

**SUMMARY INDEX
PLANNING COMMISSION MINUTES
MAY 6, 2021**

ITEM	ACTION TAKEN	PAGE(S)
A. Roll Call	Quorum Present	1
B. Pledge of Allegiance	Recited	1
C. Approval of Agenda		
D. Consent Agenda	Approved as published	2
E. Approval of Minutes		
1. March 18, 2021	Approved as presented	2
2. April 1, 2021	“ ”	2-3
3. April 15, 2021	“ ”	3
F. Approval of Findings/Conclusions	Approved	3
1. Case #2020-2999 Santa Fe Place Mall Apartments		
G. Consent		
1. Case #2021-3413.	Approved	3
H. Old Business	None	3
I. New Business		
1. Consideration of Bill # 2021-__.	Recommended Approved	3-8
2. Case #2021-3353. Champion Xpress Car Wash Development Plan. Findings / Conclusion	Approved Approved	8-12 13-14
3. Case #2021-3354. 4410 Cerrillos Rd Car Wash Special Use Permit	Approved	12
4. Case #2021-3355. 4323/4319 Airport Road. Casa de Todos Final	Approved	14-19
J. Staff Communications	Comments	19

H. Matters from the Commission	Comments	20
I. Adjournment	Adjourned at 8:07 pm	20

MINUTES OF THE CITY OF SANTA FE PLANNING COMMISSION
Thursday, May 6, 2021 - 6:00 pm
VIRTUAL HEARING

CALL TO ORDER

A regular meeting of the City of Santa Fe Planning Commission was called to order by Chair Gutierrez on the above date at approximately 6:00 p.m. at a virtual meeting.

A. ROLL CALL

Roll Call indicated the presence of a quorum for the meeting.

Members Present

Commissioner Brian Patrick Gutierrez, Chair
Commissioner Mark Hogan, Vice Chair
Commissioner Janet Clow, Secretary
Commissioner Amanda Chavez
Commissioner Pilar Faulkner
Commissioner Lee Garcia
Commissioner Jessica Lawrence
Commissioner Carly Piccarello
Commissioner Dominic Sategna

Members Absent

Others Present:

Mr. Elias Isaacson, Land Use Director
Mr. Noah Berke, Planning Manager
Ms. Sally Paez, Assistant City Attorney
Ms. Melissa D. Byers, Stenographer

NOTE: All items in the Committee packet for all agenda items are incorporated herewith by reference. The original Committee packet is on file in the Land Use Department.

B. PLEDGE OF ALLEGIANCE

Chair Gutierrez led the pledge of allegiance.

C. APPROVAL OF AGENDA

MOTION: Commissioner Faulkner moved, seconded by Commissioner Hogan to approve the agenda as presented.

VOTE: The motion passed by unanimous roll call vote with Commissioners Chavez, Clow, Faulkner, Garcia, Hogan, Lawrence, Piccarello and Sategna voting in favor and none voting against.

D. APPROVAL OF CONSENT AGENDA

MOTION: Commissioner Hogan moved, seconded by Commissioner Faulkner to approve the consent agenda as presented.

VOTE: The motion passed by unanimous roll call vote with Commissioners Chavez, Clow, Faulkner, Garcia, Hogan, Lawrence, Piccarello and Sategna voting in favor and none voting against.

E. APPROVAL OF MINUTES

1. March 18, 2021

MOTION: Commissioner Faulkner moved, seconded by Commissioner Hogan to approve the minutes of March 18, 2021 as presented.

VOTE: The motion passed by unanimous roll call vote with Commissioners Chavez, Clow, Faulkner, Garcia, Hogan, Lawrence, Piccarello and Sategna voting in favor and none voting against.

2. April 1, 2021

MOTION: Commissioner Hogan moved, seconded by Commissioner Faulkner to approve the minutes of April 1, 2021 as presented.

VOTE: The motion passed by majority roll call vote with Commissioners Chavez, Clow, Faulkner, Garcia, Hogan, Lawrence and Piccarello voting in favor and none voting against. Commissioner Sategna abstained.

3. April 15, 2021

MOTION: Commissioner Faulkner moved, seconded by Commissioner Hogan to approve the minutes of April 15, 2021 as presented.

