



Agenda

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PLANNING COMMISSION
November 15, 2007 – 6:00 P.M.
CITY COUNCIL CHAMBERS

- A. ROLL CALL**
- B. PLEDGE OF ALLEGIANCE**
- C. APPROVAL OF AGENDA**
- D. APPROVAL OF MINUTES**
- E. OLD BUSINESS**
- F. NEW BUSINESS**

1. **Case #M 2007-27. Senior Village, Santa Fe Estates, Las Estrellas Tract 11 Preliminary Development Plan.** Clif Walbridge, agent for Northside Ventures, LLC requests preliminary development plan for 84 units on 11.20 ± acres. The site is Tract 11 Las Estrellas in Santa Fe Estates. The application includes the following variance requests: 1) finished floor level more than five feet higher than average grade of buildable area; 2) use of private roads where public roads would normally be required; 3) development within the flood plain; 4) development within the required 25' setback from the top of the arroyo 5) exceeding the 50% rule for building on 20%-30% sloped land; 6) use of two private sanitary sewers that are not in the road (120' and 130'). (Donna Wynant, case manager) **(POSTPONED FROM NOVEMBER 01, 2007)**
2. **Case #S 2007-12. Senior Village, Santa Fe Estates, Las Estrellas Tract 11 Preliminary Subdivision Plat.** Clif Walbridge, agent for Northside Ventures, LLC requests preliminary subdivision plat approval to create 5 lots and remainder tracts comprising 220.689 ± acres for a total of 258.219± acres. The site is Tract 11 Las Estrellas in Santa Fe Estates. (Donna Wynant, case manager) **(POSTPONED FROM NOVEMBER 01, 2007)**
3. An ordinance amending Chapter 14 SFCC 1987 regarding the powers and duties of the Business Capital District Design Review Committee and the Planning Commission to minimize overlapping jurisdiction in the Business Capital District and making such other related changes as are necessary. (Councilor Heldmeyer) (Jeanne Price, case manager)
4. **Case #M 2007-34. 213 Cathedral Place Variance to Flood and Terrain Management Regulations Time Extension.** Jennifer Jenkins, agent for the Archdiocese of Santa Fe, requests a time extension for an approval of a variance to the Flood and Terrain Management regulations which restrict construction within the floodplain. The owner anticipates development for retail, hotel, residential and parking. (Wendy Blackwell, 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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CITY OF SANTA FE
PLANNING COMMISSION

November 15, 2007

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F. NEW BUSINESS		
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MINUTES OF
CITY OF SANTA FE
PLANNING COMMISSION MEETING

November 15, 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:

Bonifacio Armijo
Ken Hughes
Shayna Lewis
Matthew O'Reilly
John Salazar
Angela Schackel Bordegaray
Signe Lindell, Vice Chair
Estevan Gonzales, Chair

MEMBERS ABSENT:

Gloria Lopez

STAFF PRESENT:

Greg Smith, Director Permit and Development Review
Frank Katz, City Attorney
Jeanne Price, Legislative Liaison
Wendy Blackwell, Director Technical Review Division
Donna Wynant, Senior Planner
Denise Cox, Stenographer

B. PLEDGE OF ALLEGIANCE

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

C. APPROVAL OF AGENDA

Commissioner O'Reilly noted that the first case in the Senior Village is dependent upon the second case, so he questioned the order.

Mr. Katz said they could be heard together, but the plat comes before the development plan.

