



Agenda

AMENDED

PLANNING COMMISSION
September 20, 2007 – 6:00 P.M.
CITY COUNCIL CHAMBERS

- A. ROLL CALL
- B. PLEDGE OF ALLEGIANCE
- C. APPROVAL OF AGENDA
- D. APPROVAL OF MINUTES
 - July 19, 2007 Special Meeting
 - August 02, 2007
 - August 16, 2007 Field Trip

E. OLD BUSINESS

1. **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) **(POSTPONED FROM AUGUST 30, 2007)**

F. NEW BUSINESS

1. **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) **(POSTPONED FROM AUGUST 30, 2007)**
2. An ordinance creating a new Section 14-6.2(H) SFCC 1987 restricting the placement of electric, telecommunication, cable, and gas lines within City parks, open space, trails or other City owned land. (Jeanne Price, case manager)
3. **Case #M 2007-30. College of Santa Fe Brother Mouton Building Development Plan.** Santa Fe Engineering, agent for the College of Santa Fe, requests development plan approval to allow for an 8,600 square foot building to be used for student services (Brother Mouton Building). The new building addition brings the total new development in various phases to a combined 39,600 sq.ft. The subject site is located on Tract P within the college property with access off St. Michaels Dr. and Siringo Road. (Dan Esquibel, case manager)

G. BUSINESS FROM THE FLOOR

H. STAFF COMMUNICATIONS

I. MATTERS FROM THE COMMISSION

J. ADJOURNMENT

NOTES:

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

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PLANNING COMMISSION

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MINUTES OF
CITY OF SANTA FE
PLANNING COMMISSION MEETING

September 20, 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
Signe Lindell, Vice Chair
Estevan Gonzales, Chair

MEMBERS ABSENT:

John Romero
Bonifacio Armijo (excused)

STAFF PRESENT:

Anne Lovely, Assistant City Attorney
Greg Smith, Director Permit and Development Review
Jeanne Price, Legislative Liaison
John Romero, Traffic Engineer
Donna Wynant, Senior Planner
Denise Cox, Stenographer

B. PLEDGE OF ALLEGIANCE

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

C. APPROVAL OF AGENDA

Mr. Smith reported that staff is requesting item 2 – an ordinance creating a new Section 14-6.2(H) SFCC 1987 be postponed indefinitely.

Chair Gonzales stated that the applicant for St. Michael's Village does not wish to be heard until Mr. John Romero, Traffic Engineer, is present. He suggested hearing the College of Santa Fe first.

Commissioner Hughes moved to approve the agenda as amended, Commissioner Heltman seconded the motion which passed by unanimous voice vote.

D. APPROVAL OF MINUTES

July 19, 2007 Special Meeting

Commissioner Bordegaray stated that she was present for this meeting and it states she was absent.

Commissioner Lindell moved to approve the minutes as amended, Commissioner Heltman seconded the motion which passed by unanimous voice vote.

August 2, 2007

Commissioner Lindell moved to approve the minutes as presented, Commissioner Heltman seconded the motion which passed by unanimous voice vote.

August 16, 2007 Field Trip

Commissioner Heltman moved to approve the minutes as presented, Commissioner Lindell seconded the motion which passed by unanimous voice vote.

E. NEW BUSINESS

3. **Case #M-2007-30. College of Santa Fe Brother Mouton Building Development Plan.** Santa Fe Engineering, agent for the College of Santa Fe, requests development plan approval to allow for an 8,600 square foot building to be used for student services in (Brother Mouton Building). The new building addition brings the total new development in various phases to a combined 39,600 sq. ft. The subject site is located on Tract P within the college property with access off St. Michaels Dr. and Siringo Road. (Dan Esquibel, case manager)

Memorandum from Dan Esquibel prepared September 11, 2007 for September 20th Planning Commission meeting is incorporated herewith to these minutes as Exhibit "1."

Mr. Esquibel presented the staff report included in Exhibit "1."

Staff recommends approval subject to the following conditions:

1. Plans shall comply with minor "red line" comments by staff and shall meet all minimum code requirements.
2. All walkways shall be ADA compliant.

