



## Agenda

CITY CLERK'S OFFICE

DATE 8-8-07 TIME 3:00SERVED BY Quentin GurneaRECEIVED BY [Signature]**PLANNING COMMISSION****August 30, 2007 – 6:00 P.M.****CITY COUNCIL CHAMBERS**

- A. ROLL CALL**
- B. PLEDGE OF ALLEGIANCE**
- C. APPROVAL OF AGENDA**
- D. RECOGNITION OF FORMER COMMISSIONERS**
- E. APPROVAL OF MINUTES**

July 12, 2007

July 19, 2007

**F. OLD BUSINESS**

1. **Case #M 2007-20. 500 Hillcrest Drive Escarpment Regulations Variance.** Karl Sommer, agent for John Scanlan requests a variance to the escarpment regulations to allow the construction of a new residence within the Ridgetop Subdistrict at the same location as the previous residence. The property consists of ~~7.848±~~ 5.405± acres and is zoned R-1 (Residential, 1 dwelling unit per acre). (Lou Baker, case manager) **(POSTPONED FROM JULY 19, 2007 AND AUGUST 02, 2007)**
2. **Case #M 2007-22. 750 Canada Ancha Escarpment and Terrain Management Regulations Variance.** Karl Sommer, agent for Steven and Margo Pike requests a variance to the escarpment overlay district to allow construction on the ridgetop and terrain management regulations to allow for more than half of the building footprint to be constructed on slopes between twenty and thirty percent. The property consists of 2.163± acres and is zoned R-1 (Residential, 1 dwelling unit per acre). (Lou Baker, case manager) **(POSTPONED FROM JULY 19, 2007 AND AUGUST 02, 2007)**

**G. NEW BUSINESS**

1. **Case #ZA 2007-08. Villas de Sophia Rezoning from R-1 to R-7 PUD.** Monica Montoya, agent for Ted Chagaris, requests rezoning of 1.00± acre from R-1 (Residential, 1 dwelling unit per acre) to R-7 PUD (Residential, 7 dwelling units per acre, Planned Unit Development). The application includes a preliminary development plan for 8 residential lots and a variance to the minimum lot size and maximum lot coverage/private open space requirements of Article 14-7.1. The property is located on Siringo Road and south of the intersection of Calle Contento and Siringo Road. (Donna Wynant, case manager)

2. **Case #M 2007-23. St. Michael's Village East Shopping Center Development Plan Amendment.** Linda Tigges, agent for David Nydes, requests approval of an amended development plan for 22,006 additional square feet to the 19.923± acre lot. The application includes a variance from the landscape ordinance to allow the installation of new landscaping on the areas adjacent to the new construction only. The property is located at the southeast corner of St. Michael's Drive and Llano Street and is zoned SC-2 (Commercial Shopping Center District). (Donna Wynant, case manager).
3. **I-25/NM 599 Highway Corridor Protection Overlay District Regulations.** An ordinance creating a new Section 14-5.5 SFCC 2001 regarding the I-25/NM 599 highway corridor protection districts and establishing standards for new development. (Councilor Patti Bushee, sponsor) (Jeanne Price, case manager)

#### **H. BUSINESS FROM THE FLOOR**

#### **I. STAFF COMMUNICATIONS**

#### **J. MATTERS FROM THE COMMISSION**

#### **K. ADJOURNMENT**

#### **NOTES:**

- 1) Procedures in front of the Planning Commission are governed by 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**

**August 30, 2007**

<b>ITEM</b>	<b>ACTION TAKEN</b>	<b>PAGE(S)</b>
<b>A. ROLL CALL</b>	<b>Quorum</b>	<b>1</b>
<b>B. PLEDGE OF ALLEGIANCE</b>		<b>1</b>
<b>C. APPROVAL OF AGENDA</b>	<b>Approved</b>	<b>1-2</b>
<b>D. RECOGNITION OF FORMER COMMISSIONERS</b>		<b>2-3</b>
<b>E. APPROVAL OF MINUTES</b>		
July 12, 2007	<b>Approved</b>	<b>3-4</b>
July 19, 2007	<b>Approved</b>	<b>4</b>
<b>F. OLD BUSINESS</b>		
1. <b><u>Case #M 2007-20. 500 Hillcrest Drive Escarpment Regulations</u></b>		
<b>Variance. Karl Sommer, agent for John Scanlan requests a variance to the escarpment regulations to allow the construction of a new residence within the Ridgetop Subdistrict at the same location as the previous residence. The property consists of 7.848± <u>5.405±</u> acres and is zoned R-1 (Residential, 1 dwelling unit per acre).</b>		
	<b>Approved</b>	<b>4-8</b>
2. <b><u>Case #M 2007-22. 750 Canada Ancha Escarpment and Terrain Management Regulations Variance.</u></b>		
<b>Karl Sommer, agent for Steven and Margo Pike requests a variance to the escarpment overlay district to allow construction on the ridgetop and terrain management regulations to allow for more than half of the building footprint to be constructed on slopes between twenty and thirty percent. The property consists of 2.163± acres and is zoned R-1 (Residential, 1 dwelling unit per acre).</b>		
	<b>Postponed to October 4<sup>th</sup></b>	<b>8-15</b>
<b>G. NEW BUSINESS</b>		
1. <b><u>Case #ZA 2007-08. Villas de Sophia Rezoning from R-1 to R-7 PUD.</u></b>		
<b>Monica Montoya, agent for Ted Chagaris, requests rezoning of 1.00± acre from R-1 (Residential, 1 dwelling unit per acre) to R-7 PUD (Residential, 7 dwelling units per acre, Planned Unit Development). The application includes a preliminary development plan for 8 residential lots and a variance to the minimum lot size and maximum lot coverage/private open space requirements of Article 14-7.1. The property is located on Siringo Road and south of the intersection of Calle Contento and Siringo Road.</b>		
	<b>Approved</b>	<b>15-20</b>

<b>ITEM</b>	<b>ACTION TAKEN</b>	<b>PAGE(S)</b>
2. <b><u>Case #M 2007-23. St. Michael's Village East Shopping Center Development Plan Amendment.</u></b> Linda Tigges, agent for David Nydes, requests approval of an amended development plan for 22,006 additional square feet to the 19.923± acre lot. The application includes a variance from the landscape ordinance to allow the installation of new landscaping on the areas adjacent to the new construction only. The property is located at the southeast corner of St. Michael's Drive and Llano Street and is zoned SC-2 (Commercial Shopping Center District).	Postponed	20-23
3. <b><u>I-25/NM 599 Highway Corridor Protection Overlay District Regulations.</u></b> An ordinance creating a new Section 14-5.5 SFCC 2001 regarding the I-25/NM 599 highway corridor protection districts and establishing standards for new development.	Postponed	23
H. BUSINESS FROM THE FLOOR		23
I. STAFF COMMUNICATIONS		23-24
J. MATTERS FROM THE COMMISSION		24
K. ADJOURNMENT		24

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

**August 30, 2007**

A regular meeting of the City of Santa Fe Planning Commission was called to order by Chair Estevan Gonzales 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:**

Harriet Heltman  
Ken Hughes  
Matthew O'Reilly  
John Salazar  
Angela Schackel Bordegaray (late)  
Bonifacio Armijo, Secretary  
Signe Lindell, Vice Chair  
Estevan Gonzales, Chair

**MEMBERS ABSENT:**

John Romero (excused)

**STAFF PRESENT:**

Anne Lovely, Assistant City Attorney  
Wendy Blackwell, Engineering Development Review Division Director  
Ron Pacheco, Office of Affordable Housing  
Donna Wynant, Senior Planner  
Denise Cox, Stenographer

**B. PLEDGE OF ALLEGIANCE**

Chair Gonzales asked Commissioner Hughes to lead the pledge of allegiance.