VOTE: The motion passed by majority roll call vote with Commissioners Chavez, Clow, Faulkner, Garcia, Hogan, Lawrence and Piccarello voting in favor and none voting against. Commissioner Sategna abstained.

F. APPROVAL OF FINDINGS/CONCLUSIONS

1. **Case #2020-2999. 4250 Cerrillos Road Santa Fe Place Mall Apartments Development Plan.**

MOTION: Commissioner Faulkner moved, seconded by Commissioner Piccarello, to approve the Findings of Fact and Conclusions of Law.

VOTE: The motion passed by majority roll call vote with Commissioners Chavez, Clow, Faulkner, Garcia, Hogan, Lawrence and Piccarello voting in favor and none voting against. Commissioner Sategna abstained.

G. CONSENT

1. **Case #2021-3413. 4149 Fairly Road Special Use Permit and Development Plan Time Extension.** Fredrick Lucas, Agent, for ZZYZX Corporation, Owner, requests a time extension for the Special Use Permit for an Urban Farm Ground Level, greater than one acre, and Development Plan on four separate parcels that total approximately 9.8 acres of land. The properties are located at 4149 Fairly Road and are zoned R-5 (Residential – five dwelling units per acre) and R-1 (Residential – one dwelling unit per acre). (Lee Logston, Case Manager, lrllogston@santafenm.gov, 955-6136).

Approved on Consent Agenda.

H. OLD BUSINESS

None

I. NEW BUSINESS

1. **CONSIDERATION OF BILL NO. 2021- .** (Councilor Abeyta and Councilor Lindell). An Ordinance Amending Subsection 14-3.7(F), Notes 15 and 16 of Table 14-7.2-1, and Subsection 14-9.6(B) to Allow the Minimum Lot Size to be 1.25 Acres for a Lot Created Through an Inheritance or Family Transfer Subdivision and that Results in Only One Additional Lot; Amending Subsection 14-7.2(B) to Require Rounding Down of the Calculation of Maximum Number of Dwelling Units for a Family Transfer Subdivision Where Neither Public Sewer nor Public Water are Available; and Amending

Subsection 14-9.6(A) to Require Proof of Adequate Septic and Well Assurances Prior to the Approval of an Inheritance or Family Transfer Subdivision that Lacks Public Sewer and Water. (Eli Isaacson)

Staff Report

Mr. Berke presented the staff report to amend the City's Land Development Code in regard to family lot splits. He explained the Code regulations are written that an applicant who wants to do a lot split that does not have access to sewer or water, needs a total of 5 acres or more to create a new lot of no less than 2.5 acres. That has proven to be a barrier to many areas annexed to the City. There have been several inquiries by families in the last few years who wished to split their lot to give one to an immediate family member. Most requests were areas that are not hooked up to water and sewer and do not have 5 acres.

The proposed changes would allow those lots to be split into two lots of a minimum size of 1.25 acres, if well and sanitation permits can be obtained, and if the lot has been created by an inheritance or family transfer in accordance with regulations of section 14-3.7(F). The proposed changes would only allow creation of two new lots with transfer of one or both lots to his/her children; natural, adopted, or grandchildren, or a person who performed the function of a parent or grandparent, for the purpose of transferring a lot to a person who has performed that function, provided that person proposing to create the subdivision and transfer the lots files the appropriate documentation conveyance without abatement by the County Clerk. Adequate access and conformance with all applicable regulations in Chapter 14 would still be required. Also required is assurance that the appropriate State of New Mexico well and sanitation permits can be obtained for the newly created lots.

Mr. Berke noted staff analysis obtained from the City GIS shows approximately 275 lots of 2.5 acres or more without access to City water/sewer. All of these could benefit from this potentially, if there is a family lot split.

Under subsection 14-3.3, the Planning Commission is required to review proposed amendments to Chapter 14 to ensure compliance with the following criteria: (1) The compliance of the law; (2) Consistency with the General Plan; (3) Consistency with other policies adopted by the Governing Body, or with the purpose and intent of Chapter 14 in the section being amended (Family Law Transfers); (4) Consideration of how the amendment relates to other provisions of the Santa Fe City Code and the avoidance of unintended consequences; (5) Consistency with any approved conservation ordinances.