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

D. APPROVAL OF MINUTES- None

E. OLD BUSINESS - None

F. NEW BUSINESS

1. **Case #M 2007-27. Senior Village, Santa Fe Estates, Las Estrellas Tract 11 Preliminary Development Plan.** Clif Walbridge, agent for Northside Ventures, LLC requests preliminary development plan for 84 units on 11.20 ± acres. The site is Tract 11 Las Estrellas in Santa Fe Estates. The application includes the following variance requests: 1) finished floor level more than five feet higher than average grade of buildable area; 2) use of private roads where public roads would normally be required; 3) development within the flood plain; 4) development within the required 25' setback from the top of the arroyo 5) exceeding the 50% rule for building on 20%-30% sloped land; 6) use of two private sanitary sewers that are not in the road (120' and 130'). (Donna Wynant, case manager) (POSTPONED FROM NOVEMBER 01, 2007)

Items 1 and 2 were combined for purposes of staff report, public hearing and Commission comment and action, but were voted on separately.

2. **Case #S 2007-12. Senior Village, Santa Fe Estates, Las Estrellas Tract 11 Preliminary Subdivision Plat.** Clif Walbridge, agent for Northside Ventures, LLC requests preliminary subdivision plat approval to create 5 lots and remainder tracts comprising 220.689 ± acres for a total of 258.219± acres. The site is Tract 11 Las Estrellas in Santa Fe Estates. (Donna Wynant, case manager) (POSTPONED FROM NOVEMBER 01, 2007)

Items 1 and 2 were combined for purposes of staff report, public hearing and Commission comment and action, but were voted on separately.

Memorandum from Donna Wynant, Senior Planner, prepared for November 8, 2007 for November 15, 2007 Planning Commission meeting is incorporated herewith to these minutes as Exhibit "1."

Memos and correspondence from the Office of Affordable Housing with various dates is incorporated herewith to these minutes as Exhibit "1(A)."

Comments dated November 15, 2007 from Ellery Biathrow, Engineer, is incorporated herewith to these minutes as Exhibit "1(B)."

Colored version of pages from the staff report prepared by Donna Wynant, Senior Planner, are incorporated herewith to these minutes as Exhibit "1(C)."

Photographs of the trail system and park already in place in Las Estrellas is incorporated herewith to these minutes as Exhibit "1(D)."

Digital images of the senior village presented by the applicant are incorporated herewith to these minutes as Exhibit "1(E)."

Ms. Wynant presented the staff report included in Exhibit "1." She noted that staff is in support of the variances with the exception of the 2nd variance.

Public Hearing

Bruce Geiss, 2011 Botolph Road, Managing Agent for Santa Fe Estates, was sworn. He reviewed that Las Estrellas is a 150-acre community master plan. In 2004, after the Thornburg project was approved they held some design workshops with community input to design the balance of the commercial area. He said there was a request to amend the master plan which was done in 2005. During the amendment, they moved the park to a more accessible area and moved the densities behind the village center adjacent to the Thornburg complex creating a village center straddling a neighborhood road with a one park pedestrian access. He said the idea of putting a senior village with direct pedestrian access came up. This will be a privately operated community known as a continuing care community with 64 independent living casitas surrounding a central complex with 20 assisted living apartments and other amenities. The units are spread out in a circle around the facility. They are trying to provide garages in as many of the casitas as possible and underground parking to mitigate the visual impact. He said when the road hits the edge of the property for the senior village it turns into a private road. They have created as many pedestrian experiences as possible. The heights are approximately 28 feet to keep a low visual impact, although they are allowed 36 feet with the zoning. The intent is to create an overall community of 835 homes with age and income differences. This is a classic work/live facility. He reviewed the photographs of the common amenities including the trail system and parks included in Exhibit "1(D)" and the digital photographs of the senior village included in Exhibit "1(E)." He said they are fine with the conditions except item 1 because he has several versions of the subdivision engineer's report. He is not sure he quite understands the condition.

Chair Gonzales said the documentation for Ellery's detailed memorandum was given to the Commissioners at 6 p.m. He asked Mr. Smith if he would recommend postponing this case as he was not present during approval of the agenda.

Mr. Smith explained that staff is reluctant to recommend postponement of the case. He understands the Commission might have difficulty digesting this information. He said the memo is substantially similar and could be summarized by Wendy Blackwell. He said staff does not feel the need to postpone, so he encouraged the Commission to proceed and ask questions as needed.