**C. APPROVAL OF AGENDA**

Mr. Smith stated that staff recommends postponement of Case #ZA-2007-08 - Villas Sophia Rezoning, but the applicant is requesting the case be heard.

**Monica Montoya, agent for Villas Sophia Rezoning, was sworn.** She stated that she has read the staff report and understands the reasons staff is requesting postponement. The first issue is the access to future development south of the property. The second issue is parking. She feels they have satisfied both criteria and feel comfortable that they can satisfy the issues. She said they would like to be heard.

**Commissioner O'Reilly moved to approve the agenda as presented hearing all the cases, Commissioner Salazar seconded the motion which passed by majority voice vote of 5 to 1 with Commissioner Hughes voting no.**

#### **D. RECOGNITION OF FORMER COMMISSIONERS**

Chair Gonzales explained that they would be presenting each former Commissioner with an award and then the Commission will recess to wish them farewell.

Chair Gonzales recognized Commissioner Eric Lujan. He is married to the former Lisa Medina and is the father of five beautiful daughters. He graduated from ASU and then received his Associates Degree in General Engineering from UNM. He works for NMDOT as an engineer coordinator. He is the former director of Constituent Services for Speaker of the House, Raymond Sanchez. He is the chairman of the State Children, Youth and Family Commission, current member of the NM Democrat State Central Committee and current Santa Fe Democrat board chairman for 48B. He is a former semi pro baseball player, former high school baseball coach and high school baseball official for the NMAA and member of the NM Hispano Chamber of Commerce. He is also a member of La Union Protectora. Chair Gonzales said they will miss Eric Lujan on the Planning Commission.

Commissioner Lindell presented Eric Lujan with a plaque.

Commissioner Lujan said coming to the meeting seemed familiar this evening until he reached under his arm to notice that he was not holding anything. He enjoyed a lot of evenings here. He said they had some good guidance from a man he admires and looks up to, Chairman Bob Werner. He thanked Mayor Coss. He noted that he spoke to former Mayor Delgado who congratulates Chairman Gonzales and is very thankful for the service of the Planning Commissioners during the time he was mayor. He commented that they have a hard task ahead that will make some people mad and some people happy.

Chair Gonzales recognized Commissioner Michael Trujillo, Mr. win-win. He is a native Santa Fean, well known for being one of the best entrepreneurs in Santa Fe with his valet parking, transportation, security and parking lots as well as his latest venture, Art Van Go. He is a retired District volunteer county fire chief and fireman for the County and City for 20 years as well as a 16 year member of the Public Safety Committee. He has served as the Advisory Board Chairman for the NM State Department of Public Safety as well as serving as Chairman for Downtown Vision Plan. He serves on the Regional Emergency Communication Board and the SF Wine and Chile board. He employs over 100 people during the summer months and 50 employees during the off season. His daughter contributes to the success of the business.

Commissioner Armijo presented Michael Trujillo with a plaque.

Commissioner Trujillo said Chair Gonzales has some big shoes to fill from Chairman Bob Werner, but there is no doubt he will. He feels fortunate to have served with Ken, Boni and Sig, but he will greatly miss Harriet. He thanked everyone, but said he likes staying home Thursday nights if he is not working.

Chair Gonzales recognized Chairman emeritus, Bob Werner. He is married to Margaret Ortiz of Taos. They have three beautiful children. He attended the University of Virginia, the University of Nevada, the University of California, Berkley and the University of New Mexico. He has a Juris Doctorate. He was a captain in the US Army as a paratrooper. He was awarded the bronze star in the Vietnam War for meritorious achievement in grand operations against hostile forces. He is a judge advocate for the Atomic Support Agency. He was awarded an accommodation medal for representation of the Armed Forces before the NM Supreme Court in obtaining the right to vote for persons on military reservations in New Mexico. He is currently the chair of the Parking Advisory Committee and a member of the City Planning Policy Commission. He has been on the Planning Commission from 2002-2007 and served as Chair since 2003. He has been the Chair for 28 years of the NM Supreme Court Committee on the NM Statutes Annotated which is responsible for the annual codification of all the laws in the State of New Mexico. In 1990, New Mexico was the first state to distribute its complete laws on CD rom which Mr. Werner was responsible for. He is a member of the Board of Trustees and secretary of the Guadalupe Historic Foundation. He is president and Director of the Vista Encantada Neighborhood Association. He is a member of the State Highway Department Citizen Advisory Committee for the Santa Fe/Pojoaque corridor. He is a member of St. Vincent Finance Committee. He is a member of the State Alcohol Beverage Control Commission under Governor Bruce King. He retired in 2000 after 35 years as a lawyer for Sutin, Thayer and Brown. He drafted the New Mexico Gross Receipts Compensating Tax Act. He is a runner and has ran in 3 Boston marathons and the 100 mile Western States Endurance Run. He has climbed the highest mountains in Europe, Africa and the Americas. He is very interested in New Mexico Culture and the Spanish language. He has been involved in training the family chocolate Labrador, Katrina. On a personal note, Chair Gonzales said that Chair Werner has always given great advice with class. He has been the epitome of what a chair should be. Chair Gonzales said he is humble to have served under him and thanked him for the guidance and support. He said the shoes are big and he will probably never fit into them, but he will do his best.

Chair Gonzales presented Bob Werner with a plaque.

Commissioner Werner said this is his last shot of advice. He said the Planning Commission's job is to interpret and apply the rules according to land use and Chapter 14. He urged them to avoid trying to dictate lifestyles or telling people how to spend their money. He said they must act in the best interest of the citizens of Santa Fe. He said they do not have individual constituents, so they can act in the entire City's best interest. He said they should try to create conditions favorable to the health, safety and prosperity of the citizens of Santa Fe. He said Santa Fe has grown at approximately 2% a year over the past 40 years and it needs to continue to grow at the same rate to sustain itself as a viable and vibrant city. He urged them to enforce the water transfer ordinance and tweak it to provide the city with water rights to sell to replace the retrofit ordinance. He wished all the Commissioners the best of luck and said it was a true pleasure to serve on the Commission with all of them. He thanked staff as well.

*The Commission took a break to congratulate the former Commissioners.*

#### **E. APPROVAL OF MINUTES**

**July 12, 2007**

**Commissioner Heltman moved for approval of the minutes of July 12, 2007 as presented, Commissioner Armijo seconded the motion which passed by unanimous voice vote.**

**July 19, 2007**

**Commissioner Heltman moved for approval of the minutes of July 19, 2007 as presented, Commissioner Lindell seconded the motion which passed by unanimous voice vote.**

**F. OLD BUSINESS**

- 1. Case #M 2007-20. 500 Hillcrest Drive Escarpment Regulations Variance. Karl Sommer, agent for John Scanlan requests a variance to the escarpment regulations to allow the construction of a new residence within the Ridgetop Subdistrict at the same location as the previous residence. The property consists of 7.848± 5.405± acres and is zoned R-1 (Residential, 1 dwelling unit per acre). (Lou Baker, case manager) (POSTPONED FROM JULY 19, 2007 AND AUGUST 02, 2007)**

**Mr. Smith said he would be presenting the staff report in Ms. Baker's absence.**

**Memorandum from Lou Baker prepared August 20, 2007 for August 30<sup>th</sup> Planning Commission meeting is incorporated herewith to these minutes as Exhibit "1."**