Staff has reviewed the proposal with regard to these criteria and found the proposed text amendment meets the criteria. Therefore, staff recommends the proposed amendments to Chapter 14 be adopted as proposed in staff's memo.

Mr. Berke said Councilor Abeyta, who sponsored and brought the bill forward, was present. He invited the Councilor to speak on behalf of the amendment.

Councilor Roman Abeyta, District 3, provided some history. He said many of the 275 lots that will be eligible if the ordinance is passed, were located in Santa Fe County. At that time, the minimum lot size was 2.5 acres and for family transfer purposes could go down to 1.25 acres.

Councilor Abeyta said the annexation agreement indicated the City would recognize the County zoning and laws. And the family transfer provision was recognized for a while. At some point, Legal and the City Planning and Land Use Director changed the interpretation because the lots were on wells and septic and this might not be appropriate.

Councilor Abeyta said rather than argue interpretation, he and Councilor Lindell developed an ordinance to allow this, for the same purpose. They did not want the residents penalized now, since it was allowed in the County because they were annexed. The long term plan for the area is to eventually extend the water/sewer. He and Councilor Rivera represent a large portion of properties that will be affected by the amendment. They are working with the Utility Department and property owners and hope to extend the water and sewer.

In the meantime, the purpose of the ordinance amendment is to allow families who were annexed into the City to divide their property to give to their children/grandchildren. The amendment removes the penalty some felt when annexed into the City and helps to address affordable housing in the community. For years this has been a way for property owners to take advantage, especially if they lived in the County.

Councilor Abeyta noted Councilor Rivera who also represents District 3 was present. He has more experience with this problem that resulted from the annexation agreement.

Councilor Chris Rivera said Councilor Abeyta summed it up well. He indicated he was on City Council when the County was annexed. Councilor Abeyta is moving the amendment forward in an attempt to clear up issues they knew would arise as part of the annexation. The County has a lot of larger lots which the City doesn't typically have.

He said he supports the amendment and stood for questions.

Public Hearing

Michael Herrera, 5 Paseo de Lorena, said he wanted to address a couple of issues related to the ordinance change. First, the General Master Plan approved in 2014, had four annexations and he was the fourth. He said they were happy because it gave them 1 acre lot sizes and 2.5 acres is a lot of land for one resident. When you have family members suffering, it provides an opportunity to help them.

He said there were always two key issues the City used to deny them [a lot split]; one was the water and the second was the sewer. The City allows large housing developments and apartment complexes, which has a much larger water and sewer usage than a single resident lot split.

Mr. Herrera said they understand the limitations with their water wells and the monitoring. A lot split, even 275 of them, will not affect the aquifer like an apartment complex. He talked with the City Water staff and was told the water comes from the Buckman Diversion and reservoir. Not as much water is captured from the aquifer, and the aquifer is replenished every year. The use of water by one resident is not that impactful. Also, there is no data to show septic systems negatively impact to the degree that would prohibit them from doing a lot split. The septic systems are authorized and monitored, and they function well.

He indicated he had requested a variance a few years back and it was denied because of the water issue. He said it hurt their family deeply because they spent a lot of money to come before the City. He said they were denied and that doesn't say much for affordable housing in the area. Now, they are here in 2021 trying to get this lot split approved. It has been a long road and he is 63 years old, and his children are much older and have moved on. The lot split he needed 10-20 years ago will help someone, but his children have moved out of the City.

Mr. Herrera said the definition of family used to be aunts, uncles, brothers, sisters, etc. but somehow the definition has changed to children and grandchildren. He wouldn't be able to help his brother who needs help, and he has the land, because the family definition of the ordinance does not allow that. He requested the family transfer definition be reconsidered to follow the definition criteria that says, "*two or more natural persons related by blood.*" Allowing him to help his family by giving them land next to him would keep the harmony in the neighborhood and allow his family to grow. And that would meet affordable housing criteria, and correct the issue with the Affordable Housing Bill of Rights trying to help citizens of Santa Fe.