The public testimony portion of the public hearing was closed.

Questions and comments from the Commission

Commissioner Armijo said they have stated before that the Commission needs information beforehand so they are not making judgments on a full report given at the last minute. He said if staff cannot get the reports completed in time they need to postpone so they are not reviewing the cases as they are looking at them. He said if the others want to walk through this with staff guidance, he will agree.

Commissioner Lindell agreed they do not want to make a decision from an incomplete packet. She was not opposed to postponing this.

Mr. Geiss pointed out that in the staff report from November 15, 2007, it states the terrain management concern is considered to be a minor issue. He expressed concern

because they have been pushed back four times. He understands their concern, but he wanted to point out that staff does not believe these are major issues.

Commissioner Hughes asked Wendy Blackwell to walk them through the memorandum.

Chair Gonzales agreed with the comments made by the Commission. He said if staff feels strongly that there are similarities between the staff report and what they were given tonight then he questions why the Planning Commission is even here. He said the Commissioners are the ones that need to digest the material to come up with their own opinion. He said it is not fair to the public when they have to be walked through a case because they are not ready.

Ms. Blackwell apologized for the lateness of the memo as the first memo did not address all five variances. The memo from last week only addressed the flood plain issues and mid week it came to their attention that the other issues were not addressed.

Commissioner Lindell moved to postpone this case to the next meeting, Commissioner Armijo second the motion with an apology to the developers.

Commissioner Armijo said they need to get the information beforehand so they do not look silly in not wanting to review the case. He understands the developers have worked hard and are ready to go. He wished the information was reviewed last Friday.

Chair Gonzales apologized as well, he noted that when they discussed receiving supplemental information he did not realize it would be this detailed.

Mr. Geiss asked when they would be rescheduled.

Mr. Smith said the next meeting will be December 6th. He said staff anticipates all the information needed is available. He noted that this is a preliminary development plan, not a final development plan.

Mr. Geiss stated that they understand how much work is passing through City Hall and he takes no offense although he would like to be heard. He said if they have to wait until December 6th he wants them to know they have done their job well.

Chair Gonzales stated that he would rather Mr. Geiss have a fair hearing with everyone digesting the information properly.

Mr. Geiss said if they have the time he believes the Commission will come to the same conclusion that Mr. Biathrow did.

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

- 3. An ordinance amending Chapter 14 SFCC 1987 regarding the powers and duties of the Business Capital District Design Review Committee and the Planning Commission to minimize overlapping jurisdiction in the Business Capital District and making such other related changes as are necessary. (Councilor Heldmeyer) (Jeanne Price, case manager)**

Memorandum from Jeanne Price, Legislative Liaison prepared November 5, 2007 for November 15, 2007 Planning Commission meeting is incorporated herewith to these minutes as Exhibit "2."

Proposed amendments and minutes from the BCD/DRC are incorporated herewith to these minutes as Exhibit "2(A)."

Ms. Price presented the staff report included in Exhibit "2." The goal is to minimize or eliminate the jurisdiction between the Planning Commission and Business Capital District Design Review Committee. The intent was to eliminate the overlap and save effort on part of the applicant, staff, the public and the Commission. She explained that the bill included in the packet said that if a project had to go to the BCD/DRC for another reason then the development plan would be reviewed solely by the BCD, but at the BCD meeting last week they decided it would be the most efficient if a development plan was in the BCD that the review and authority over that should rest entirely with the BCD and not with the Planning Commission. She explained that the BCD meets once a month and have room on their agendas to look at the projects. The Committee members have expertise in this area.

Chair Gonzales asked if they ever considered eliminating the BCD and creating a subcommittee of the Planning Commission similar to what was done with the CPPC.

Ms. Price said the BCD is a unique committee in that there are very specific roles the members play in design and development. The originators wanted specific roles as this Committee is looking at very detailed plans and site plans. The expertise has served the Committee very well. She said the Planning Commission represents a broad view for the whole community.