**Letters of support from neighbors with map showing their locations is incorporated herewith to these minutes as Exhibit "1(A)."**

**Asbestos information and Survey prior to demolition dated 6-04-04 is incorporated herewith to these minutes as Exhibit "1(B)."**

**Photographic views from surrounding streets are incorporated herewith to these minutes as Exhibit "1(C)."**

**Letters from Bill Klein dated August 22, 2007 and August 15, 2007 are incorporated herewith to these minutes as Exhibit "1(D)."**

**Notes from field trip on 8/16/07 and email correspondence dated August 30, 2007 is incorporated herewith to these minutes as Exhibit "1(E)."**

**Mr. Smith presented the staff report included in Exhibit "1."**

**Staff does not support the application request for a variance, in order to be consistent with the purpose and intent of the Escarpment Overlay District Ordinance. Should the Planning Commission determine the merits of the variance application warrant approval, staff recommends the imposition of the following conditions:**

- 1. the applicant shall comply with 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 shall be achieved by use of either retrofit credits or water transfer; and**
- 2. Comply with comments from the Fire Department (Exhibit F) – J.T. Bolleter, Assistant Chief.**



**Karl Sommer, PO Box 2476, Santa Fe, was sworn.** He represents John Scanlan and Wilson and Jenna Scanlan. He said they are present and can answer questions as needed. He said there has been an amendment to the code that places this property in a unique situation and renders 90% of the property unusable. The code was amended last September inside the ridgetop subdistrict for lots subdivided after 1992. This lot was originally created in the 1940's. There was a lot line adjustment to make the lower lot have more acreage but it did not increase the sites in the ridgetop. The affect on the property that has been configured is a severe hardship. The escarpment ordinance is designed to protect the visual quality and preserve the natural beauty of the ridgetop under broad parameters. The variance they are requesting accomplishes those goals and the intent of the ordinance. There will be greater impact if the variance is not granted and the context of this application warrants the approval in his opinion. He presented a slide show of the photographs included in Exhibit "1(C)."

**Wilson Scanlon, 836 Don Cubero, was sworn.** He helped Mr. Sommer with the slide show that began at City Hall and proceeded toward the property. The slides are included in Exhibit "1(C)."

Mr. Sommer showed the existing vegetation, location of the old house, and size and scale of the new house. He said the proposal has minimal impact, lower density, and lower disturbance of the land which are all consistent with the ridgetop ordinance. He showed what will happen without the variance. He said there was some initial concern due to some misinformation that has been cleared up with the neighbors. He said the context of this request is to preserve the aesthetic beauty. The criteria measure up to legally allow granting the variance. He noted that this will not be the largest home in the area. He referred to a table showing the lot sizes, square footages and lot coverage for other homes in the area for comparison. The average footprint is 4100 square feet and the average lot coverage is 7.5%. This proposal is for 2.4% lot coverage. He said the hardship here is that 90% of the lot under the current ordinance is unusable. The usable area is the steeper slope with a greater amount of vegetation. He said the City when redoing its ordinance moved the escarpment district lines in almost every case which is in effect rezoning that requires notice. Notice was not given to property owners when the ordinance changed and they did not have the opportunity to discuss the unfavorable changes. In his opinion what they are asking for is created by the topography. This is common sense granting of a variance. He said they are not asking for some overblown request, but the right to use the property in a reasonable fashion. He thinks the application is approvable.

Wendy Blackwell said during the ordinance revision in 2006, the advertising included remapping so the standard practice was followed. There were two resolutions passed at the same time as the ordinance. Staff recognized the maps were inadequate and were directed to remap under a resolution that passed at the same time.

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

**Questions and comments from the Commission**

Commissioner Armijo asked what the original building height was.

Mr. Sommer replied 14 feet on this site.

Commissioner Armijo asked if this goes through if no additional lot splits or homes could be built on this property.

Mr. Sommer said they made the representation in the field that they would accept the condition that they will not further subdivide or build on the property.

Commissioner Armijo asked if that means there would not be an additional quest house. He also wanted to know what the heated square footage would be.

Mr. Sommer replied yes and said the footprint would be 5700 square feet.

Commissioner O'Reilly asked what specific or additional screening would be required if this were built in the ridgetop.

Ms. Blackwell said there would be no specific screening required, although they would be required to cover 50% of the structure and the trees would have to be a minimum of 15 feet. If there is access or utility in the ridgetop, there would be additional screening requirements although the structural screening would be the same regardless of the view from the public.

Commissioner Lindell asked Mr. Sommer why the property is referred to as 6.43 and 5.405 acres also.

Mr. Sommer said when this was brought to the attention of staff it was corrected around July 24<sup>th</sup>. The lot line adjustment made it 5.405 acres.

Commissioner Lindell asked if the applicant did not know the extent of asbestos when it was originally purchased.

Mr. Sommer explained that they did not know the extent of the asbestos. They only thought there were portions with asbestos.

Commissioner Lindell asked why the lot line was adjusted in 2005.

Mr. Sommer explained that Mr. Scanlan purchased two properties for the purpose of building and bought a lot to protect from building. He pointed out the area that somebody had graded. The lot line adjustment moved the line to make the property usable at some point.

Commissioner Lindell commented that the application states this is for the ability to enjoy a home the size of those typical in the neighborhood. She asked if the building footprint is the size of the home on the chart Mr. Sommer presented.

Mr. Sommer explained that the City's GIS was used to calculate the figures so they could be off 10-15%. He noted that there is no regulation that tells what size of a house someone can have and actually the size and visibility have no connection depending upon the scale. He feels they are asking for something reasonable and should not be limited to the average.

Commissioner Lindell said after going on the site visit, it seems the maps are not correct for where the ridgetop district is.

Ms. Blackwell agreed that in many places the maps are inaccurate which is why she supported remapping.

Commissioner Lindell feels they are being asked to make a serious decision with faulty data being the maps. She is somewhat uncomfortable with this. The purpose of the ridgetop is visibility and on one site they can build to 14 feet and on the next site with similar terrain they can build to 24 feet. She asked what the procedure is for correcting the maps.

Ms. Blackwell explained that the individual property owner can come forward if they feel the mapping is inaccurate. To get the map modified or corrected the property owner has to come to Planning Commission.

Commissioner Lindell asked if the Planning Commission can request this procedure be done.

Mr. Smith explained that the Planning Commission can request code amendments.

Chair Gonzales asked Ms. Lovely if it is the Planning Commission's duty to make a decision based upon what is available today.

Ms. Lovely said first the Commission should determine whether they have enough information available to make a decision and if they do not they can ask further questions.

Chair Gonzales asked Mr. Gonzales to state the staff's position and if the City is better off as a whole doing the development such as the applicant is proposing or doing something with strict adherence to the code.

Mr. Gonzales said it appears it would be more visual if they built without the variance.

Commissioner Salazar commented that they have seen the visual impact and have viewed the site. He did not feel comfortable with the applicant building in the area outside the escarpment because they will have no say as to landscaping or screening. He feels there is less impact within the escarpment. He said they can add a condition that additional landscaping and screening be put in place to minimize what can hardly be seen right now.

**Commissioner Salazar moved to approve Case #M-2007-20 with the conditions of approval, Commissioner Armijo seconded the motion.**

Commissioner Lindell understood the recommendation to be that staff could not support the application for a variance.

Ms. Blackwell explained that it is awkward for staff as their job is to tell the Commission what the code book says. She said in this venue she cannot give her personal opinion, but outside of this forum she could give her personal opinion. She added that the Commission has been given all kinds of information and background to make their decision as staff cannot make the decision.