He said one issue that is somewhat resolved was the water for the fire department. Water tankers were the answer, yet the City hasn't bought the tankers for the fire department. They had to incorporate the County's fire department to approve them to move forward with their developments without being required to put in fire suppression. He recommended the City buy water tankers; a 32,000 gallon tanker can be bought for \$56,000. He hopes the City will consider that, and help this issue.

Mr. Herrera said the amendment should be consistent with the General Plan, which had approved one acre lot sizes. On October 8, 2014, the Governing Body pulled that decision. He would like to know what is meant when they say the amendment is consistent with the General Plan. They were authorized 1 acre lot sizes and the Governing Body removed that.

Chris Corrie and his wife Jody, live off of Nelson Loop, were sworn. He said he had nothing to add other than Mr. Herrera's thoughts were eloquent, and they agree completely. They want the Commission to pass the amendment.

COMMISSION DISCUSSION

Commissioner Hogan said he has a lot of experience with property owners in the annexation area and this is long overdue. It is good they are moving forward with this.

Commissioner Garcia said a point of clarification on the definition Mr. Herrera alluded to, the proposal says, "Fathers, mothers, natural, adopted children and grandchildren." He addressed Councilor Abeyta and said he couldn't find anything that referred to siblings. He said he wondered if that is included.

Councilor Abeyta responded that he attempted only to address family transfers and kept the existing definition of eligibility, as a first stand. The language could be looked at later, but he didn't want to adversely affect the existing family transfer rules. He wanted to remain consistent and understands the proposed language is consistent with the family provisions currently in Chapter 14.

Commissioner Garcia thought that was also probably consistent with what it was in the County.

Councilor Abeyta said that was correct. The transfer had to be to their child or grandchild and did not include other family members.

Commissioner Sategna said he read through this and thought it fantastic. He asked if anyone could address the impact this would have on the water table.

Jesse Roach from the Water Division commented the general approach to water resources focuses on using surface water to protect the groundwater of the local aquifer in times of drought. Generally, water pumping is limited from areas within City limits. The impact of a single domestic well is generally considered negligible but the cumulative impact could be substantial. He indicated the Springs in La Cienega is a good example. He couldn't speak to the impact of the change as proposed in the ordinance specifically. He hasn't looked at the lot distribution or where they will be, and the added amount of water associated. They do attempt to maintain the ground water levels as much as possible.

Commissioner Sategna asked if he had an idea about the impact of 225 lots, that can be split (550 potential additional wells). He noted that Councilor Abeyta commented the intent is to gain water access in the future. He asked Mr. Roach if surface water is not available, what would be the impact of 225 new wells.

Mr. Roach thought it difficult to answer without knowing specifics of locations. The magnitude could be at most 225 new wells, but he didn't know the requirements for the maximum that could be extracted from those wells. They are looking at about 200 to 600 acre feet of additional water use. The City currently produces about 9,000 for the entire City. If the scenario is played out to the extreme, it could be a noticeable impact but not overwhelming.

Director Isaacson thought it important that many of the lot splits would share wells in the area. He noted the packet contained an exhibit with a map of the lots that could potentially be split. A large number of lots in the foothill area might be difficult to split due to mountainous terrain limitations and the actual number of lot splits could potentially be no more than 200. And of those, many of them would be drawing from the same load.

Commissioner Chavez said she wanted to mention the housing situation in District 3. The majority of households have 7-10 family members, or more and this is a great opportunity to promote affordable housing. She appreciated Councilor Abeyta bringing this forward.

MOTION: Commissioner Clow moved to recommend approval, seconded by Commissioner Sategna.

VOTE: The motion passed by unanimous roll call vote with Commissioners Chavez, Clow, Faulkner, Garcia, Hogan, Lawrence, Piccarello and Sategna voting in favor and none voting against.