Councilor Heldmeyer agreed that the BCD/DRC is made up of people with special expertise and knowledge of this area of town. She said this came from the Committee in part because they saw cases that came before them that were duplicated before the Planning Commission. She noted that the CPPC was more of a policy body and every case also came before the Planning Commission. The BCD cases for the most part do not come to the Planning Commission. The Committee has immersed itself in very specific technical questions that overlap with the questions in a development. She said they are not taking rezoning cases away from the Planning Commission. The intent was to avoid the applicant having to go so many places and to bundle the questions so they could answer in totality of the development as opposed to taking half the questions one place and the others somewhere else. She said the BCD members wanted to suggest this as a way of streamlining the process. There was no discussion of making it a subcommittee of the Planning Commission because they are looking at different items.

Ms. Price added that when you have different review bodies reviewing a project; one body tells them to do one thing and the other body often tells them to do something else.

Public Hearing

There was no public testimony.

The public testimony portion of the public hearing was closed.

Questions and comments from the Commission

Commissioner O'Reilly stated that he brought this up at the BCD. He said in addition to the reasons stated this came about first when he looked at Planning Commission agendas that were so long. Many times the BCD only has 1 case. He has been on the BCD for 7-8 years and most of the work in the Railyard has gone through them. They have done an incredible amount of work with really detailed and specialized reviews due to the composition of the BCD Committee. There is a licensed engineer, architect, contractor, planner, real estate professional and a member of City Council. He said notwithstanding the current composition of the Planning Commission which he is proud of that is not always the case that the Planning Commission has this experience. He said the possibility and actuality of review loops can create a circular problem. He said this was not intended as a power grab, but more as a streamlining of how the City works.

Commissioner Hughes moved to recommend City Council approve this ordinance amendment, Commissioner Armijo seconded the motion. The motion passed by majority voice vote of 6 to 1 with Commissioner Lindell voting against the motion.

- 4. Case #M 2007-34. 213 Cathedral Place Variance to Flood and Terrain Management Regulations Time Extension. Jennifer Jenkins, agent for the Archdiocese of Santa Fe, requests a time extension for an approval of a variance to the Flood and Terrain Management regulations which restrict construction within the floodplain. The owner anticipates development for retail, hotel, residential and parking. (Wendy Blackwell, case manger)**

Memorandum from Wendy Blackwell, Technical Review Division Director, prepared November 5, 2007 for November 15, 2007 Planning Commission meeting is incorporated herewith to these minutes as Exhibit "3."

Ms. Blackwell reviewed the staff report included in Exhibit "3." She defined floodway and flood fringe for the Commission. She said in this case they can build outside the site, but there is not specific language stating you can request a variance for this which is why she is pointing this out. There is no specific terrain management variance request although in the case caption it states this due to the section of the code the variance falls in. She noted that item 4 could not have been analyzed originally because there is no specific site plan. She said a specific condition of approval should be added to the extension stating that at the time of development plan review, the Planning Commission will consider the variance criteria as it will apply to a specific site plan. The City received the preliminary maps and the applicant filed an appeal with FEMA that impacts the flood plain and flood fringe for this property. They have not received a final from FEMA so the applicant will have to incorporate that once approval is received from FEMA. For this reason she suggested another condition stating the applicant will modify the plat the plans to reflect the final FEMA work. She said the City is obligated to use the best available data for flood plain management. The City will begin to approve building permits based on the LFT only if the base flood elevation is the same or lower than the current adopted maps.