**Commissioner Lindell made a friendly amendment to the motion that approval is for the house that sits in the same footprint and not going outside the original footprint so they are staying within the 3750 square feet of original home, Commissioner Heltman seconded the motion.**

Commissioner O'Reilly asked if the amendment is intended to achieve a home built in the exact same shape and location of the previous house or just the same house.

Commissioner Lindell wanted it to be in the same location, so that it does not go out any further on the peninsula.

Commissioner O'Reilly wonders if that is even possible.

Commissioner Lindell said there would be a line of demarcation, so she requests it be the same relative size.

Commissioner Armijo did not believe this would be fair as 5700 square feet is not that large on a five acre parcel. He said they are only increasing from the original footprint by about 1000 square feet and they are not able to build any future homes on that parcel. The applicant has given quite a bit. During the site visit they saw the visual impact. He does not want to set a precedent that anything in the ridgetop will get approved. He felt the importance of the site visit was to see what the impact was. He feels in this case there should be a foothill regulation and the city does not have one. The least impact is on top with screening and control. He does not feel it is fair to ask the applicant to go further in reducing the size of the home since they are agreeing to no further building or lot splits on the additional acreage.

**The friendly amendment failed on a 2 to 5 voice vote. Commissioners Heltman and Lindell voted for the motion and Commissioners Armijo, Hughes, Salazar, Bordegaray and O'Reilly voting against the motion.**

Mr. Smith clarified that the original motion includes an additional condition to allow no further subdivision.

**Commissioner Salazar amended his motion to add the condition that the applicant will have to come back to the Planning Commission for any further subdivision as an amendment to the variance. Commissioner O'Reilly accepted this motion as well.**

Chair Gonzales restated the motion to approve with the condition that the applicant will need to come back to the Planning Commission for any future variances.

**The motion passed by a majority voice vote of 5 to 2. Commissioners Armijo, Hughes, Salazar, Bordegaray and O'Reilly voted for the motion. Commissioners Lindell and Heltman voted against the motion.**

*The Commission took a 10-minute break at this time.*

- 2. Case #M 2007-22. 750 Canada Ancha Escarpment and Terrain Management Regulations Variance. Karl Sommer, agent for Steven and Margo Pike requests a variance to the escarpment overlay district to allow construction**

**on the ridgetop and terrain management regulations to allow for more than half of the building footprint to be constructed on slopes between twenty and thirty percent. The property consists of 2.163± acres and is zoned R-1 (Residential, 1 dwelling unit per acre). (Lou Baker, case manager)  
(POSTPONED FROM JULY 19, 2007 AND AUGUST 02, 2007)**

Chair Gonzales said after consultation with Ms. Price during the break they decided to postpone the I-25/NM 599 Highway Corridor Protection Overlay District Regulations to the next meeting.

**Commissioner Lindell moved to postpone I-25/NM 599 Highway Corridor Protection Overlay District Regulations to the next meeting. Commissioner Armijo seconded the motion which passed by unanimous voice vote.**

Mr. Smith said he would be presenting the staff report in Ms. Baker's absence.

Memorandum from Lou Baker prepared August 20, 2007 for August 30<sup>th</sup> Planning Commission meeting is incorporated herewith to these minutes as Exhibit "2."

Letter from Paul Flaggman in support of the variance application dated August 30, 2007 is incorporated herewith to these minutes as Exhibit "2(A)."

Notes from field trip on 8/16/07 and email correspondence dated August 30, 2007 is incorporated herewith to these minutes as Exhibit "2(B)."

Mr. Smith presented the staff report included in Exhibit "2."

Staff recommends in order to be consistent with the purpose and intent of the Escarpment Overlay District Ordinance, staff cannot support the application request for a variance. Should the Planning Commission determine the merits of variance application M-2007-22 warrants approval, staff recommends the imposition of the following conditions:

1. The applicant shall comply with 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 shall be achieved by use of either retrofit credits or water transfer; and
2. Comply with comments from the Fire Department (Exhibit F) – J.T. Bolleter, Assistant Chief.

### **Public Hearing**

**Karl Sommer, previously sworn.** He noted that Steven and Margo Pike could not be present. He said this is relevant because there have been public issues made about who they are and where they are from. This case is similar to the previous one as the case deals with a lot that was created by virtue of a consolidation of two lots. The new regulations make this new lot unbuildable without a variance. He pointed out the building envelopes on the original two lots. He understands it is not relevant where Mr. Pike is from, but he does not want to leave a misimpression. Mr. Pike grew up on Agua Fria in a modest house and he went on to do very well for himself. Mr. Pike has contributed to every community that he has lived in. The reason he did not build long before the regulations went into effect is because his wife came down with a life threatening illness. They are now in a position to come back to Santa Fe and build their house. When they bought the lot there was no escarpment regulation. They

consolidated the lots in 1994 and the City approved another building site, but if you compare this to the slope analysis you can see what the regulations have done to the slope analysis. The regulations now say they cannot use his lot. There is no site buildable outside the ridgetop without a variance. He reviewed the slope analysis for lot 16A which conforms to the terrain management regulations. There are no foothill regulations in this case. He said the two areas combined would comply but they are separated, so the house would have to be a long narrow strip. The escarpment district ran through the northwestern portion of the property when the lot was purchased and later that was moved right through the middle of the buildable area. Mr. Sommer said the 50/50 rule further impacts this as you cannot have a house on 50% of the ridge that is over 20-30%. The variance takes advantage of a portion of flat area where they expected to build thus violating the 50/50 rule so a house of a reasonable size can be built in accordance with the Pike's wishes. The variance with respect to the ridgetop is not needed necessarily, but they need the variance to build outside. They are asking to minimize the visual impact and steep slopes increasing the overall density in the sensitive areas. He reminded the Commission that this is one lot and one house instead of two. He said if they do not move the house further down the slope then there are more trees, a taller building and a visible building. The Dale Ball trail runs up the drainage and the further they get down the hill the closer and more impact on the trail. He noted that when the maps changed with the regulations there was no notice given. When they consolidated the lot the City said well over half the property was buildable and the current ordinances move the home to an area of 6% lot coverage that is reasonable as the average lot coverage is 18%. He said there are lots of large houses on small lots, but this will be the opposite. The most immediate neighbor does support this request. He said the questions the Planning Commission needs to answer are as follows: Should the house be granted a variance to allow a small portion of it in the ridgetop? The factors that go into this are visibility and the hardship created by the regulations changing making this property undevelopable. He said if the variance on the 50/50 rule is not granted the property cannot be built upon which the City will have to deal with. He said this request is reasonable. The intent of the regulations is all about visibility, preserving natural vegetation and the impact of development in these areas. This request lessens the impact of what is a reasonable use on this property.

**Melinda Romero-Pike, 2038A Via Maria Vena, was sworn.** She said originally when her son purchased the land there were two lots. She said Dr. Pike has been working with the environment for 20 years. In addition to his medical specialties he is Board Certified in preventive occupational environmental medicine as well as being a toxicologist. He combined the lots to preserve the land and avoid density. She said most people want to divide the land and sell as many lots as possible to make a profit, but he combined lots. She asked them to consider the water conservation in one house vs. a subdivision that would not add to recharging the aquifer. She noted that if they kept the two lots they would not be going through all this. She said there was no notice of the change in regulations. She said while everyone else was building their homes he was busy saving his wife's life from two cancers and a bone marrow transplant. The newspaper articles left the impression that they were transplants lining their pockets with cash which is sad because to label children in that manner hurts. Both their family roots go back to the 1700's. She said at the south end of town they get traffic, density and big buildings. She believes there should be fairness and quality for everyone. Her son and wife have always been good contributors to the community and have great empathy for humanity and the environment. The plans for the home are moderate and it will be one of the smaller homes in the area. It will not be visible from the Hyde Park area. They

plan to build the home with real adobe using local talent and local help. She asked the Commission to make a fair and just decision.

