said there was agreement that one person who works on their business through a computer from their home does not violate the ordinance. She agreed it is logical to take out the restrictive covenants, but she does not feel strongly about that.

**The public testimony portion of the public hearing was closed.**

## **Questions and comments from the Commission**

Commissioner Trujillo said when he first started his business he worked out of his home. He believes this is part of a neighborhood watch theory. He feels this is a good thing to do, so he wants to make it simple. He pointed out that the City has the right to inspect any time they want to. He said older neighborhoods will talk about disruption. He agreed that when they start lining the street with cars there are issues. He thinks it is important to support this.

Commissioner Heltman asked if an individual works out of their home if the employer takes care of the license.

Ms. Urioste explained the individual would have to come apply. She said they are working as an independent contractor on behalf of the company.

Commissioner Lujan asked if the Business and Quality worked with the Short Term Rental Task Force.

Councilor Wurzbarger replied no as that is a different issue.

Commission Lujan asked how they will enforce this.

Mr. Tapia explained that if there was a concern for an individual business then Ms. Urioste would do an inspection to what the relevance is to the concern and find out what was taking place. They would then notify the individual that it falls under different criteria and they would be required to go through the inspection process if they wanted to grow the business.

Commissioner Lujan asked if the neighborhood would be considered.

Mr. Tapia said they are trying to make sure the individual working just on a computer can follow the process. Neighbors would contact the City and the City would have the right to inspect if there is concern.

Commissioner Gonzales asked if there is a cost recovery for sending someone out to the home to inspect.

Mr. Tapia said at this time there is no cost to enforce or inspect as this is something done to make sure there is compliance.

Commissioner Gonzales expressed concern that the inspection will take place before something is issued which costs the City money.

Mr. Tapia said they may be able to incorporate a violation.

Teresita Garcia said there would be a complaint from the neighborhood to go inspect and then the City would determine if they violated the business license. If the person did not come in and apply for a home occupancy then the City will do a cease and desist order on the business license. She said currently there are no fees for violations and inspection.

Councilor Wurzbarger said there is a \$35 fee for a business license.

Councilor Heldmeyer explained that it is \$35 according to State law.

Mr. Smith added that it is not illegal to charge a home occupation fee similar to a special exception fee.

Chair Werner stated confusion and said he does not understand the proposed amendments from Councilor Heldmeyer.

Councilor Heldmeyer said the initial proposal was not to require fire inspections for sole proprietor home occupations, but she is not taking any stand on this. However, the other sections are not for sole proprietors, but are for businesses that bring employees or clients to the business. She thinks everybody is very supportive of the sole proprietor. She said something other than the sole proprietor may have a higher impact on the neighborhood and is dealt with in a different way. She said this came from many different segments of the community and the intent is to match the level of scrutiny to the level of impact.

Chair Werner clarified that the current ordinance requires an inspection prior to the business license being issued, but the new ordinance would make it complaint oriented.

Councilor Wurzbarger said there is confusion because Councilor Heldmeyer has chosen to speak about what they discussed during the meetings which she was not present at. She said they still require the inspection and that has not changed. The intention is to accommodate a single person working in their home on a computer. She thinks the sole proprietor discussion is confusing.

Councilor Heldmeyer read what is crossed out on page 6.

Councilor Wurzbarger asked if the interpretation is that notice is eliminated for all home occupancy businesses because that was not what they did.

Mr. Tapia said it needs to state "businesses that do have more than one employee and have clients will still have to go through the inspection and provide notice." There was an error in the language struck. He agreed to correct page 6, line 18.

Commissioner Trujillo agreed there was confusion with the term sole proprietor and said they should use a single individual as it would be clearer. He asked what would happen if a husband and wife are working and living in the home together.

Councilor Heldmeyer said they do not have to give notice. She explained the process. The person comes in, applies and proves that they are living in the home. They are then asked what kind of home business it will be and if they will be bringing in clients. If they say yes to either of those then notice is sent out to the neighbors to coincide with an inspection. If there is a more intense use neighbors may object. The two things being dropped are the proof of residency and notice to the neighbors before the license is issued.

Commissioner Trujillo understood this ordinance is geared toward the single person business.

Councilor Wurzbarger said the Committee went through the process due to the numerous complaints about the single person business process. The time taken to apply for a business license for one person is very cumbersome currently.

Chair Werner asked Mr. Tapia for clarification on the change he suggested regarding reinstating the notice in section A.

Councilor Wurzbarger explained that the sections should not be deleted. She said there should be a sentence added that says: "Notice does not apply to the single person."

Chair Werner commented that this may be muddying the waters because already you can have a multiple person business that does not have to be noticed.

Commissioner Trujillo agreed if they add a line saying "the rules apply to a single person business," then they are not changing the rules for two people. He understands the changes mean that there will be no inspection for someone working home alone.

Chair Werner believes the sections on page 6 and 7 need to be cleared up. He fears this could make it more restrictive. He asked if there is time to do this.

Councilor Wurzbarger agreed to bring this back.

Commissioner Armijo asked if there can be multiple licenses in the same residence.

Ms. Urioste said as long they meet the criteria and do not exceed the 25% space requirement. She noted that many times there are a husband and wife that have two separate businesses in the home, but share the same space which is fine.

Commissioner Lujan asked how they license a day care in the home.

Mr. Tapia said they do go through the complete process including the inspection and they also must meet state and City license requirements.

**Commissioner Hughes moved to postpone this to June 7<sup>th</sup>, Commissioner Trujillo seconded the motion which passed by unanimous voice vote.**

- 2. An ordinance amending Tables 14-6.1-1 and 14-8.6-1 SFCC 1987; amending Section 14-6.2(A)(6)(a) SFCC 1987; creating a new Section 14-6.2(C)(12); and making such other changes as are necessary; allowing short term rental of dwelling units in residential districts provided that certain conditions are met. (Jeanne Price, case manager)**
- 3. An ordinance amending Section 14-6.2(A)(6)(a) SFCC 1987; creating a new Section 14-6.2(C)(12); amending Table 14-8.6-1 SFCC 1987; and making such other changes as are necessary; regarding the short term rental of dwelling units in residential districts. (Jeanne Price, case manager)**

***Items 2 and 3 were combined for purposes of staff report, public hearing and Commission comment and action, but were voted on separately.***

Memorandum from Jeanne Price, Legislative Liaison, prepared April 9, 2007 for the Planning Commission meeting is incorporated herewith to these minutes as Exhibit "3."

Short Term Rental Task Force Recommendation including minutes from their meetings was provided by Janet Reed-Rousselot is incorporated herewith to these minutes as Exhibit "3(A)."

Short Term Rental Surveys collected by the Management Group are incorporated herewith to these minutes as Exhibit "3(B)."

Surveys collected by Kokopelli Property Management are incorporated herewith to these minutes as Exhibit "3(C)."