If the Commission approved the time extension, it should be based on a determination that each of the five criteria required for approval of the variance are supported by the facts of the case as they exist today with the following conditions:

1. At the time of Development Plan review, the Planning Commission will consider the variance

- criteria 13-3.16(C)(4) as it will apply to a specific site plan.
2. The applicant will modify their plat and plans to reflect the final Preliminary digital Flood Insurance Rate Maps.
 3. Comply with comments and recommendations from Staff Report for January 5, 2006 Planning commission Meeting. (this was one of the previous Conditions of Approval).
 4. Comply with applicable National Flood Insurance Program Regulations. (This was the second Condition of Approval from the January 5, 2006 Planning Commission approval.)

Chair Gonzales disclosed that he is a member of the 400th anniversary fundraising Committee for the Cathedral Basilica which has nothing to do with this project. Legal staff feels there is no conflict, but he agreed to have Vice Chair Lindell take over this case if anyone felt there was a conflict.

There was no objection from the Commission.

Public Hearing

Jennifer Jenkins, 130 Grant Avenue, was sworn. She said this is a simple time extension to a variance granted in January 2006. She said prior to the developers spending money they needed to determine the envelope as it was critical to the effort. She said now they can design what will be an exciting project for the downtown area. She reviewed a map of the area. The purpose of the variance in advance of the development plan was in relation to the access points. The reason they need the time extension is due to the complex nature of the project and the plans for the new parish hall. She said they have successfully appealed revised mapping proposed in 2006 that had to happen before this could move forward. The appeal ate up a year of time, but had a positive effect for all the downstream neighbors. She noted that they are strongly opposed to condition 1 because they had to determine the limits of development. It is unacceptable to invest in a design of this scope and then come back. The original staff report stated two conditions of approval when the variance was unanimously granted. She said this is a simple request and they are willing to comply with those and request condition 1 be eliminated.

The public testimony portion of the public hearing was closed.

There was no public testimony.

Questions and comments from the Commission

Commissioner Armijo asked if the Loretto project included a variance to build on the flood fringe.

Mr. Smith recalled that the Commission did approve a variance although the circumstances were different as they had the development plan when the findings were made to support the variance.

Commissioner Armijo asked if the project entirely sat on the flood fringe.

Mr. Smith recollected that it was partly within and partly outside the flood fringe although he did not have the specifics with him.

Commissioner Salazar commented that it seems condition 1 does not pertain. He

expressed confusion and asked if the applicant has to apply for another variance.

Ms. Blackwell explained that she wanted to give the information for a factual discussion. She said what is written in the code book is different from how historically variances have been brought forward. She said staff felt they should allow the Commission to make the decision. Her understanding is that when they come with the development plan the Commission could chose to modify the square footage.

Mr. Smith added that by implication the Commission determined in 2005, based on the applicant's testimony, they are asking the Commission to decide is that they must be permitted to develop any and all portions of the site in order to make the minimum standard to make reasonable use of the site. The variance is the minimum relief needed to allow reasonable use of the property.

Commissioner Salazar said he is under the impression that the variance was approved and this is just a time extension on that variance.

Chair Gonzales remembered there being an extensive amount of discussion and testimony with respect to the variance and the easing of variances because he was on the Commission when this was approved. He asked if they are revisiting this issue of the variance.

Mr. Katz agreed that is the decision made. He said they are asking for an extension and the Commission does not have to give it. He agreed the Commission has already made that decision and in fact as of yet there are no factual changes. They know the FEMA map will change although it has not happened yet.

Commissioner Salazar understood that condition 1 would mean revisiting a decision already made.

Chair Gonzales agreed that no factual information has changed that varies from the night of the hearing. He said this Commission has made it a practice of granting time extensions as a matter of courtesy to the applicants.

Mr. Smith agreed it is within the Commission's purview to make that determination, but staff's judgment was that the finding might not have been documented fully during the original hearing.

Commissioner O'Reilly agreed with Commission Salazar as it seems unfair if the applicant has taken the direction given by the previous approval to impose a different condition on them now. He feels they need to consider whether the Commission feels a time extension is appropriate.

Commissioner Bordegaray asked if this is the normal course of action.