Mr. Sommer added that they worked closely with the homeowner's association that has no objection. He pointed out that nobody is here opposing this which tells what people think about the context of the application.

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

**Questions and comments from the Commission**

Commissioner Bordegaray apologized for not attending the field trip and asked what the public visibility is from the Dale Ball trail.

Commissioner O'Reilly recalled there was discussion about how high the building would be on the side that faced the trail. He said moving the building up or down the slope would change the visibility.

Ms. Blackwell reported that staff did not conduct a formal visual analysis, but they did a general drive-by. The visual impact for the escarpment is based on view from public roads, so they did not go to the trail.

Commissioner Bordegaray understood it was from public ways. She thinks it is the same principle and it is where the public can go legally.

Mr. Smith clarified that the escarpment regulations were based on visibility from specific locations within the historic district, so the intent does not make it clear exactly. The maps were prepared based on view sheds taken from the historic district surrounding the downtown. He agreed the general text may talk about visibility from public roads, but the mapping was done on select public roads chosen by the City Council at the time.

Ms. Blackwell added that there were 13 points/corners that were viewpoints and then an additional 6 view shed areas. Some of these were outside the historic district.

Commissioner Bordegaray understood that moving the building further down is a more buildable site.

Mr. Sommer said that is correct.

Ms. Blackwell referred to Charlie Gonzales' memo that states there is a building site outside the ridgetop subdistrict, but this strict compliance site would require a longer driveway to be cut into steep sites. She pointed this out on a map.

Commissioner Hughes referred to the letter of opposition that states the hillside was protected from development because the slope exceeded 20%. He asked staff to respond.

Ms. Blackwell said there is some inaccuracy in this because the city code does not protect land area greater than 20% slopes from development, although this is true for land greater than 30% slopes as it can only be used only for utilities or access.

Commissioner Lindell said it is wonderful that Dr. and Mrs. Pike would like to return to their hometown, however the owner of the lot is immaterial to the decision they are asked to make. She commented that it is hard to think that a 7200 square foot home is a minimum reasonable use. She understands that 2000 square foot is strict compliance.

Ms. Blackwell explained that in order to create a new lot you have to prove that you have 2000 square foot on which to build or they cannot approve the lot line adjustment. She said strict compliance with the code is possible.

Mr. Sommer said what is reasonable varies with the circumstances. He said the code says a buildable site of 2000 square feet or more that meets the 50/50 rule results in a buildable site. That does not mean that all other aspects of the ordinance say it is reasonable or unreasonable. The question of reasonableness has to do with what you are dealing with.

Commissioner Lindell commented that 7200 square feet seems greater than the minimum variance to make reasonable use of the land, building or core structure.

Commissioner O'Reilly questioned that the buildable area was not in the ridgetop district originally. He asked if the ridgetop moved that far from where it was before because that is quite a move.

Ms. Blackwell said she has not done a specific analysis, but when the GIS folks digitized the hand drawn maps they went to the center line of the marker so it could be off 20-30 feet.

Commissioner O'Reilly agreed the lines were drawn with a fat marker on a very small scale, but it looks like it would have moved 50-60 feet. He said that wiped out the buildable site and it would have easily complied with the 50% rule.

Mr. Sommer said he is retrieving the original ridgetop district lines.

Commissioner O'Reilly agreed to move on while he was waiting for that documentation. He asked if notice was given when the other modification was made and what the legal opinion is regarding the subdistrict boundary moving so far.

Ms. Lovely said she hears the argument, but believes the city complied with the law in terms of what they did related to the escarpment line.

Commissioner O'Reilly asked if this home were allowed to be built in the ridgetop subdistrict if the client could design the house so it could comply with the 50% rule.

Mr. Sommer said it would be in compliance with the 50/50 rule, but out of compliance with the escarpment district. He believes the applicant would be agreeable to this.

Commissioner O'Reilly said the question is whether there is more of a visual impact in the ridgetop without disturbing the steeper slopes or whether it is out of the ridgetop disturbing the steeper slopes. He said the further the home goes down the hill the more visible it becomes.



Ms. Blackwell said certainly staff could work with the applicant to analyze the original ridgetop analysis done by the surveyor and compare it to the digital. She said these were compared to the digital, but they did not go through every map and there could be a digitizing error.

Commissioner O'Reilly commented that if the home were more in the ridgetop they would have to do screening and if they do not there is no screening at all required.

Chair Gonzales asked if the Planning Commission has the power to move the location of the variance at this hearing.

Mr. Smith explained that the Commission has the authority to make reasonable conditions of approval relative to the siting of the building. He said they should direct the applicant to move the site depending on what they are comfortable with or they might postpone with direction to bring the specific siting to the next meeting.

Commissioner Salazar asked to see the slope analysis. He was wondering if the house were moved if it would come outside of the buildable area.

Mr. Sommer said it looks like the limits would not move it outside of the buildable area. He demonstrated this on the slope analysis.

Commissioner Salazar said it increases the amount of home and visibility on the 30% slopes.

Commissioner O'Reilly pointed out that they are only requesting a variance to allow only half the footprint be built on 30%. He asked if they are also asking for a variance to allow the house be put in the ridgetop.

Mr. Smith said the case caption states a variance to the escarpment overlay district and terrain management including construction within the ridgetop district. He said if the Commission wants more of one kind of variance and less of another staff believes the Commission can make that recommendation without changing the notice.

Commissioner O'Reilly said his feeling is that they viewed this from Cerros Colorados and given the restrictions it seems the house could be made less visible if they moved it further up and had to comply with lower heights and less screening even if it were more in the ridgetop. He said they could come close to not requiring the variance at all with the 50% rule.

Commissioner Bordegaray asked if they were able to locate the map.

Mr. Sommer said he does not have the City's version; it is the surveyor's version before it was digitized.

Chair Gonzales asked Mr. Sommer if his client would be agreeable to Commissioner O'Reilly's suggestions.

Mr. Sommer said they could look at it although it may impact and make it more visible to the neighbors which might offend some of those across the road. He said a minimum

easing of the 50/50 rule with the idea that it is less visible might be okay with the neighbors.

Commissioner O'Reilly said it seems there is a large amount of buildable area if they moved up into the ridgetop. It might be 6000 square feet not 7200 feet and it might require a redesign of the house. He understood the problem Commissioner Lindell has because the size of the house is creating the scope of the variance. He asked if the applicant would be willing to redesign the house so it could be more in the ridgetop to eliminate the variance request all together.

Mr. Sommer said he would have to meet with them, but he would encourage his client to go along those lines for the reasons articulated.

Commissioner O'Reilly thought it seemed appropriate to postpone the decision until Mr. Sommer can answer that question.

Commissioner Salazar commented that if there were two homes built instead of one it would be a lot more roofed area than 7200 square feet based on the footprints seen in this area. He said the lot coverage is minimal.

Commissioner Armijo wanted to vote or get consensus from the other Commissioners if they are willing to move the site. He would hate to have Mr. Sommer ask his client and then come back with a no vote.