Letter from Donna Chamisa dated April 19, 2007 is incorporated herewith to these minutes as Exhibit "3(D)."

Comments from Linda and John Buchser are incorporated herewith to these minutes as Exhibit "3(E)."

Letter from Pat Pipkin is incorporated herewith to these minutes as Exhibit "3(F)."

Letter from Dave Mansure dated April 19, 2007 is incorporated herewith to these minutes as Exhibit "3(G)."

Ms. Price reviewed the staff report included in Exhibit "3." She explained the differences and similarities in the two ordinances.

Chair Werner said he would allow three minutes for each person that wants to testify. He asked everyone to keep their comments relevant to the two proposals as opposed to commenting on the general philosophy. He asked them to refrain from repeating previous comments, but it is appropriate to state agreement if they feel it is necessary.

### **Public Hearing**

**Karl Sommer**, explained that the ordinance was changed in 2001 without much notice to anybody. It was a surprise to many in the community that short term rentals were not allowed. He spoke in favor of modifying the ordinance, but is unsure that either bill achieves what needs to be done. He said almost universally this happens in tourist destinations. Many feel that the use of residential property for short term rentals produces a commercial use of property and interferes with the quality of life in the neighborhood. He said there are some places in the City where that is not the case. He said there are a category of projects that are desirable and attract people to stay on a short term basis; they are PUD projects that have approved plans and resort like facilities owned in common behind closed gates. People come year after year to these and there are no complaints. These resort like communities are owned by a condominium association and are internally regulated well. Neither ordinance allows for this. He said these should be regulated by registering, paying gross receipts and compliance with the law. They do not need to be regulated by the amount of time people stay there. People know what they are buying into when they purchase condominiums in these developments as the covenants allow this. This type of development should be an exception.

**Bob Walsh**, Board of San Mateo Neighborhood Association, said they are not in agreement. He hopes to postpone this for more community discussion.

**Margaret Veneklassen, 205 Williams Street**, said she has lived at this address for 44 years. She came here 50 years ago with her husband as short term renters. She loves Santa Fe. She has been a licensed realtor for 30 years. She has had a property

management company for 20 years. Her neighborhood is surrounded by about 15 condos and she does not like it, but short term rentals have not ruined Santa Fe. She expressed concern with the restrictions as her management company has never had any complaints. She does not see how the City is going to regulate this. Those that have done short term rentals through management companies will be restricted. She believes this will increase the underground industry. She said she can live with Councilor Wurzburger's proposal.

**Charlie Goodman, owner Kokopelli Property Management, 33 Teddy Bear Trail,** employs 10 employees with a salary and benefit program in excess of \$500,000. They employ over 50 vendors who have 1-15 employees and pay them another \$500,000 per year in compensation. In 2006, his business contributed \$45,000 to lodgers tax, \$40,000 in gross receipts tax and \$30,000 to 501(c)(3) non-profit corporations. Employees and vendors will lose their jobs if this passes. He opposes Councilor Heldmeyer's proposal and supports Councilor Wurzburger's proposal. He has had only one very vague complaint since 2005.

**Miguel Gallegos, 2401 Calle Loma Bonita, maintenance manager for Kokopelli,** said he is on call 24 hours a day for all the properties. He asked who would be controlling or taking care of the property if the management companies are not allowed to operate. They patrol the properties as well. If the bills pass, roofers, contractors, plumbers, electricians and many other people will lose jobs and gross receipts will be lost.

**Verna Elwright, 1008 Camino de Chelly,** has been in the plumbing and electrical subcontracting business since the early 1990's in Santa Fe. They are greatly concerned about the bill as it will affect their income. Her biggest concern is the minority will create a penalty on the majority. She anticipates this will have a possible negative effect on the tourism and real estate industry.

**Michelle Martinez, 707, East Palace Avenue, representing the La Vereda Homeowner's Association,** opposes short term rentals, but they are protected by their covenants at this time. She hopes there is a compromise between the two bills. She requested stronger language in support of private covenants. She understands the City will not enforce the covenants, but they want the City to support their right to pass and enforce the covenants themselves. She is not as concerned about the professional property managers because most do a good job. She has made several complaints over the last several years and guesses they were not registered. She would like the attitude changed where some management companies do not care about the covenants, although for the most part her complaints were responded to. She said there is no provision for enforcing the underground industry in either ordinance. There has to be better enforcement provisions regarding these people that do this themselves. She said it is not at all clear if the homeowner is paying gross receipts tax on the balance of the proceeds.

**Marilyn Proctor, 2939 Don Quixote,** said she has been handling vacation rentals since 1980. Her industry has been called illegal, but they were not illegal until 2002 when the language of the ordinance was changed with no public hearing on this issue as it was approved on the consent calendar. She said when the change came to their attention they began paying lodgers tax which the City accepted. They have been asking for regulation contrary to the emails that Councilor Heldmeyer continues to send out. The

Task Force made recommendations and then it was abandoned by the City with the resulting two proposals being drawn up. Councilor Wurzbarger's proposal is supported, but it will hurt the industry as well as many merchants. She has copies of questionnaires that they have been providing to guests over the last six months. She did a quick count and the money spent by these 41 guests was almost \$85,000. This money will be lost. They work with the legislature and movie industry as well as tourists.

**Jay Russell, 703 Paseo de Loma**, said there is a serious problem. The City has not done its job in enforcement which is why this issue is before the City. He urged them to enforce what is already in place. He does not support either proposal. He thinks Councilor Heldmeyer would rather enforce the ordinance rather than come up with new proposals. He said once again more the neighborhoods will have to enforce and keep track of what is going on. He recalled in the 1980's that City Council had the courage to stop bed and breakfasts stating they were non-conforming uses. He wanted one of the Councilors to go on record stating they are in favor of hiring more people to enforce this so it is not another farce.

**Bruce Kuehnle, 209 Chappelle**, owns 35 completely legal vacation rentals and has been in the business since 1999. All his units are within the BCD zoning. He made the decision to follow the law which was in place because he turned down buying a property that was not legally zoned. He counted approximately 300-400 rooms in legally zoned areas. He said it would not be that hard for the management companies to pick up and move their business into commercially zoned neighborhoods. He would be willing to police this and said you only have to look in the newspaper or go on the internet.

**Julia Nathanson, 2340 Botolph Road**, said she is against short term rentals in zoned residential neighborhoods. People buy homes to raise families, find stability and set down roots while maintaining their privacy. She feels short term rentals are unfair to buyers who buy residences expecting the neighborhood to be residential. She did not think anyone would choose to raise their children next to a hotel no matter how decent or good the short term renters are. No local person with a family and a Santa Fe salary can buy these homes, so they move to the outskirts. She is against commercial businesses encroaching on residential areas. She said investors can get a good return by going to long term rentals. She asked if money and revenue are the only concerns. She said homeowners have rights. She is against short term rentals as visitors can stay in hotels, motels and bed and breakfasts. Councilor Heldmeyer's ordinance is fair to the residents, but she would prefer they postpone this. "A law that is not enforceable is not a law at all."