Public Hearing

Nancy Long, 2212 Brothers Road, was sworn. She explained that they have received Board of Adjustment approval for a special exception. The building is ready to move onto campus. They will be applying for a foundation permit. The building was constructed with bond proceeds money with the City of Santa Fe being the issuer. This will consolidate existing student services on the campus into one place around a courtyard. She said this is vital in attracting new students and will benefit existing

students as well. There will be no new traffic impact created by this. She stated agreement with staff conditions.

The public testimony portion of the public hearing was closed.

Questions and comments from the Commission

Commissioner O'Reilly asked if this is for development plan approval or an amendment to the development plan.

Mr. Esquibel said the previous development allowed for two buildings on the campus and this technically amends this particular development as it increases the overall square footage from what was approved previously.

Commissioner O'Reilly asked if this was beyond the scope of the previous development plan.

Mr. Esquibel said the previous development plan exceeded a certain square footage that required it to come before the Planning Commission and the Board of Adjustment. This increased the amount of square footage requiring the amendment to come forward.

Commissioner Salazar disclosed for the record that he attends the College of Santa Fe, but felt there was no conflict.

The Commission stated agreement that there was no conflict.

Commissioner Hughes asked if this building is attempting to achieve an energy star rating or LEED certification.

Mike Gomez, 1590 S. St. Francis Drive, was sworn. He said they are not going for LEED certification, but they are using the latest technologies for the reduction of water and this will use less water than the current facilities. The building will be fully insulated whereas the previous barracks do not have insulation.

Commissioner Hughes said many students may ask about this and it does attract new students. He asked what the status is on the green building code.

Ms. Lovely said the City has a working group that is meeting weekly and are in the process of going through the homebuilder's guidelines and will adopt something after January. She said the IBC codes are beginning to go through the committee process.

Mr. Gomez said the other buildings that are much larger will be Silver and Gold certified.

Commissioner Bordegaray understood that the site is currently zoned at R-5 and the application to zone to C-2 is not complete. She asked what triggers that.

Mr. Esquibel said the applicant is triggering it, but the process would be a rezoning which is a general plan amendment and map amendment. The applicant is working on this and will submit with the PUD. The original application was for zoning, but with the infrastructure and lots it was recommended to go to PUD. They still need to move this forward.

Commissioner O'Reilly moved to approve Case M-2007-30 including staff conditions, Commissioner Heltman seconded the motion which passed by unanimous voice vote.

- 2. An ordinance creating a new Section 14-6.2(H) SFCC 1987 restricting the placement of electric, telecommunication, cable and gas lines within City parks, open space, trails or other City owned land.**

This item was postponed per approval of the agenda at staff's request.

F. OLD BUSINESS

- 1. 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).**

Memorandum from Donna Wynant prepared August 22, 2007 for September 20th Planning Commission meeting is incorporated herewith to these minutes as Exhibit "2."

Photographs of the site presented by Donna Wynant are incorporated herewith to these minutes as Exhibit "2(A)."

Photographs presented by the applicant are included herewith to these minutes as Exhibit "2(B)."

Overhead photograph from traffic engineer is incorporated herewith to these minutes as Exhibit "2(C)."

Memorandum from John Romero, Traffic Engineering Division is incorporated herewith to these minutes as Exhibit "2(D)."

Rationale and Response to Criteria for a Variance Request is incorporated herewith to these minutes as Exhibit "2(E)."

Big Box Ordinance is incorporated herewith to these minutes as Exhibit "2(F)."

Ms. Wynant presented the staff report included in Exhibit "2."

Staff recommends that if the variance is allowed, the applicant submit photographs and an evaluation of architectural standards for overall St. Michael's Village East Shopping Center prior to applying for building permits.