Mr. Smith suggested they not take a formal vote, but express an informal consensus to the applicant. He said they are asked to vote on a variance with specific findings, so the Commissioners might not want to commit on prior exhibits. He said they should comment on whether they favor one type of variance over another.

Commissioner O'Reilly asked if a motion to approve construction of a house within the ridgetop provided that it can be done without variance to the 50% rule and the additional condition the applicant redesign the house to make that possible would be acceptable.

Mr. Smith believes that motion is voting on some of the specific variance issues. His understanding is that they want to postpone action on the variance with direction to present a design which is located all or substantially in the ridgetop area.

Commissioner O'Reilly stated that his feeling is that this house can be done without granting both variances also reducing the visibility of the house while gaining all the height restrictions and screening requirements.

Mr. Sommer said clearly a redesign has to come back, so that kind of direction would be informative. He will urge his client to follow this. He said he will get back to staff quickly as to whether the applicant is willing to do this.

**Commissioner O'Reilly moved to postpone Case #M-2007-22 to October 4<sup>th</sup> with direction to the applicant that they look at redesigning the building higher up on the slope in the ridgetop and the redesign should not require a variance to the 50% rule, Commissioner Hughes seconded the motion.**

Commissioner Heltman asked if the people to the back of this property will be upset with the home moving higher up.

Commissioner Armijo said it will be more visible from Canada Ancha, but less visible from Cerros Colorados.

Commissioner Heltman said it seems they had avoided going higher due to the visibility for the neighbors.

Chair Gonzales thought they should not guess how the neighbors feel and they will have the opportunity to come to the meeting to express their viewpoints.

Commissioner Armijo clarified that the height regulations and screening would fall under the escarpment.

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

Mr. Sommer stated that he had requested a reconsideration of the Massey case to get the same specific information. He stated that they have to make a motion for reconsideration at this meeting due to Robert's Rules of Order. He wanted his client to have the opportunity to provide the same kind of information that was helpful in the last two cases.

Commissioner Armijo said he asked for a site visit on that property, but there was only a site visit for the other two projects approved. He said they can all see now that the visual impact is greater than what is on paper. He said in fairness he would entertain a motion to bring back the Massey case.

Mr. Smith said they do not have the authority under Robert's Rules of Order to reconsider the motion as it has to be done prior to the end of the meeting where the case is heard. He said the precedent is that the applicant could file a new application and staff could expedite the hearing due to the circumstances.

Chair Gonzales said to be fair they will take this matter up under matters from the commission.

## **G. NEW BUSINESS**

- 1. Case #ZA 2007-08. Villas de Sophia Rezoning from R-1 to R-7 PUD. Monica Montoya, agent for Ted Chagaris, requests rezoning of 1.00± acre from R-1 (Residential, 1 dwelling unit per acre) to R-7 PUD (Residential, 7 dwelling units per acre, Planned Unit Development). The application includes a preliminary development plan for 8 residential lots and a variance to the minimum lot size and maximum lot coverage/private open space requirements of Article 14-7.1. The property is located on Siringo Road and south of the intersection of Calle Contento and Siringo Road. (Donna Wynant, case manager)**

Memorandum from Donna Wynant prepared August 22, 2007 for August 30<sup>th</sup> Planning Commission meeting is incorporated herewith to these minutes as Exhibit "3."

Two survey plats of adjoining properties are incorporated herewith to these minutes as Exhibit "3(A)."

Response from Monica Montoya to rezoning criteria dated August 27, 2007 is incorporated herewith to these minutes as Exhibit "3(B)."

Ms. Wynant presented the staff report included in Exhibit "3."

Staff recommends approval of the request for R-7 density and housing type for this and surrounding properties, but recommends that the case be postponed to provide on-site guest parking and to make appropriate provisions for a future east-west access linkage to serve existing and likely future development south and east of the Villas de Sophia. If the Commission decides to recommend approval of the application, the following findings and conditions of approval are required for the variance application:

Variance findings

The following requested variances are hereby approved, based on the Commission's finding that they are appropriate in relation to the overall development and its purposes, and that they will not adversely impact surrounding properties.

- Section 14-7.1-1 Note 5. Minimum lot size. Lot 2: From 3,000 sq. ft. to 2,010 sq. ft. Lot 7 from 3,000 sq. ft. to 2,026 sq. ft.
- Section 14-7.1 Maximum lot coverage/Private open space. Lot 1: 503 sq. ft. POS, Lot 2: 333 sq. ft. POS, Lot 7: 335 POS, Lot 8: 531 sq. ft. POS.

Rezoning Conditions:

1. The applicant shall record an irrevocable offer to dedicate to the city for the future use as a public road, 25 feet of right-of-way along the west boundary of the property. The City may accept the offer to dedicate at any time, or may vacate the offer to dedicate by resolution of the Governing Body.
2. The development for this rezoning application is hereby approved and shall be attached to the rezoning ordinance as an exhibit. A detailed development plan shall be prepared and filed prior to development of the property, and shall comply with the requirements of the following departments:
  - Engineering Division Review memo
  - Engineering Division Landscape Review memo
  - Engineering Division Traffic Review memo
  - Solid Waste Division Review memo
  - Fire Department memo
  - Water Division memo
  - Parks, Open Space & Trails Review memo
3. A minimum of 0.5 unassigned guest parking space shall be provided in the development plan.

Public Hearing

**Monica Montoya, previously sworn.** She reviewed an aerial photograph of the area. She said staff is recommending they dedicate the driveway to the City for public use. She said during the discussion of the application they realized that Chapter 14 would permit a private driveway, but staff was concerned with this as the property south of the development may need a future extension. She reviewed a plat of the area. She said staff wants them to pay their fair share of improving the road, but she submits that they are paying their fair share by dedicating the piece of property for future use and extension of the road. She said they requested the PUD attachment to the zoning due to the flexibility in architectural and landscape design, variety of lot sizes and location of open space. She said they paid special attention to the character of the area and the plan will reflect the neighbor's wishes. Regarding the issue of parking, they have a total of 30 parking spaces for the 8 unit development. The larger lots have four parking spaces and there are three spaces for the smaller lots. The development is consistent

with the current General Plan and adjacent properties while being compatible with the existing neighborhood character. She feels the proposal is sensitive to the surrounding neighborhoods. Careful attention was given to the Siringo Road streetscape by providing open space getting away from the cookie cutter affect along Cerrillos Road. This proposal provides a continuation of existing development. The existing zoning is not appropriate for the property as the area is developed with higher density as designated by the General Plan of up to 7 units per acre. The variances are necessary to put the development together. She reviewed the rezoning criteria included in Exhibit "3(B). She stated agreement with all the conditions recommended.

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

**Questions and comments from the Commission**

Commissioner Armijo asked if this was advertised properly.

Mr. Smith explained that the staff report does not have the correct case caption, but the correct case caption was advertised.

Commissioner Armijo asked if the two affordable lots are 2 and 7.

Ms. Montoya replied yes.

Commissioner Armijo expressed concern that the affordable lots are not integrated with the subdivision. He is not sure Ron Pacheco would approve this as they are right next to each other and seem somewhat obvious.

Ms. Montoya explained that the applicant has worked closely with the Housing Office and they do understand the location of both units. She said the site plan is deceiving as she understands the point being made. It appears they are substantially smaller than units adjacent to them, but they are similar in size due the two story element that will be added to those. She believes they will be keeping with the intent.

Commissioner Bordegaray clarified that there is property on the south side of the railroad that is supposed to be for a trail. She asked if those issues have been resolved or if anyone knows what she is talking about.