**Joseph Cisneros, owner in downtown for 17 years**, said Santa Fe is a top destination city. Not everyone wants to stay in hotels and some do. People want to feel the culture, heritage and values and they do this through short term rentals. He said those tourists are reinvesting in the community more than people realize. He grew up in a neighborhood where there was a family with 17 kids and there were complaints, but they all got along and cared about each other. He agrees with Councilor Wurzbarger's bill, but he does not believe there should be a restriction as it should be treated like a business and they should regulate through the same standards as any other private business owner. The revenue would suffice for those that are needed to regulate this. Many people do not have the income, but have the property and should be able to do with it what they can.



**Patricia Pipkin, President of Association of Realtors**, read Exhibit "3(F)" into the record.

**Wendy Gerner**, said she is speaking on behalf of her husband and herself as onsite homeowners who rent their guesthouse short term. There is no provision for onsite owner renters as she believes they should be treated differently from absentee landlords. They are a part of their neighborhoods as they know the neighbors and care about the integrity of the neighborhood. They maintain their grounds to a very high standard in order to keep their guests coming back. She often gets to know the guests. The visitors feel welcomed in Santa Fe. She said as homeowner renters they are essentially small businesses, so it reasonable that they be regulated by getting a license and paying taxes. She said they should be exempted from the two proposals and treated differently.

**Roxanne Conan**, said she bought a property in the Guadalupe district about five years ago. When they tried to pay their lodger's tax, the City told them that if they had less than three units they were exempt from the lodgers tax. She heard last week that this was not correct and it had to be less than three rooms. She is not sure if they are supposed to be paying the lodgers tax or not. She said they are not rich people, who live somewhere else, but they live here with a young son and instead of buying stocks and bonds they purchased this property. She feels they have really improved their neighborhood. She knows everyone on the block and they all know her as well with access to her phone number if there are any problems. She said they have a long term tenant as well as a short term unit. She takes pride in the property and would invite any inspections. She said if Councilor Heldmeyer's bill is adopted they will be out of the business. She said she could live with the 17 times a year, but feels the \$1000 fee seems excessive.

**Linda Buchser, 606 Alto Street**, has lived at this address for 30 years. She also owns the adjacent property on Closson Street with her house extending into it. She intended to use two of the units for short term rentals as supplemental income. She did not realize they were illegal, but thought the illegality was due to people cheating on their lodger's tax. She said the proposals deal with residential areas as a total unit, but it would be helpful to recognize that certain zonings recognize more traffic than single family residential zones. She agreed that local residents are trying to do rentals to find ways to afford to keep living in Santa Fe and that if they are trying to keep their properties they should be treated differently. She does not understand being available if there are no tenants in the units.

**Tom Ross**, said he would be impacted negatively if short term rentals were banned. He has a vacation rental attached to his gallery. He said it seems many people would not be coming to Santa Fe if they are forced to stay in a hotel. Many want the feeling they are staying in a home. He said it is getting harder and harder to do business in this town. He lives in a neighborhood and wants it to be peaceful and pleasant, but there needs to be a balance for everyone. He has been in his current space for 13 years, but two years ago he bought the building with a large mortgage to keep the space. He changed the full year rental to a short term rental to help cover the expense. The short term rental has been much more pleasant.

**Pamela Maes, 1817 Cerros Colorados**, is a vacation property manager and has been doing this for 15 years. She got back from vacation yesterday in Maui. Maui loves tourists and knows their economy is based on tourists. She feels Santa Fe is trying to

attract the tourism industry, but then they do not want them on the other hand. She said they notify neighbors within 150 feet of a tourist possibly staying at a vacation home, but she had a sex offender living in a neighborhood and was not notified. She stated support of Councilor Wurzbarger's bill as she can live with this. As a member of the task force they suggested many of these things to regulate as they found many problems. The company she works for has been here for 29 years. She worked hard with neighborhood representatives and property managers on the task force. They suggested ways of policing the industry. Councilor's Heldmeyer's proposal would hurt the many industries and people will sell with property values diminishing. She supports a violation process and an arbitration board to oversee complaints.

**Ouida MacGregor, 2319 Calle Comerico**, understands they have a difficult decision. She is here because the City of Santa Fe broke a promise to citizens over 20 years ago when she was on the Planning Commission and there were requests for guesthouses in denser areas. The city agreed at that point that there would not be short term rentals in these areas as a tradeoff to allowing guesthouses so it did not appear magically in 2001. During the time of concern over Bed and Breakfasts they made it so they had to be regulated and were only allowed in central business districts. She noted that for many years there was agreement that everyone knew they could rent their home over Indian Market, but in the meantime the properties became short term rentals. Realtors told people they could rent their property short term. One of the unintended consequences was that it drove up the cost of housing. She commented that when she ran for the legislature she walked every district of the town. Hilltop is hollowed out and is no longer an area. She did not think they should award those that break the law. She wants them to follow the existing rules and regulations.

**Marilyn Bane, 622 ½ Canyon Road**, said there has been no planning for, no management of or enforcement of short term rentals. The result is unnecessary conflict when there should be benefit. She noted that cultural tourists take longer visits and spend more money. These tourists also prefer staying in historic residential areas. She read from the National Historic Trust that the qualities that attract these desirable tourists, the local character and the residential ambience, face the danger of being destroyed by the process. Unmanaged cultural tourism begins to overwhelm the residential community that supports it. The sheer numbers of short term rentals are destroying Santa Fe. The highly prized, highly profitable tourism industry will decline right along with those that still live in the neighborhoods. She said if they do not control the short term rentals everyone will lose. She supports a resolution that will limit the uncontrolled growth of the industry, provide protection for the quality of life in the neighborhoods and allow the City to draw the tourists they need to support the economy. She supports Councilor Wurzbarger's proposal as she worked on the draft ordinance along with representatives from the management companies. She thinks this is the best and most pragmatic solution. She wishes there was more acknowledgement of short term rentals in the historic districts. She said the issue is quantity and regulation. She supports the ordinance as written and said if the ordinance is watered down she will not support it and will do everything in her power to defeat it.

**Blair Cooper, 224 East Buena Vista Street**, believes in preserving the neighborhoods. She wishes to give support to Councilor Heldmeyer's plan to protect the neighborhoods. This plan does allow for some short term rentals with the best chance of preserving the neighborhoods.

**Rick Martinez, 725 Mesilla Road**, wanted to see the discouragement of short term rentals. He said the affordable rent around the area has gone up. Short term rentals are causing affordable renters to leave the downtown. He does not want to see everyone being bussed into downtown due to the high rents. He said they need to find ways to have affordable rent in the downtown as he wants people who work in the downtown area to be able to walk to work.