Mr. Smith said at the last hearing there were questions as to application of the code; staff said there is a requirement for 25% of the overall site to be landscaped. He noted that if the Commission agrees with the applicant's interpretation that there is not a requirement for 25% of the site to be landscaped then the overall ratio proposed is

exceptionally low. He noted that previously the Commission asked if it was appropriate to adopt conditions of approval on this project with regard to remodeling the structures themselves. The staff analysis is that a variance must stand on its own. If the Commission finds the project meets the criteria it would be clear to staff that conditions of approval could include conditions of approval related to the architectural overall appearance of the shopping center. They cannot make a tradeoff such as more architecture for less landscaping. A variance for landscaping must stand on its own. The Commission has the authority to adopt reasonable conditions of approval with regards to the appearance of different buildings and other improvements.

Linda Tigges, 1925 Aspen Drive, was sworn. She stated agreement with the conditions of approval except for the Traffic Engineer request items 1 and 2. The property has been in David Nydes' family since the 1970's. This is one of a few locally owned large shopping centers owned by a local family. She reviewed the site plan. The shopping center houses many small businesses that are locally owned and this provision will be continued. The proposed addition is to the west of Lowe's. The larger properties are under a tri-net lease which means they have control of the external facades. The bank took advantage of this when they remodeled.

Jeff McFall, McFall and Son's Architects, 1200 Arroyo Piedra, was sworn. He reviewed the site plan and photographs included in Exhibit "2(B)." He said they will be adding an additional strip with a walkway through it. In his opinion, the landscaping plan meets the City's landscape ordinance as they are adding one acre of landscaping to what is currently on the site. He does not believe a variance is required because SC centers are not required to have 25% open space. They are adding pedestrian circulation and bicycle parking to the shopping center. The estimate is over \$150,000 for the landscaping improvements.

Ms. Tigges said they adding 98 trees to the parking area and 68 shrubs to the interior as the exterior areas were heavily landscaped when the shopping center was built. She reviewed the rationale for the variance included in Exhibit "2(E)." She said they did comply with staff's request for the variance, but the code does not request open space in SC-1 which she believes was intentional. There is a reduction for water harvesting which will be hard to do if the requirement is reduced to 15% or approximately 3 acres. She explained that parking and buildings would have to be removed to meet the open space requirement. Based on the landscaping, they have 22,000 square feet of open space. Only about half of the area can be counted for open space as the pieces have to be 300 X 15 feet to count towards the requirement. There is a letter from the schools asking for the open space area to be developed to keep the students from hanging out there. She added that the facades are not under the control of the applicant so they are concerned with being required to upgrade them. She said requiring this would be a new precedent. She reviewed their concerns with the traffic conditions of approval. She expressed concern with the median on St. Michael's that would limit the left in/left out to the shopping center. The biggest concern is that they are being asked to remedy the impact of the project with no regards to the past consideration. She said these changes will affect property owners adjacent to this proposal especially off of Llano.

Forest Thomas, Thomas Properties, owner of adjacent shopping center, 340 East Berger Street, was sworn. His primary issue addresses concerns with the request for a median in Llano Street. He pointed out that the Giant gas station is currently served by three entrances which used to be four entrances, but as part of the traffic

improvement at St. Michael's and Cerrillos an entrance was removed. The semis have to enter from Llano Street and it is difficult to deliver fuel. Now they will be required to carry it up hill and negotiate a slick intersection in the winter. He expressed concern about the economic effect of having to add improvements as he believes that requirement would encourage them to not do any new development.

Charlie Brewer, Brewer Oil Co., was sworn. He has the same concerns. They will have trouble trying to get the semis into his location. He believes it is virtually impossible to get the trucks in. He pointed out where 70% of the business rolls in from. He showed how the transport will have to enter and exit the property as well as fill the tanks.

Lynn Huff, People for Native Eco-Systems, was sworn. She said since the last meeting they have had the opportunity to meet with David Nydes' representatives to develop a relocation plan for the prairie dogs remaining on the site. She corrected the statements at the last meeting as the relocation has not taken place. These prairie dogs were designated for emergency removal because they cannot be self sufficient at the location. Her organization oversaw the work. This would not have been covered by the ordinance or normal processes of development. This gave the prairie dogs a chance at a beautiful conservation ranch where they can establish a sustainable community. Mr. Nydes agreed to allow them on the site to do the relocation. They had planned to do this last year and have not been able to conduct the relocation when intended due to the weather. This year there have been limited resources so they have not yet relocated the dogs. They are committed to seeing this happen. She hopes to remove the prairie dogs expeditiously so they do not interfere with the plans. This fragmented community is large as there was once a vast colony that covered the entire city. She said their intent is to keep protecting and respecting the last vanishing colony.