Ms. Montoya said there is an easement for potential future development.

Mr. Smith said these are separate lots of record on the south side of the railroad and there are questions as to how they would be accessed. The analysis indicates that without the participation of all the property owners in the vicinity there is a reasonable possibility that future public road network primarily to the south hopefully step by step can be un-landlocked

Commissioner O'Reilly said the lots do not look like they are landlocked now as he can see easements.

Mr. Smith explained that not all the parcels are touched by private easements. There are tracks of land on the south side of the railroad that are not touched by easements. It would be substandard under the fire code to allow development of those tracks of land.

The staff view is that to the extent the subject properties are rezoned they will build a network of strips that will provide functional access to the various tracks of land.

Commissioner O'Reilly said at some point if this will be rezoned his experience tells him that the road should line up with the road on the other side of Siringo so it is not offset the way it is.

Mr. Smith reviewed that John Romero agreed a straight on alignment would be optimal, but sharing is acceptable. He noted that Mr. Romero was out due to the birth of his child.

Commissioner O'Reilly said if a large amount of development happens back there and they are forced to use a particular access point it might be better to wait to require the road line up with Calle Contento.

Mr. Smith agreed in a perfect world, but said staff is working with this property owner in negotiating reasonable solutions for their tract of land at this time.

Commissioner O'Reilly asked if they would take better alignment in the future and vacate this if it were possible.

Mr. Smith said it is likely that the 30 foot easement would already be constructed and the cost of shifting it would be complicated.

Commissioner O'Reilly suggested that the adjacent land owner give another 20 feet even if they do not pay for the improvements. He understands staff is asking the applicant to provide a separate letter of credit to build the road out to full city standards, but this may not be where the road will be in the future.

Mr. Smith understood the comment and the method was reviewed with the Traffic Impact Division. He asked if the comment is to avoid the curb.

Commissioner O'Reilly thought the intent was for the applicant to build this out to a full city road or at least put up the money. He said if there was an agreement that the owner would contribute toward it then it would not be necessary to put the money towards it now.

Mr. Smith concurs from a traffic point of view, but is unsure this would be judged as a reasonable request. He said it would not be likely that after the plat is filed they would have a feasible scenario to do this.

Commissioner O'Reilly asked the applicant if they have an estimate of how much money they will have to come up with to comply with the condition.

Ms. Montoya said their position with regard to the access is that they are allowed a private drive and so they not allowed to build with base coarse and they must provide some drainage which is their proposal. They agreed to the request to dedicate the easement to the City in the event it will be developed which should be their fair share.

Commissioner O'Reilly said it seems some of the variances are due to dedication of road that is not in the optimal location. If they had more land, the variances to the lot

sizes and open space may not have been required although it may have changed the project potentially.

Ms. Montoya agreed although they do want to participate with the request of the City.

Commissioner O'Reilly asked if there are two separate motions required or if this is one request.

Mr. Smith explained that the development plan is part of the rezoning action. The final development subdivision plan comes back to the Commission.

Commissioner Bordegaray said this issue might seem tedious, but she appreciates the comments. She hates to see segmented pockets that do not connect, but there is limitation in this process to create something that ties together at no fault of the applicant.

Commissioner Armijo commented that the affordable lots are not to be side by side, but he has no problem with the rezoning.

Chair Gonzales understood that this does come back and at that time the Commission can access the alignment of the roads and other issues.

Mr. Smith said the Commission will recommend approval of the rezoning including the development plan and the Council will approve including the development plan. The preliminary plat and final subdivision plat approvals will come back to the Planning Commission. The basic configuration of the development will be set by Council action on rezoning. The Commission has some leeway within reason to make adjustments to the subdivision through the approval process. The possibility exists to provide access by different means, but it is likely to be complicated because the optimal location would involve an east/west connection.

Chair Gonzales said if the Commission granted rezoning and the optimum alignment could affect the density. He asked what would happen if they give the density and then the applicant cannot get the density they were approved for.

Mr. Smith said one of the reasons why this requires a development plan is to show it is feasible. He is not sure how to do that without looking at this concurrently. He said if the proposed location is not acceptable, the Commission could recommend the rezoning is premature until the access can be provided at the optimal location.

Ms. Montoya pointed out that they worked with Ron Pacheco and the approval is in the packet. She added that they feel it is in their best interest to work with the City and provide half of an access easement even though it is not the best alignment. She feels the loss is their fair share and would like to construct to private street standards.

**Commissioner O'Reilly moved to recommend City Council approve case ZA-2007-8 with staff conditions with the exception that the applicant not be required to put forward money at this time to build the access up to full city street standards, Commissioner Bordegaray seconded the motion.**

Chair Gonzales asked if it has ever been the case that an applicant is not required to put up their fair share.

Mr. Smith said there is no provision in Chapter 14 regarding future improvements or offsite improvement standards. The city code states that the Commission may require roads up to the level of a subcollector as part of the subdivision process, but it does not require roads.

Commissioner O'Reilly explained that it is unknown when or if any of the properties would be developed and the applicant is willing to provide a substantial portion of the site as an easement he agrees that is quite a contribution. He has a feeling that if the money is put forward it may be unlikely that the road connection happens at this location.

Mr. Smith said in working with the traffic impact division, the subdivision regulations are that the developers that benefit from city roads are expected to bore the cost to support their development. The scenario faced with this critical contribution is that they are then asking other property owners to pay for the road construction and it might be complicated to then persuade the Council to pave a whole road. He thought it might be possible to set a sunset in an amount of money equal to their fair share that could be requested back if not used.

Chair Gonzales said since this is not a huge developer, he asked if the applicant could make the payment after the units are sold and it would be returned if not used.

Mr. Smith said there is no effective mechanism to process the fee later than filing the final subdivision plat. He said there is no legal enforcement to collect money after that.

Ms. Montoya pointed out that the adjacent property owner will be benefiting from the installation of sewer and utilities if they develop their property in the future because they will not have to do that and will more than compensate for any cost.

The motion passed on a majority roll call vote of 4 to 3.

Those voting for the motion: Commissioners Bordegaray, Hughes, Salazar and O'Reilly.

Those voting against the motion: Commissioners Armijo, Lindell and Heltman.

- 2. Case #M 2007-23. St. Michael's Village East Shopping Center Development Plan Amendment. Linda Tigges, agent for David Nydes, requests approval of an amended development plan for 22,006 additional square feet to the 19.923± acre lot. The application includes a variance from the landscape ordinance to allow the installation of new landscaping on the areas adjacent to the new construction only. The property is located at the southeast corner of St. Michael's Drive and Llano Street and is zoned SC-2 (Commercial Shopping Center District). (Donna Wynant, case manager).**

Memorandum from Donna Wynant prepared August 22, 2007 for August 30<sup>th</sup> Planning Commission meeting is incorporated herewith to these minutes as Exhibit "4."

Comments from Antonio Trujillo, Engineer, Sangre de Cristo Water Division dated August 24, 2007 is incorporated herewith to these minutes as Exhibit "4(A)."

Rationale and Response to Criteria for Variance Request dated August 18, 2007 presented by Linda Tigges is incorporated herewith to these minutes as Exhibit "4(B)."



Overhead photograph showing proposed traffic changes to the area is incorporated herewith to these minutes as Exhibit "4(C)."

Ms. Wynant presented the staff report included in Exhibit "4."