**David Kaseman, 217 Sena Street**, said he has been active with the Santa Fe Business Alliance which is all about supporting locally owned businesses and increasing gross receipts tax. He lives close to the plaza and in the back there are two other units. He lives on a 55 X 150 foot lot. He put numbers to the possibility of short term rentals taking place in his backyard. He said if this were to happen he could see 30-50 different users in a year using his driveway. He said the neighbors still take care of each other and do things together like a real neighborhood. If more short term rentals were encouraged the homes could become even more valuable than today. He said the City is concerned with the issue of affordable housing even though tourism is very important as well. He thinks they need to look at this on a longer term basis. He does not agree with either bill as presently written.

**Todd Davis, 510 Johnson Lane**, associate broker at the Management Group, said he rents to hundreds of tourists and professionals. He pointed out that there are three major motion pictures coming to Santa Fe and there are not enough hotel rooms to accommodate all these people. He reported that at the City Policy Planning Commission meeting and Business and Quality of Life meeting, several homeowners talked about getting an exception. He agrees with this as they can monitor and control what is going on, but he believes they should be paying lodger's tax. He worked very closely with Councilor Wurzbarger and supports her bill. He said they wanted more rental terms, but they came to a compromise. He thinks this will keep the owners from leaving and being forced onto the internet. He agrees some of the homeowners may go on the internet and will do this on their own without paying lodger's tax. He said their lease contains information on each tenant and if there is any problem they can go after the renter. He said they care about the homes.

**Corrina Knowlton, 332 Sanchez Street**, said it is not often that you hear so many arguments in favor of something so illegal in principle. She said this has completely overrun the City. She is opposed to further legalizing this practice. The industry has grown exponentially over the last five years with the neighborhoods the direct victims of this. She is opposed to legitimizing the damage done and feels if this happens in five years there will not be established historic neighborhoods. She thinks this issue should receive a wide range of responses and proposed a referendum to see how people feel about this.

**Pen LaFarge, 647 Old Santa Fe Trail**, supports the neighborhoods. He does not support what will do damage to the neighborhood. He supports more than anything else the current ordinance enforced as it is. He said the stricter the better in his opinion. He said they want protect the fabric of the neighborhoods. He said they are not talking because they are victims of bad neighbors or complaints. He said the tradeoff for allowing guesthouses was that there would not be short term rentals which protected the neighborhoods. Short term management companies would have you think they improve the neighborhoods. He thinks they are already doing this underground because they know what they are doing is illegal. He said these are not good citizens and are not

good neighbors because they are lining their own pockets at the expense of the City and the neighborhoods. He said a house is not a home without the people who live in it and who create the environment of a home. He said a residential district is not necessarily a neighborhood, but what makes a neighborhood is the people who live in it and know each other. He has no problem with people who live in their home and rent them out because they are part of the fabric.

**Dina Aquelina, 327 Sanchez Street, President of Historic Neighborhood Association**, serves on the Business and Quality of Life Committee. She said one of the differences in the two bills is that Councilor Wurzbarger's proposal legalizes short term rentals in residential neighborhoods. She thinks this is a zoning change without the proper procedures. She loves tourists, but does not want to see 8 groups turning over every month in her neighborhood. She has more faith in Santa Fe than expressed by the industry as she thinks people will still come to Santa Fe even if they cannot stay in the neighborhoods. The attraction is that this is a living community. She said some of the arguments remind her of the living wage and how it would destroy Santa Fe, but it did not ruin the City. She said the failure to enforce the existing ordinance is harming the legitimate hotel/motel industry. It is hard to find numbers on short term rentals, but she has heard that Johnson Lane and San Antonio/San Pasqual are 1/3 short term rentals. She asked when they tip into an empty resort waiting for tourists to fill in. She said residents have property rights and allowing short term rentals does not honor those rights. She pointed out that the City has never tried to enforce the existing law and it will take a long time to get out of the problems created.

**David Someret, owner of Santa Fe Detours, 604 Griffin Street, Unit E**, stated that Santa Fe Detours is the oldest tour company in Santa Fe. He bought it in November 2005 and has been forced to close the company due to what is happening right now. This is affecting small business. He said what instigated him to close his doors is the fact that the local government is unsupportive of small business. He said the future of Santa Fe will be leaving town. He does not think there is a middle class to speak of and the further they push the issue and bury the industry the further there will be a schism between the have and the have nots. He represents the change that is happening in this town, but they need to understand that Santa Fe is not what it was 20 years ago before they bury themselves. He wants to be part of this community.

**Lynn Zec, leasing agent at the Management Group**, said she has worked hard with the councilors and the task force to come to a solution. She did not want to repeat what has been said. She commented that the holidays provided a crisis for all and her company worked 24 hours, seven days a week to try to take care of some of the visitors and those around those homes. She said the visitors were worried about the neighbors that did not have any help. She said if they put as much energy into thinking about the wonderful visitors and worked together they could take care of each other.

**Jane Terry** hopes to continue working on the ordinance. She was on the task force and they tried to come up with regulations, but realized that one size does not fit all. There are management groups that do good jobs and help and then those that do it underground that are not neighborhood friendly. There are short terms that work and those that do not. She thinks they have only begun to scratch the surface. She said they sent reams of paper asking for information and legal input from the staff and came up with lots of regulation. She agreed they cannot compare the different types of properties. When she moved into her area it was a residential neighborhood and she

was under the impression that she would be protected from commercial or interim properties.

**Chris Rictor, 510 Johnson Lane**, said out of 20 homes on his street six homes are rental properties. The entire time he has lived here he has never seen a complaint. He looks forward to the people that come to town. He said there are a variety of living options with some there for half the year. He said nobody has addressed where the lodgers tax goes to. He is an artist and last Wednesday a member of the City Arts Commission came to talk to his group. He learned that funding for the City Arts Commission is from lodger's tax as well as other resources, but lodger's tax accounts for \$1 million. He pointed out that the management companies pay \$1 million in lodger's tax. He listed some of the programs that the Arts Commission supports. He fears services may get cut in trying to supplement those funds received from the short term rentals.

**Art Roth, 1481 Upper Canyon Road**, treasurer of the Canyon Neighborhood Association, stated that the Board voted unanimously to oppose short term rentals. There are 620 members in the association. He said a rather simplistic law is not enforced, so he does not see how they will enforce two more complex situations. He said you can defer the cost of absentee ownership, but at today's mortgage rates and IRS laws you cannot make an investment in short term rentals as the numbers do not work. He said the only people supporting this have an invested interest, but there has not been a single homeowner advocating the short term rentals.