The public testimony portion of the public hearing was closed.

Questions and comments from the Commission

Mr. Smith said the architect addressed briefly the issue of compliance with big box standards. He said the big box regulations state that when you add 5% to the floor area there are certain site planning and architectural requirements required and if you add 10% or more it requires 75% of the building to be screened by buildings or landscaping. He said if they add additions to Lowe's building it would reach the 10%, but if they count the proposed building as an addition to the Lowe's building and the other to the K-Mart building then it would not meet the 10%.

Chair Gonzales asked if Mr. Smith is indicating that if the Commission felt this would move this into the big box ordinance that staff would like to consider what the additional regulations might be.

Mr. Smith said the issue is that if this combined building were to be built from scratch 75% of the sites would have to be screened by other buildings. He said if they interpret the additions as comprising 10% of the Lowe's building then they trigger the requirement for 75% of the parking lot area needing to be screened. This is not the interpretation in the staff analysis. He said if the addition is considered to the entire square footage, the big box ordinance is not triggered. He said the architect believes they are not triggering the 10%. He noted that the Planning Commission has the authority to require more amendments.

Chair Gonzales did not see the big box ordinance language in his packet. He asked for this documentation to help in making a decision.

Mr. Smith said they can provide that material, but it was not included in the packet. He read the first paragraph under additions from the ordinance included in Exhibit "2(F)." He feels the critical factor is there is not substantial compliance with the screening requirements. He said the Commission will have to decide how the big box ordinance applies depending on how they interpret this proposal. He said this should be advertised as a specific action item.

Chair Gonzales understood that in addition to deciding if the Commission believes this may have some type of connection to the Big Box ordinance, there may be a notification issue.

Mr. Smith said it depends on the interpretation of 5% to two buildings or 10% to one building.

Chair Gonzales asked for examples of this from the past.

Mr. Smith did not recall any similar additions. He said there was no question on Home Depot that it fell under the big box ordinance and all the standards were enforced.

Commissioner Heltman asked if regarding the additions proposed if they would be adding to a building or extending a building. She did not understand how the buildings are being added.

Ms. Tigges explained that they would have given the information if she had known this was a concern of staff prior to this hearing. There are two additions. The one in the middle is not an addition to either building; it has a fire wall separation. This had a false wall previously.

Mr. McFall pointed this out. He added that there is no communication to Lowe's as it is separated by a fire wall.

Chair Gonzales informed the Commission that if they feel there is a connection to the big box ordinance then legal staff has recommended they may have to re-notice this. If there is no connection then they can proceed.

Ms. Lovely said if they see a connection with the big box ordinance and the Commission is anticipating a waiver requirement there is a notice issue and the Commission would not be able to hear this case.

Mr. Smith apologized for not bringing this to the attention of the Commission. He said based on the colored rendering he previously believed the addition between the two buildings existed. He said the code refers to retail structure.

Chair Gonzales said he would not entertain questions as to why staff did not come up with this previously. He said the important point is that this was caught.

Commissioner O'Reilly referred to the big box ordinance and asked for clarification on retail structures.

Mr. Smith read the definition of retail structure: a structure housing one or more retail establishments selling goods or merchandise to the general public.

Commissioner O'Reilly said this would be one structure that could be broken apart inside. He said they could have different retail establishments in one structure. These are new additions that are separate structures within which multiple retail establishments could be housed. He said this is not one big larger structure.

Mr. Smith said the language in the code was adopted with regards to structure so that it would not be possible to avoid the application of the big box regulations to large buildings with multiple small tenants. He said they could not artificially divide a building. The consistent and effective application of the big box regulations depends on the interpretation being the common sense view of the structure.