Mr. Smith explained that time extensions are for allowing development that has passed more than two years without development. He concurs that by and large more time extensions are approved routinely rather than denied, although the Commission is under no obligation to grant a time extension or prevented from modifying the previous approval. He said with regard to the variance time extensions there is not a lot of language in the code.

Commissioner Salazar stated that he can see revisiting the variance had another ordinance come in place, but the flood fringe is actually decreasing so he does not see any reason to revisit the variance.

Commissioner Salazar moved to approve Case #M-2007-34 with staff conditions 2-4, eliminating condition 1, Commissioner Hughes seconded the motion.

Commissioner O'Reilly asked what happens 18 months from now if development has not begun. He asked if it is when work begins or when a building permit is submitted for review.

Mr. Smith said if it has not exercised within 24 months, a time extension must be granted. He said that could be construed to be a building permit. If an application for a development plan has been filed or approved prior to that the applicant would be okay. The most common interpretation is the filing of a subsequent application that relies on the previous approval, but the code is not specific. He said there may be different attorneys or department heads 18 months from now.

Commissioner O'Reilly asked the applicant if they understand that.

Ms. Jenkins stated that they have shared Greg's sense of ambiguity about the language in the code, but they would prefer the time period rely on a development plan application submittal.

Commissioner O'Reilly asked if they can do something to avoid this happening again.

Mr. Katz said he is not in a position to give such opinion. He said if he were the applicant he would try to get a little further along than that. He said if the ordinance identified the event, it would be lovely.

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

G. BUSINESS FROM THE FLOOR - None

H. STAFF COMMUNICATIONS

Mr. Smith said they are proceeding on the hiring process and are hopeful to schedule interviews and recommend applicants by the end of the year. He apologized for the late submittal and regret they were unable to provide that timely. He said he asked the applicant to make a more detailed application on the justification of the variance for the next hearing.

There was a brief poll on who would be able to attend the next few meetings as some Commissioners schedules had changed.

All Commissioners said they would be able to attend the December 6th meeting. For the December 20th meeting Commissioners O'Reilly, Armijo and Lopez are unable to attend. For the January 3rd meeting Commissioners Armijo and Lopez are unable to attend.

Mr. Smith said they may be unable to staff the January 3rd meeting, but he will keep in

mind the Commission could meet if there are applications that need to be heard.

I. MATTERS FROM THE COMMISSION

Chair Gonzales said they have talked about training for Commissioners. He said they will form a subcommittee to plan a syllabus and this could be used by staff to ask for a request for bid, to help budget for the class and prepare case material needed. He noted that Commissioners O'Reilly, Bordegaray, and Salazar expressed interest in this.

Commissioner O'Reilly said with regard to the last case he can see this coming up again, so asked if it is appropriate for the Commission to ask for a legal determination of this issue. He asked for an official policy so the Planning Commission has direction.

Commissioner Bordegaray understands what it is like from the staff side and encourages the City to support the planners as they have too much work. She added that she is missing the link to the long range planners. She stated a desire to fortify what they the planners are doing. She said it has become clear there is a need for a lot more training. She asked if there is a forthcoming land use attorney.

Mr. Katz said there is no land use attorney today, but there will be at the next meeting. The attorney is starting on December 3rd, although she does not have experience with the Santa Fe code, but has decades of experience in land use.

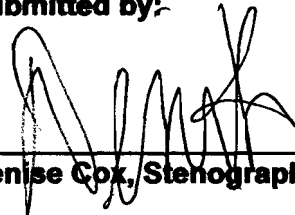
J. ADJOURNMENT

There being no further matters to come before the Commission, and the Commission having completed its agenda, Commissioner O'Reilly moved, seconded by Commissioner Armijo to adjourn the meeting. The motion passed unanimously on a voice vote and the meeting was adjourned at 7:45 p.m.

Approved by:


Chair Estevan Gonzales

Submitted by:


Denise Cox, Stenographer