**Bob Glazier, 274 Valle del Sol, past President of Renaissance Institute for Lifelong Learning**, said there are 639 members that he is beginning to talk to and they want to know who their neighbor is. He said they are basically against changing the law on short term rentals. He also prepares taxes so agrees with the previous speaker and he knows 200-300 clients from all walks of life that are concerned about this law.

**The public testimony portion of the public hearing was closed.**

**Questions and comments from the Commission**

Councilor Heldmeyer said this was not a law that was passed in 2002, but because of a mistake made in the codification of Chapter 14 the definition was left out of the code and later put in at a dually noticed public hearing after it appeared before the Planning Commission. She said there was a Task Force formed to discuss the issue and they could have had a wide open discussion with public hearings. There were a series of public hearings and a series of recommendations made by the task force that was not handed out prior to the meeting. The public was not allowed to speak about the recommendation which is not good public process. People have come up with lots of ideas that were not considered by the task force. She felt it was incumbent on herself to put in a version of the bill that had the safeguards necessary. She has heard a lot of new ideas, such as owner occupied, rental districts, limiting short term rentals to a certain percentage per street. Many of these are adopted by tourist destination cities to account for the loss when they want to keep homes available for those that actually live there. She said the basic difference between the versions is that her version says short term rentals are a prohibited use with certain exceptions and Councilor Wurzburger's says they are a permitted use everywhere.

Councilor Wurzburger clarified that this is not a difference.

Councilor Heldmeyer said her ordinance is trying to mimic what is going on in the current residential zoning including the parking. She said the number of houses that are being used as short term rentals can tip the neighborhood. If there are enough short term rentals on a street it can cause it to not be a home and not to be a neighborhood. She has heard it is like living in the middle of a hotel. She said the question is if this is the use wanted in residential neighborhoods. She added that not so long ago the Council voted to ban fractional ownerships in residential neighborhoods for many of the same reasons. She wanted them to think about what they would want in terms of regulation in their own neighborhood because what started out on the east side is spreading constantly. She said this is not always the nice little old lady who is renting out her home, frequently there are investors who have no intention of living here.

Councilor Wurzbarger said it seems she has developed an ordinance proposal to which no one really agrees, but might go along with. She commented that she also walked from October until March when she was running for her second term and did not meet a single short term renter. What she did find in district 2 is that no one lives there. She agreed they have a problem in the City, but short term rentals are not the sole problem. The real estate market has been jacked up and if they want to deal with it they will have to look at prohibiting second, third and fourth home buyers. She agrees you cannot have a neighborhood if you do not have neighbors which concerns her. She feels the issue is more complicated than investors vs. real people. At previous hearings they heard from women and artists who live here and rely on the income from short term rentals.

Councilor Wurzbarger explained that she tried to craft the proposal after she went through a process talking to constituents, neighbors and the industry. She said this is a compromise and 17 rental periods is half of what many already do. The proposal would be cutting down the current rentals by about 50%. The law has never been enforced. The question to her is coming up with a process to enforce whatever they decide. She was not sure why the Commission did not have the fiscal impact statement. She pointed out that the \$1000 is based on a projection of an estimated 450 houses they might get registered. The fee is based on the minimum they would need to get staff working 24 hours a day for the first year to get the houses registered and provide information on gross receipts. She does not believe they are getting gross receipts on those being advertised on the internet. Staff would get on the internet and call every house and try to find out what is available ultimately getting them registered. She believes they would lose at least \$1 million in gross receipts if they lost this industry completely. She thinks the issue is trying to regulate this. This proposal gives the opportunity for resources within the City. The realtors would no longer be able to advertise that there are unlimited short term rentals. She sees this as a diverse problem that affects the neighbors on the east side and lower income employees that work around this industry. She feels by strengthening the inspection and giving it a year to see if they can better regulate the industry, they can assess the true financial impact. She was shocked that the City did not know how much gross receipts tax was collected. She finds it shocking that this went through due process and nobody came forward. She said the minutes indicate there was no conversation for or against the issue during the time this came forward the first time, but for the last three nights there have been 50-100 people commenting on this. This concerns her. She asked them to consider the proposal. She did not think they should look at it as though it is in the abstract as it has been happening for 30 years right or wrong.

Chair Werner explained the options. He said they can endorse the concept of one of the bills or they can send them both forward to the Council with comments or they could consider if there is enough new information to work on a third bill.

Commissioner Trujillo feels the pros and cons want the Planning Commission to make a decision. He personally feels there are parts of both bills that he likes. He also feels there are a lot of ideas that were brought up tonight that were never mentioned previously. He does not want to make a decision on information they do not have. He thinks they would be doing injustice in making a decision. He said if they need to make a decision it should work for both sides so it will have to be a compromise.

Commissioner Armijo feels there is quite a bit of information lacking in both ordinances. He agrees that there are comments from the public that need to be addressed. He thinks both ordinances need to be studied further before any recommendations are made.

Commissioner Heltman heard before the meeting that the majority of the people that were going to talk represented the business interest. She thinks the deal put in the code in the year 2001 when the Council voted at 5 minutes until midnight went into the code book. She said people were not aware. She feels the short term rentals are a hazard to the community. She said the community has got to decide what is wanted. She thought they should reconsider both ideas and combine them. She thinks what is on the books is very explanatory and there have been times when the City has stood up and followed the code. She thinks in this case they should follow the code.

Commissioner Gonzales commended both Councilors. He feels the Commission provides feedback on what they have in front of them and when an ordinance has a tremendous amount of importance it has been his experience that if they table it or wait for more information the Council goes ahead and acts upon it. He believes they have the opportunity to make the best of what they have at this hearing. He wanted to make the best recommendations in support of both bills as the Councilors have the authority to joust amongst the details of both plans. He said if one of the ideas is to get more constituent feedback that is the Commission's advice.

Commissioner Heltman asked what the rush is.

Commissioner Trujillo said first of all it against the law right now, so it does need to be fixed. He does not want to send the message do not come to Santa Fe. He said everyone comes to Santa Fe because they like the art, the food, the places they stay and the entertainment. He pointed out that they are not dealing with places that cover themselves with covenants and this needs to be covered. He feels they need to start having dialogue and they should start tearing it apart.

Chair Werner said there is the sentiment for moving the bills forward with comments to further consider.

Councilor Wurzbarger commented that they have been bumped one month in terms of the Council because of other committees, so it is possible to continue to work on this. They have been working on this a long time, so people want clarity, but the agenda has

been moved from May to June. This will make it possible to have time to reflect on the recommendations.

Commissioner Lindell disclosed that she is a realtor and she does manage property. She has friends on every side of this issue. She serves on this Commission because she cares about the City of Santa Fe. She commented that there is plenty of blame and shame to pass around on this issue; the city for not enforcing the code, neighborhoods for not demanding enforcement, realtors for misrepresenting the code, etc. She is concerned about what part of the code they might choose to ignore next and asked if they should ignore other parts of the code and zoning because it is more profitable to do so or because they are hard to enforce. The zoning is the compass and foundation of the future for the direction of the City. She thinks in the rush to find a compromise on this they have ignored zoning and existing property rights. They have come up with an economic solution rather than a land, planning, and use solution which she thinks is the proper solution. It is not easier and it is not expedient, but it is the right thing to do. She understands the land use and planning staff were putting together a report on how other cities deal with this. She said it seems like it has become a battle.