Commissioner O'Reilly understands, but said in residential structures 0 lot lines are not considered one structure. He said it seems they could leave a one foot space and get around what Mr. Smith is describing. He asked if this requires the opinion of the City Attorney and wanted to know if Ms. Lovely agrees with the interpretation of retail structure vs. retail establishment.

Ms. Lovely agreed that is the correct interpretation.

Commissioner O'Reilly asked what about two retail structures that abut each other and are separated by firewalls and have separate utilities.

Ms. Lovely said she would not give an opinion about that. She said this is an interpretation the Commission has to make.

Commissioner O'Reilly agreed with the applicant's interpretation on the open space. The code section as quoted by the applicant nowhere says open space is required for shopping districts. He asked if this can be over ridden by staff.

Ms. Lovely said there are many interpretations in Chapter 14 and different sections of the code that are in opposition or conflict so they look at the more restrictive section which is what was done here. Section 14-8.h(d)(b) talks about the open space required.

Commissioner O'Reilly understood the matrices were updated and he would have hoped that if it were that important to have open space in the shopping center it would have made it into the matrix.

Mr. Smith said the research shows the reference to the text in the landscape regulations and cross references to the table which were adopted at the same time. The codification was in 2001 and it would have been desirable to clarify that confusing language at that point. He concurs with the interpretation that the more restrictive applies.

Mr. McFall noted that the cleanup included the C-1 into the listing and did not show SC.

Commissioner Heltman asked how large a store has to be to be labeled big box.

Mr. Smith replied retail structures over 30,000 square feet.

Commissioner Heltman asked if that is true for existing structures.

Mr. Smith explained that if you add 5-10% or more to the floor area then big box regulations apply.

Commissioner Heltman said if an establishment was built previous to the rules where does it say you have pick up the new rules.

Mr. Smith said that was the language he read into the record.

Commissioner Heltman understood that if there was not an addition they would be not be having this discussion.

Mr. Smith described the triggers.

Chair Gonzales requested the Commission take a 10 minute break to get a copy of the big box ordinance from Mr. Smith so they could read the section of the ordinance to decide if this applies or does not.

The Commission took a 10-minute break.

Mr. Smith reviewed the ordinance that he handed out at the break included in Exhibit "2(F)."

Commissioner Hughes asked the applicant if she was aware the proposed additions had the big box requirements attached to them.

Ms. Tigges replied no.

Commissioner Hughes commented that some of the requirements for screening seem to be in other parts of the code anyhow. He asked Mr. Romero about the calculations for the additional traffic generated and where those come from.

Mr. Romero said the City uses the ITE trip generation data.

Commissioner Hughes asked if he recalled the additional numbers that would be generated due to this proposed addition.

Mr. Romero reported that a total of 76 trips in the morning and 120 trips in the afternoon would be both exiting and entering the site based off of the square footage.

Commissioner Hughes understood this is a marginal increase. He asked what the vehicle miles per day on St. Michael's at Llano are. He asked why Mr. Romero is requesting these two treatments.

Mr. Romero explained that this is for general access control. St. Michael's is the third busiest street in the City. He said the access on St. Michael's is across from Sixth Street and right now the left out maneuver has to negotiate up to six lanes of traffic when the

shopping center has two functioning signals. The left in is allowed as there are traffic signals upstream that allow the time to make the left turn. He said a cursory analysis of accidents at this intersection was four accidents per year. In light of this being a driveway that is quite a bit. He does not believe it is too much of inconvenience to proceed to a signal. He explained regarding Llano Street the added trips are adding to an existing problem that the shopping center is contributing to. There are four access points that will be affected by this closure. Llano functions as one of the major north/south connectors as people use this to get between Rodeo and Cerrillos.

Commissioner Hughes commented that he is okay with the proposed changes to St. Michael's, but he believes the Chevron will be put out of business by the proposed changes to Llano.