Staff recommends approval of the requested Development Plan since it is consistent with the underlying zoning designation of SC-2 (Community Shopping Center District) in terms of use and dimensional and design standards, and is compatible with neighborhood character as well as traffic circulation. After further research and work, staff is not convinced there is a hardship by complying with the 25% open space requirement and provided landscaping around the areas of new construction. She said this did not make it in the staff report, but they are not in support of the request for a variance from the open space requirement.

### **Public Hearing**

**Linda Tigges, 1925 Aspen Drive, was sworn.** She stated agreement with the conditions of approval except for the recommendations from the traffic engineer. She said they had a neighborhood meeting and met with the superintendent of the schools with a letter from them. She reviewed the location.

**Jeff McFall, 1200 Arroyo Piedra, was sworn.** He explained that they are adding new additions to the shopping area. He said they are not asking for a landscaping variance, so there was some misunderstanding. He showed where they added planters so they are in compliance with the landscape ordinance. He said the contingent is the 25% open space as he has still not seen where the open space should be on the lot from staff. They meet the parking requirements. The school is pleased they are filling in the area where kids sneak across from the school.

Ms. Tigges reviewed the variance request. She reviewed Exhibit "4(B)" regarding the open space requirements. She added that the Traffic Division wants them to add two medians which are shown on Exhibit "4(C)" which Morey Walker will review. She explained that the gas station across the street is affected by the median on Llano more than they are.

**Morey Walker, engineer, was sworn.** He said this project does not add more traffic to the intersection. He said the level of service will be the same. He showed how the proposed improvements will function and what will result. He explained that the problem with adding the median on Llano will be for the gas station as the large trucks will not be able to get out of the station after fueling and will have to go up by the high school and onto Siringo which is an icy area in the snow and gets into the residential area.

**Forest Thomas, 1040 Camino Manana, was sworn.** He represents the owners across the street. He said they are generally for the project. The main concern is the addition of the median in Llano. He understands the intention is reducing the risks of accidents, but it may have a counterproductive effect. He said the traffic engineer is addressing regular vehicular traffic, but there is a steady reoccurrence of semi traffic going to the gas stations. The only entrance will be to make a full u-turn into the station as they recently closed one entrance. He requests this project be approved without the median.

**Denise Saccone, representing Board of Directors for People of Native Ecosystems and as a resident, was sworn. She wanted to understand the location more. Her primary concern is to make sure that the prairie dogs are not impacted by the construction to the shopping center.**

**Mr. McFall stated that the prairie dogs were moved.**

**Ms. Saccone explained that her organization is the one that maintains the prairie dogs around Santa Fe. She said they do not do the relocations and are not always informed, but they need to coordinate services with the relocater. She asked who relocated the prairie dogs. She said they want to make it a matter of public record that the prairie dogs are important to the viability of the community. She said it is not just a matter of where the construction happens because this population has endured and survived a lot over the years. They want to make sure the prairie dogs are being protected.**

**Ms. Tigges said she is not familiar with the earlier relocation, but they used the relocators on the list. She stated that she is glad to take the name and phone number and contact her when the prairie dogs are being relocated.**

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

**Questions and comments from the Commission**

**Commissioner Hughes asked who the owner is of the property.**

**Ms. Tigges stated David Nydes is through a partnership.**

**Commissioner Hughes said with all respect, he feels this opportunity to redevelop the property is not being met by the proposal. He said this shopping center needs a great deal of work. He said this is not infill, but mere additions on a few buildings. He hopes the major planning effort being undertaken by the City will be in this area and will show opportunities to increase the use of this property to make it more oriented to bicycles and pedestrians. He thinks it would be best to hold back on investment until such time. He understands that is not under their control, but he does think this would be a great reason to postpone and he would like to hear Mr. Romero talk about the proposed traffic changes. He suggested for open space they use some of the parking lot as he does not believe it is not anywhere near full. He thought it would be more appropriate to ask for a variance for parking rather than landscaping.**

**Chair Gonzales asked if the intent is to redo the outdated architecture.**

**Ms. Tigges said there is no intent for redevelopment of the project; these are a few additions.**

**Chair Gonzales asked Mr. Smith if it is within the purview to ask the developer redo the whole face of the development to make it more architecturally pleasing.**

**Mr. Smith does not think staff looked carefully at that issue, but he thinks where the Commission can make a showing is the connection with public, health, safety and welfare and that would be acceptable.**

Chair Gonzales said often larger areas are asked to have architectural compliance.

**Commissioner Hughes moved to postpone Case #M-2007-23 until September 20<sup>th</sup> for John Romero to address the traffic issues, Commissioner Salazar seconded the motion.**

Commissioner Heltman asked who decides on traffic besides John Romero.

Mr. Smith said the Public Works Department Traffic Impact Section is responsible.

Commissioner Armijo wanted to give more direction to the applicant. He clarified they will be looking at traffic and asked if they would also be looking for architectural improvements to the entire center.

Chair Gonzales would like to hear from staff what would be allowable and requested the applicant look into this.

Mr. McFall explained that K-mart and Lowe's are the problem as the lease might not let them make changes to the façade.

Chair Gonzales said if the City can grant infill of 22,000 square feet then the business owner as a result can make a return and there needs to be investment in the community.

**The motion passed by a 6 to 1 majority voice vote with Commissioner Lindell voting against the motion.**

3. **I-25/NM 599 Highway Corridor Protection Overlay District Regulations. An ordinance creating a new Section 14-5.5 SFCC 2001 regarding the I-25/NM 599 highway corridor protection districts and establishing standards for new development. (Councilor Patti Bushee, sponsor) (Jeanne Price, case manager)**

*This item was postponed during the meeting due to the length of the meeting.*

#### **H. BUSINESS FROM THE FLOOR – None**

#### **I. STAFF COMMUNICATIONS**

Ms. Lovely said with regards to the request for reconsideration, according to Robert's Rules the motion has to be by someone in the affirmative on the same day the action was actually taken so it is not appropriate at this time.

Commissioner Armijo knows that City Council reconsidered a case he was involved with at the following meeting.

Ms. Lovely said this applies to all boards. She knows of cases where reconsideration was done after the day it was decided and it was challenged. She does not know the circumstances surrounding the particular case he is referring to.

Commissioner Armijo commented that there are many places with no foothills to ridgetop. He is not sure how staff is approaching this, but the way it was mapped does not make sense.

Mr. Smith tried to explain the maps. The visibility of the surrounding hillsides from certain points was mapped from the 19 locations discussed earlier. He said it is conceivable that there may be a policy in the current statutes to have a more liberal basis for designating ridgetop than what was used in the early 1980's. He noted that this would be a policy issue staff might investigate before they report to the Commission on the remapping issue.

Chair Gonzales asked staff to inform Mr. Sommer that they would not be hearing the Massey case.

#### **J. MATTERS FROM THE COMMISSION**

Commissioner Hughes asked how the staffing is for the vacancies.

Mr. Smith said they are still trying to fill two vacancies and will be re-advertising.

Chair Gonzales asked everyone to pitch in \$27 if they choose to for the plaques.

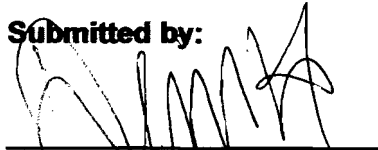
#### **K. ADJOURNMENT**

**There being no further matters to come before the Commission, and the Commission having completed its agenda, Commissioner O'Reilly moved, seconded by Commissioner Heltman to adjourn the meeting. The motion passed unanimously on a voice vote and the meeting was adjourned at 11:30 p.m.**

**Approved by:**

  
Chair Estevan Gonzales

**Submitted by:**

  
Denise Cox, Stenographer