Ms. Price explained that after the task force was completed there was an effort to put information together on what other cities are doing, but in the midst of the change in administration in Planning and Land Use that was not available.

Commissioner Lindell said it seems a good idea to breathe air into this again. She suggested a meeting of some Councilors, staff and Commissioners to study this more. She did not just want to hear from groups with clear vested interests. She thought there might be pockets of the city that need zoning changes which will take time. She does not have enough unbiased information to make a decision on this. She understood a great deal of work went into this ordinance, but she does not know why 17 times was chosen. This feels like this is a one size fits all solution and she wants to base her decision on planning, land use, economics and property rights. She does not think the enforcement could be any worse. She believes they can do better and come up with something that works better. She feels it is reasonable to have the Planning Commission work on this and volunteered to do so.

Commissioner Gonzales stated that he is favor of small business and is supportive of the many hardworking families within the Santa Fe business community including those people that desire to own rental businesses. He is also in favor of peoples rights to live in peaceful neighborhood. He expressed concern with whether or not a fair balance exists as defined by either of the proposed ordinances. He is uncertain if either ordinance addresses the cost of doing business in the City. He said the underlying principle of any land use decision is zoning. He asked if the possibility of defining short term rental zones has been considered. He recommends the Commission move both ordinances forward to the Council, but asked the Council to consider defining short term rental zones, work with neighborhood associations and city staff to define the zones, and plot on a map where all the short term rentals are located. He recommends they commission a study to assess the true cost of having and enforcing an ordinance like this.

Commissioner Trujillo did not want to move either ordinance on as there are too many unanswered questions. He asked Mr. Hiatt earlier in the day how many complaints they have on short term rentals to which Mr. Hiatt said there has been one registered



complaint since 2005. He has not heard of problems in districts 3 and 4. He said he does not want to limit the rental periods or the minimum stay. He does not feel they have the right to regulate and limit this to 7 days, but said he could live with three days. He pointed out that gross receipts tax is not received on rentals over 30 days. He agreed with the one parking space for one bedroom and so on. He asked how they are going to tell people they cannot have their kids in the bedroom if they are scared that night. He disagreed with the permit fee and thought \$300 would be more appropriate. He agreed that to enforce this they need the money to do so. He suggested the first violation be \$300, the second violation cost \$600 and the third is complete forfeiture. He added that if you are caught not registering as a short term rental then you cannot ever apply for a short term rental again and you are gone. He believes this takes care of repeat offenders very quickly. He feels people who have their own security and covenants do not need to fall under this. He liked Councilor Wurzbarger's suggestion to try this for a year. He said it is incumbent upon everyone to follow the rules, but there are a lot of changes that could be made. He does not want to ruin a neighborhood, but that does not mean people cannot be responsible. He wanted to give the Councilors a chance to clean this up and incorporate some of the new ideas.

Commissioner Hughes worried about the hollowing out of the downtown. It is striking how few people live in the units. He does not agree that someone here short term is truly a neighbor; they might like to be, but they are not. He said this bill will not make a difference in dealing with the second and third home issue. He said they have got to get a handle on this. He thinks what they can do to turn it around deserves more consideration.

Commissioner Lujan agreed a short term renter is not a neighbor. He said this community has been built on tourism. He said the Governor has put his face on Times Square to get people to come here. He said people come for special occasions and for all that the City has to offer. He said they cannot hurt the business community when addressing this so they need to look at the issue further so they can compromise.

Chair Werner agreed that there have not been City resources put into enforcement. He has known of this problem for the entire time he has lived in Santa Fe. He is suspicious of how to make the 24/7 response really work. He said his neighbors do not complain a great deal, but only complain when the problem arises at 2 a.m. He said even if they know who the owners are you still only get the answering machine at 2 a.m. This makes the only enforcement calling the police. He said movie people make lots of noise and work long hours. He said it is a shame the neighbors have to call the police on someone bringing so much economic worth to the community. He said a mechanism to make enforcement work is essential or they will have unhappy neighbors. He feels the nuisance factor is big.

Commissioner Gonzales wants to provide meaningful direction in specific areas. He said to say they need more information does not provide enough direction. He asked the councilors if the intent is to take this to the Council or if they could provide better direction on the next steps now that they have gotten feedback.

Councilor Heldmeyer explained that this item has been deferred at both Committees. This is not even scheduled to go through Council Committees until June.

**Commissioner Trujillo moved to postpone with direction to both Councilors that they are concerned about zoning, permit fees, economic development, neighborhood fabric, notification of neighbors, and looking at areas with covenants as separate entities. He wanted a strong and stiff penalty if anyone goes underground and gets caught. Commissioner Gonzales seconded and asked they consider onsite owner renters differently and the different zoning areas. Commissioner Trujillo accepted this and added that those that are available 24 hours a day and live on the property have a lower permitting fee.**

Commissioner Armijo said they want to look at the rental period days and permitting cost as well.

Councilor Wurzbarger said there is a range of issues they have asked them to try to figure out. She said they should deal with the issues that Commissioner Lindell has raised with respect to the zoning questions and not wanting to destroy the economy of Santa Fe. She would like a zoning perspective from the Commission so they can address that issue. There have been no recommendations because this is a complex issue if you are looking at it from both perspectives. She asked for direction in balancing this out from a zoning perspective.

Chair Werner understood, but said it would be tremendously difficult as the Council controls the resources and what gets done. He pointed out there are a number of different kinds of residential zones that allow different R levels. He would be happy to schedule a study session that zeroes in on the zoning, but some staff needs to be designated to put it in a form where it could be talked about.

Councilor Wurzbarger clarified that a description of what is currently happening would help them make a value decision about whether they should change the law concerning the use of short term rentals.

Chair Werner said there is no way there will be an inventory of the short term rentals, so they will need a colored zoning map. He said the problem rentals are the ones where there is no management thus they will not be mapped. He said they will be asking to delay forever if they think that City staff would be able to map all the rentals.

Councilor Wurzbarger suggested at least mapping the legitimate rentals from the management groups so they have somewhere to begin. She added that the rentals change frequently so grandfathering does not work and the map will be ever changing.

Commissioner Trujillo said if a subcommittee begins picking where short term rentals will be allowed the neighbors will be here if they are concerned which would give them a start. He does not know how they will do this.

Commissioner Lujan asked to hear more from the task force which was chaired by Donald Martinez, former Planning Commissioner. He said there are a great deal of minutes and testimony that he would like to have time to read.