Mr. Romero said they counted traffic turning in and out of both gas stations during the peak hours. He said people do try to cheat and cause safety hazards and the capacity of the intersection dropped. He said the majority of people from the Giant went to this proposed access. He said there is inefficiency at this intersection.

Commissioner Hughes noted that Commissioner Bordegaray told him it takes two cycles to get through the light at this intersection during peak hours. He asked if they would consider putting a roundabout at this intersection.

Mr. Romero said it would have to accommodate six lanes of traffic.

Commissioner Hughes said they could make it a one lane roundabout. He said there are modern roundabouts that can accommodate this level of traffic.

Mr. Romero said they would have to bottleneck the traffic downstream somewhere, so he does not know how they would do this.

Commissioner Heltman asked if the general public has input when they make the decisions about the street.

Mr. Romero said ultimately the City has the say because the City owns the road, but they do accept and encourage public input. He pointed out that on Cerrillos Road from Airport to Richards the project turned out providing a much safer environment by closing off access to businesses. He said if they feel it is for the greater good the City will push to do what is best. He said if they cannot find a reasonable way for the trucks to get in and out of the Giant station they would be willing to re-open the closed driveway. He said the pumps can be accessed for Chevron. He thinks this is more acceptable than having the Chevron trucks come across a highly traveled intersection.

Commissioner Bordegaray asked the architect to walk her through the landscaping plan. She is not sure where this project falls with regards to the big box ordinance and would rather not ask the clarifying questions. She has more interest in seeing this be a better place to travel across by bike, car and foot. She hopes this is an opportunity to improve the circulation which she believes is possible through the landscaping plan. She asked Mr. McFall to guide her through what it would be like walking from St. Michael's into the property.

Mr. McFall showed her how to access the site and pointed out the 10 feet wide strips that would be landscaped on either side for pedestrians or bikes to enter the site. He said there would be more landscaping around Carrow's and a six foot landscape buffer on the back of the Chevron to hide the development from viewing the cars being worked on.

Commissioner Bordegaray asked what will be done to mitigate the problem of the dumpster that faces Pizzeria Espiritu.

Mr. McFall said they just need a gate on the dumpster.

Commissioner Bordegaray showed which intersection is the true problem due to the poor visibility.

Mr. Romero agreed that with the steep grade people are probably able to enter the road at a fast speed and cannot see the north bound traffic so they pull right out. He did not see problems there when he visited the site but agreed to look at it.

Commissioner Bordegaray feels this will make a big difference. She believes that St. Michael's is over capacity to be six lanes. She said it should be two lanes. There is lots of work that needs to be done on this corridor and she is glad that is coming up. She noted that this is now the center of the City so there is room for improvement. She thinks this is a reasonable proposal. She does not get the open space requirement for this proposal. In her opinion, for this project it is more important to have function rather than form.

Chair Gonzales said they have been advised by the counsel that if there are big box issues they need to postpone and re-notice. If they do not believe there are big box issues then they have the information to make a decision. He said he commented on the façade and understands the contractual and tenant issues. He wants to make this as beautiful as they can under the responsibilities of the developer.

Mr. McFall said when the new restaurant goes in they intend to have the building added onto substantially or completely redone.

Commissioner O'Reilly said it seems this is a matter of interpretation. He said regarding the point he made earlier about a retail structure, he looked at the final development plan from the applicant and it provides the square footages of the existing buildings. He said if it is considered one massive building connected then you would have 148,000 square feet just between Lowe's and K-Mart and the addition of the two buildings comes out to about 11,500 which is still less than 10% of the total so he believes the screening requirement would not apply. He said this requirement was the real problem. He thinks the pedestrian circulation and lighting would only apply. He said interpreting this in the most restrictive way he does not see that this applies so it would not stop them from making a decision. He is concerned there are other parts of the ordinance that would apply and no submittals were given regarding this. He said it seems staff would need time to analyze the proposal and then the Commission needs time to review the recommendations. He said it seems they may need to postpone this decision.

Ms. Tigges said if the big box is a concern then there is a real easy response. She said they can withdraw that little part. The project then reads as a different building.

Commissioner O'Reilly said the concern is that if the big box ordinance applies it should have been reviewed that way so this is not a solution. He does not see how they will make a decision on this although he does not want to see the applicant held up.

Mr. Smith appreciates the suggestion. He said staff believes the interpretation by Commissioner O'Reilly would receive staff support. The 5000 square foot addition should not be treated as a 10% addition. He said if they think about taking out building I this makes it worse and does not change the interpretation.

Commissioner O'Reilly wanted to be clear that he does not think that interpretation is correct. He thinks retail structure means a separate retail structure whether or not they abut each other or not. He said this concept is worrying to him because the Solano Center has gone to a great effort to break up the pieces and yet under this interpretation it is considered a huge big box. He believes staff needs to think about what the language really means and what happens in the O lot line areas where structures abut each other. He is unsure if that was the intent of the big box ordinance.

Mr. Smith said there were amendments adopted with considerable discussion as to how to properly define structure. He would be happy to document that analysis and allow Commissioners to make their own judgment.

Chair Gonzales asked Ms. Price to comment.

Jeanne Price said in the last few years they attempted to deal with this issue as this was one of the concerns and is still a concern. She knows they have struggled with the difference between a building and a structure and have never really come up with a for sure way of doing it. She said it is always a problem. Originally the big box was one commercial enterprise in one building and they tried to address when the operation adds things to skirt the big box regulations. She does not recall the exact wording.

Ms. Tigges said it may be within the purview of the Commission to set policy on the structure building. She would like to have direction and encouragement on the open space issue. She believes they can work out the big box, but she has not heard much response on the open space. She said if there is a feeling that the variance is to be denied then they cannot proceed with the project and there is no point in coming back. The traffic issue is important, but does not affect this as much as the open space issue.

Commissioner Lindell echoed Commissioner Bordegaray's comments. She supports function over form on this case. She commented that she has spent too many hours driving around parking lots with too many trees that did not benefit her at all and seemed unnecessary. She did not see SC in the matrix, so whichever direction they go she will support the variance as motivation to go forward with this project. She agreed that to put more time in if the project is not going to work is wasting everyone's resources.

Commissioner Salazar said with all due respect to staff and their opinion, he reads the big box ordinance as wording put in for a Super Wal-Mart type of business. He said he looks at this as two additional buildings abutting the existing Lowe's. He does not believe that a variance is appropriate since Shopping Center is not in the matrix.

Commissioner Salazar moved to approve Case M-2007-23 with staff conditions, Commissioner Lindell seconded the motion.

Commissioner Hughes made an amendment to the motion to remove the traffic treatment on Llano Street, Commissioner Heltman seconded the motion which passed by unanimous voice vote.

Commissioner O'Reilly wanted to clear about this. He said they have two buildings on the site that are over 30,000 square feet and the interpretation is that these other buildings do not trigger the big box ordinance.

Commissioner Salazar said his opinion is that they do not trigger the ordinance as they are completely separate structures.

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

- 1. 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.**

Memorandum from Jeanne Price, legislative liaison, dated September 5, 2007 for September 20, 2007 Planning Commission meeting is incorporated herewith to these minutes as Exhibit "3."

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

Public Hearing

Ms. Tigges, said she is representing Rodeo Business Park. She explained that the Rodeo Business Park is located in the Scenic Corridor District and is zoned commercial. She pointed out that this property was zoned and master planned in 1981. This was mostly built out and two properties remain undeveloped. There is an exemption for residential subdivisions, but not for commercial. She understands the setback requirement would apply to a master planned area. She recommended that master planned approved projects be addressed and the setback requirements not apply. The second point is that for many properties the setback is a kind of rezoning. The impact of the zoning with no notification required has a greater impact than most rezonings would. She urged them to consider having notification of affected property owners and deal with master plans and preliminary development plans in some way to recognize the approvals.

Mr. McFall pointed out that making it a portion of the lot area is more feasible than a strict line.

The public testimony portion of the public hearing was closed.

Questions and comments from the Commission

Commissioner Hughes asked if there are different zoning treatments.