**Commissioner Trujillo amended his motion to form a subcommittee put together of the following Planning Commissioners: Commissioner Lindell, Commissioner Armijo, Commissioner Lujan, and Commissioner Trujillo.**

Commissioner Lindell said she will be out of town on May 17<sup>th</sup>. She asked if the Councilors would agree to work with them.

Councilor Wurzbarger agreed to work with them and said she would prefer there not be a report on May 17<sup>th</sup> as she will be out of town as well.

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

4. **Case #S 2007-04. Desert Sage Subdivision (Homewise Tract 4) Final Subdivision Plat.** Jennifer Jenkins, agent for Homewise, Inc. requests final subdivision plat approval creating 80 lots on 26.788 acres. The application includes a variance to the second-story side yard setback requirement from ten feet to zero feet. The property is zoned R-3 (Residential – 3 dwellings per acre and is located at the northeast corner of Richards Avenue and I-25. (Lou Baker, case manager)

*This item was postponed per approval of the agenda to the May 17<sup>th</sup> meeting.*

5. **Case #M 2007-02. Kachina Ridge Phase III Final Development Plan.** James W. Siebert, agent for SBS, LLC requests final development plan approval to create a ten lot subdivision on approximately 2.55 ± acres located south of Avenida de las Americas and north of the main channel of the Arroyo de los Chamisos. The application also includes a variance to the setback from the top of the bank of the adjoining waterway. The property is zoned RM-1/PUD (Multi-Family Residential – Planned Unit Development, 21 units dwellings per acre). (Lou Baker, case manager)

***Items 5 and 6 were combined for purposes of staff report, public hearing and Commission comment and action, but were voted on separately.***

Memorandum from Lou Baker, Senior Planner, prepared for the April 19, 2007 Planning Commission meeting is incorporated herewith to these minutes as Exhibit “4.”

Lou Baker presented the staff report included in Exhibit “4.”

Staff recommends with the following conditions:

1. A New Mexico licensed engineer shall certify the banks have been stabilized and will contain the 100-year, 24-hour storm event flows. The Homeowners Association (HOA) will be responsible for bank stabilization maintenance. This shall be noted on the plat and in the HOA covenants; and
2. Construction will occur in an existing neighborhood therefore applicant shall submit a construction staging plan (Exhibit G) detailing activities in a manner as to not to disrupt the harmony and safety of the neighborhood; and
3. The final subdivision plat shall conform substantially to the preliminary plat as approved, and if desired by the subdivider, it may constitute only that part of the approved or conditionally approved preliminary plat which the subdivider proposes to record and develop at the time, provided, however, that the final plat and the portion of the land to be subdivided conform to all requirements of the Code and all applicable City of Santa Fe ordinances and regulations; and provided further that the Planning Commission may require the subdivider to include in or exclude from the final plat whatever part of the lands included in the preliminary plat which it deems necessary for orderly development; and
4. Final development plan M-2007-02 shall be recorded concurrently with the final subdivision plat for M-2007-03; and

5. A certified slope analysis is not required for minor development. Generally, the project is considered "minor development" if the lot has 1) less than 3500 square feet of impervious surface, 2) no more than 5000 square feet of total disturbance and 3) no more than 10% slope disturbance. If a slope analysis is required it must be certified and signed by a New Mexico licensed surveyor. Applicant shall work with the Engineering Development Review Division to determine if a certified slope analysis is required; and
6. Public sidewalks shall be in compliance with ADA requirements. Applicant shall work with the City's ADA reviewer; and
7. Development shall comply with all previous conditions of zoning, development plan, and subdivision approval; and
8. A note shall be placed on the final plat and on the final development plan that the property will be subject to the Water Allocation and/or Water Offset Retrofit provisions of Ordinance No. 2002-29 and Resolution 2002-55 at the time of permit application or water hookup request. Compliance may be achieved by use of retrofit credits for "Type A" low priced residential units if applicable; and
9. Stormwater Certification statement shall be placed on the cover sheet of the mylar drawings for all development plans and subdivisions. The Certification shall appear next to the As-Built Certification statement; and
10. Certain plan features are not consistent with standard engineering practices these deficiencies need to be resolved. Therefore, applicant shall comply with the comments of the Engineering Development Review Division – Wendy Blackwell, CFM
11. If the final plat is approved by the Commission, such approval shall be recorded on the face of the original drawing of the final plat and on two (2) copies thereof and such approval shall be dated and verified thereon by the signature of the Chairperson of the Commission in the spaces provided; and such date and signatures shall be with black ink; or if the final plat is disapproved by the Commission, the reasons for disapproval shall be referenced and attached to two (2) copies of the final plat and such action shall be dated and verified by the signature of the Chairperson of the Commission affixed to the subdivider and the other shall become part of the files of the Planning and Land Use Department. If a final plat is approved, the original drawing of the same shall be used in part for recordation purposes and thereafter retained in the files of the Planning and Land Use Department. If the final plat is disapproved, the original drawing shall be returned to the subdivider; and
12. The final plat shall be drawn in compliance with general formatting and plan content requirements as per Exhibit H. These requirements apply to each page; and
13. Submit documentation from the US Army Corps of Engineers and FEMA as to their approval of the crossing of the north tributary of the Arroyo Chamisos; and
14. Plat, development plan and improvement drawings shall be modified to comply with redline comments from affected divisions and departments; and
15. Final plats shall be recorded with the Santa Fe County Clerk along with any and all deeds, private reservations, easements, covenants and restrictions. Final plats shall be recorded within five (5) days after acceptance by the City Council or the Planning Commissioner as the case may be. Of a public dedication by the City does not necessarily imply the maintenance of such dedication; and
16. Comply with comments from the Public Works Department/Engineering Division/Traffic Impacts (Exhibit I); and
17. Comply with comments from the Wastewater Management Division (Exhibit J); and
18. Comply with comments from the Engineering Development Review Division/Landscaping (Exhibit K); and
19. Comply with comments from the Office of Affordable Housing (Exhibit L); and
20. Comply with comments from the Fire Department (Exhibit M); and
21. Comply with comments from the Trails and Open Space Office (Exhibit N); and
22. Comply with comments from the Solid Waste Division Engineer (Exhibit O)

### **Public Hearing**

**Jim Siebert, 915 Mercer, was sworn.** He explained that this is the last phase of a three phase development. This phase completes the project. The drainage referred to is a portion of the green area. He showed the trail part of the development and the plan to channel water into the drainage structure. He said the reason for the variance is to channel water into the drainage structure with the use of retaining walls to protect the bank. He stated agreement with all the staff conditions.

**The public testimony portion of the public hearing was closed.**

**Questions and comments from the Commission**

**Commissioner Trujillo moved for approval of Case M-2007-02 with staff conditions and the findings to support the variance. Commissioner Lujan seconded the motion.**

Commissioner Hughes asked why there are so many conditions on this.

Ms. Baker said the conditions are also placed on the preliminary plan and they wanted to make sure it was part of the record. She said the one condition they will see on her staff reports is the condition for a construction staging plan. This development will occur in an existing neighborhood so it is important that they have a specific plan regarding hours of construction and plans for keeping the area clean. She feels it would be remiss in providing this to the existing neighborhood and not being concerned with the safety and the harmony of the neighborhood.

Commissioner Armijo referred to the stabilization to the banks and asked how they follow through with requiring the homeowners association to maintain this.

Ms. Blackwell said the wording could be clearer for the second condition. When an applicant requests a variance to the setback they have identified this specific setback for that property prior to coming to Planning Commission. This instance does not address the intent of the 25 foot plus the depth of the arroyo setback. The setback is a buffer between the flood plain and the construction. The applicant will work with the City engineer to meet the intent of the condition. She changed the wording to *the applicant will work with the City Engineer to determine the appropriate setback in order to meet the intent of the citation 14-8.2(f)(2)(c)(4)*. She answered Commissioner Armijo's question and said the homeowner's association responsibility will be noted on the plat and in the covenants. She said this is a typical requirement that the infrastructure maintenance is taken over once the lots are sold off by the homeowner's association.

Commissioner Armijo asked what would happen if the homeowners association goes defunct.

Ms. Lovely said the City does have a provision in the homeowner's association document that says if they are going to amend or terminate they will have to come back to the City.

Chair Werner asked if Ms. Blackwell's change is okay with the applicant.

Mr. Siebert agreed and said the majority of the conditions have been met, but staff wants them to continue on in the review.

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

- 6. Case #S 2007-03. Kachina Ridge Phase III Final Subdivision  
Plat. James W. Siebert, agent for SBS, LLC requests final subdivision plat approval to create a ten lot subdivision on approximately 2.55 ± acres**

located south of Avenida de las Americas and north of the main channel of the Arroyo de los Chamisos. The application also includes a variance to the setback from the top of the bank of the adjoining waterway. The property is zoned RM-1/PUD (Multi-Family Residential – Planned Unit Development, 21 units dwellings per acre). (Lou Baker, case manager)

*Items 5 and 6 were combined for purposes of staff report, public hearing and Commission comment and action, but were voted on separately.*

Commissioner Trujillo moved to approve Case S-2007-03 with staff conditions and the findings to support the variance, Commissioner Heltman seconded the motion which passed by unanimous voice vote.

7. **Case #M 2006-52. Old Las Vegas Highway Subdivision General Plan Amendment.** Jennifer Jenkins, agent for Homewise, Inc. requests approval of a General Plan future land use map amendment to change the designation of 15.35± acres of land from Mountain/Corridor to Residential, Very Low Density. The area is located east of Old Las Vegas Highway and south of Old Pecos Trail. (Donna Wynant, case manager) **(POSTPONED FROM FEBRUARY 15, 2007 AND MARCH 15, 2007) (TO BE POSTPONED)**

*This item was postponed per approval of the agenda to the May 3<sup>rd</sup> meeting.*

8. **Case #M 2006-53. Old Las Vegas Highway Subdivision Annexation.** Jennifer Jenkins, agent for Homewise, Inc. requests annexation of 15.35± acres of land located to the east of Old Las Vegas Highway and south of Old Pecos Trail. (Donna Wynant, case manager) **(POSTPONED FROM FEBRUARY 15, 2007 AND MARCH 15, 2007) (TO BE POSTPONED)**

*This item was postponed per approval of the agenda to the May 3<sup>rd</sup> meeting.*

9. **Case #ZA 2006-21. Old Las Vegas Highway Subdivision Rezoning from R-1 to R-3.** Jennifer Jenkins, agent for Homewise, Inc. requests rezoning of 15.35± acres of land from R-1 (Residential, one dwelling unit per acre) to R-3 (Residential, three dwelling units per acre). The property is located east of Old Las Vegas Highway and south of Old Pecos Trail. (Donna Wynant, case manager) **(POSTPONED FROM FEBRUARY 15, 2007 AND MARCH 15, 2007) (TO BE POSTPONED)**

*This item was postponed per approval of the agenda to the May 3<sup>rd</sup> meeting.*

10. **Case #M 2006-46. Galisteo Commons Preliminary Development Plan.** C.R. Walbridge & Associates, LLC, agent for Galco, LLC request preliminary development plan approval to create 41 condominium dwelling units on 6.6414 acres. This property is located in the 2000 block of Galisteo Road, south of the intersection of St. Michael's Drive and Galisteo Road and is zoned R-6 (Single Family Residential, 6 dwellings per acre). (Gary Park, case manager) **(POSTPONED FROM APRIL 05, 2007)**

*This item was postponed per approval of the agenda to the May 17<sup>th</sup> meeting.*

## **G. BUSINESS FROM THE FLOOR**

None.

## **H. STAFF COMMUNICATIONS**

Chair Werner asked if any of the Commissioners are scheduled to go to the New Mexico League of Voting Officials training.

Mr. Smith reported that Geraldine is finalizing the training arrangements. He reminded everyone of the next meeting on May 3<sup>rd</sup>. He said the Old Taos Highway rezoning and General Plan Amendment that the Commission recommended approval of will be going to the City Council at their first meeting in May.

Mr. Smith apologized for the number of postponements and the notification error.

Chair Werner was unsure how much impact the subcommittee would have if they did not report to the Commission until June 7<sup>th</sup> as Councilor Wurzbarger requested because the amendments are scheduled for that evening as well. He would like to hear something from the subcommittee on May 17<sup>th</sup>, but said they would not take action at that meeting. He announced that he anticipates being absent on May 3<sup>rd</sup> and that week so Vice Chair Gonzales will be planning and chairing that meeting.

## **I. MATTERS FROM THE COMMISSION**

Commissioner Trujillo asked if they can be called if they get mail as he got an invitation at this meeting for an event this evening.

Commissioner Hughes reported that he attended the National Planning Conference and will be glad to share what he learned. He has scheduled a meeting for May 4<sup>th</sup> at 10 a.m. in his office to report on mainly the trends in planning,

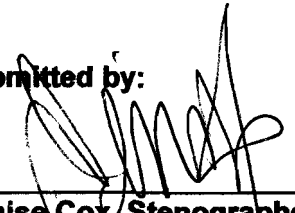
## **J. ADJOURNMENT**

**There being no further matters to come before the Commission, and the Commission having completed its agenda, Commissioner Lujan moved, seconded by Commissioner Trujillo to adjourn the meeting. The motion passed unanimously on a voice vote and the meeting was adjourned at 10:35 p.m.**

**Approved by:**

  
**Chair Robert Werner**

**Submitted by:**

  
**Denise Cox, Stenographer**