Ms. Price said there is no distinction.

Commissioner Hughes asked if there is a way to accommodate commercial differently.

Ms. Price understood the regulations would not establish a commercial or residential designation, but would say whatever it is zoned here are the setbacks and heights.

Commissioner Hughes asked if they could apply with the underlying zoning

Mr. Smith said his understanding is that the land use would be controlled by the underlying zoning districts and whichever is more restrictive would apply.

Commissioner Hughes assumed if the ordinance becomes law the zoning would go to 1 dwelling unit per 10 acres. He commented that it is nice to drive and not see development right up to the corridor.

Mr. Smith said he cannot say for sure what the application of this would be. He is speculating that it would apply to a particular tract of land. He believes they would have a required a setback, but it would not have affected the density. His observation is that there is one other master planned area that this would affect. He apologized for not getting a better handle on this prior to the meeting.

Commissioner Salazar pointed out that in the County sometimes the setback has taken up the entire lot, so there was a provision put in that the land use administrator can work with applicants to setup berming and fencing to allow development.

Ms. Price said as the time has gone on there is more and more existing development and the longer this takes the more they may run into more of these problems. She said there is always the hardship and variance.

Chair Gonzales said they could recommend including this kind of language as a recommendation to the Council.

Commissioner Heltman clarified that the properties impacted by the setbacks would have to go in front of some board to get this corrected.

Ms. Price said if there was no development plan required it would go to the Board of Adjustment. They would have rights to some relief if they met the hardship criteria unless there was more specific language regarding existing size or development.

Commissioner Heltman asked how this impacts the Rodeo Park.

Ms. Tigges explained that one parcel has an approved development plan, but no building permit and the other has an approved master plan with no development plan.

Commissioner Heltman agreed it is delightful to drive through without seeing all the other things.

Commissioner Hughes thought this would be a good area if they had a transfer or development rights program region wide. He suggested transferring the property rights to the northwest quadrant.

Commissioner Hughes moved to recommend approval of the Highway Corridor Protection Overlay District regulations, Commissioner Heltman seconded the motion.

Chair Gonzales asked the Commissioners to state things they want Ms. Price to look into.

Commissioner Hughes wanted to look into a transfer development rights program.

Commissioner Salazar wanted to see if there is a way to help the property owners that are entirely in the setback.

Commissioner O'Reilly clarified that they want to add this language with the recommendation that goes along to Council.

Commissioner Bordegaray asked if they are approving this without the language coming back. She thought they might want another opportunity for the public to know that something is being done and to comment if they choose.

Chair Gonzales was unsure if there was time to bring this back prior to Council.

Ms. Price commented that Councilor Bushee just wants this to be worked on. She said they could set up a waiver process for the Planning Commission or allow an administrator to make the decision based on some criteria or exclude those that have an approved master plan. She agreed to work on these three options and bring that language back. She asked that this not come back until at least the end of October.

There was agreement to postpone this to November 1st.

Commissioner Hughes withdrew his motion.

**Commissioner Heltman moved to postpone this case to November 1st.
Commissioner Hughes seconded the motion which passed by unanimous voice vote.**

G. BUSINESS FROM THE FLOOR – None

H. STAFF COMMUNICATIONS

Mr. Smith apologized for the confusion on the St. Michael's Village case. He said they continue to have two vacant positions in development review and will advertise for them again.

I. MATTERS FROM THE COMMISSION

Chair Gonzales thanked Ms. Lovely for the cakes she supplied at the previous meeting.

Commissioner Hughes said when there are slim agendas it would be nice to hear from the long range planning staff with updates on the northwest quadrant, green building code, Railrunner and proposed annexations.

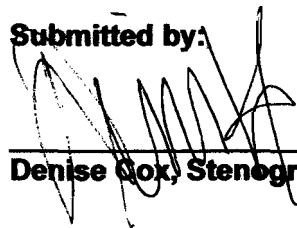
J. ADJOURNMENT

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 9:00 p.m.

Approved by:


Chair Estevan Gonzales

Submitted by:


Denise Cox, Stenographer