2. **Case #2021-3353. Champion Xpress Car Wash Development Plan.** JenkinsGavin, Inc., Agent, for Santa Fe Mall Property, LLC, Owner, requests development plan approval to construct a 4,431 square foot structure with 6,716 of roofed area for a fully automated car wash. The property is located at 4410 Cerrillos Road. The property is approximately 2.95 acres and is zoned SC3 (Regional Shopping Center District). (Dan Esquibel)
3. **Case #2021-3354. 4410 Cerrillos Road Car Wash Special Use Permit.** JenkinsGavin, Inc., Agent, for Santa Fe Mall Property, LLC, Owner, requests approval of a Special Use Permit to allow vehicle service establishment in a Regional Shopping Center District (SC3). The property is approximately 2.95 acres and is zoned SC3 (Regional Shopping Center District). (Dan Esquibel, Case Manager, daesquibel@santafenm.gov, 955-6587)

Staff Report

Mr. Esquibel presented the staff report for the construction of a 4,431 square foot structure with 6,716 of roofed area for a fully automated car wash. He reviewed the location and property size of the 2.95 acres, zoned SC3. He noted the requests for a Special Use Permit for the district.

The Land Use Department recommends approval with the conditions of approval as outlined in the report and the technical corrections in the exhibit.

Mr. Esquibel noted one change in Table 1, Condition of Approvals would read, "A water budget and water rights transfer or water offset amount for the project shall be approved by the City Water Division prior to filing the development plan."

He noted that the applicant agreed with all of the conditions, including those listed in Exhibit A. The project should be discussed as one project and four motions would be required. To approve/deny the Special Use Permit in Case #2020-3354, subject to conditions of approval and technical corrections recommended by staff; to approve/deny the Development Plan in Case #3353 per the conditions of approval and technical corrections recommended by staff; to approve/deny the Findings of Fact and Conclusions of Law in Case #3554 shown in Exhibit B; to approve/deny Findings of Fact and Conclusions of Law in Case #3354 in Exhibit B.

Mr. Esquibel suggested the special use permit be heard first as it addresses the use of the property. The location is vacant and has been used for various special permit uses, such as tree sales, circuses, etc. The original lot was a Tract 9 under the 1984 Development Plan and was relabeled as Lot 182, as part of the subdivision adopted as part of the mall. Normally a project of this size would require a building permit, but a condition of the 1984 Development Plan required final approval by the Planning Commission. Also, the 1984 Plan restricted access directly onto Rodeo Road, which included Lot 9. The project will require 18 parking spaces and the applicant will exceed the requirement. The project does not comply with the bicycle rack requirements, but was added as an amendment. The applicant has agreed to amend the development plan to comply.

The applicant submitted a water budget. The original budget was for 5.45 acre feet, but a new budget submitted was lower at 4.06 acre feet per year. The significance is because under 5 acre-feet is not required to provide valve water rates.

The applicant has complied with all criteria in section 14-3.6(D) for the Special Use Permit and provided all findings for section 14-3.8(D) for Development Plans. An ENN was conducted on February 1 with 3 members of the public attending. One concern raised was for the prairie dog environment, but there will be no impact.

Applicant's Presentation

Jennifer Jenkins, 130 Grant Avenue, Suite 101, was sworn in. She represented Santa Fe Place Mall and the developer of the project.

She had a brief presentation. She showed the site and surrounding property. The shopping center zoned SC3, C2 zoning is across the street and residential is to the east. She pointed to the main mall building. The development plan was updated in 2019 creating the Escarpa Apartments and a parcel on the north side. In the location are other undeveloped lots, the property is currently a parking lot. There are a couple of acres of asphalt with landscaping along the perimeter of the parking lot, with planters.

The primary access was shown and will be retained. A criteria for the Special Use Permit ensures compatible use with the surroundings and the surrounding services and buildings were noted.

Ms. Jenkins showed the proposed site plan and three lanes of entry, pay stations for the automated car wash, vacuum stations and exit/entrance. The building has a small office area and restrooms. The amount of asphalt has been reduced by 60% and impervious landscaped areas was increased over 200%. The landscape plan is designed to collect the maximum amount of stormwater for passive irrigation of vegetation.

A rendering was shown from the southeast of the entry into the carwash tunnel, the stucco and stack-stoned details, and colors. The site accommodates a 24,000 square-foot building. The applicant was able to reduce the water budget after contacting the manufacturer of the equipment. Their new proposal is a custom water budget, which means it is subject to review by the Water Division and to use monitoring. If they fail to meet the numbers, and fail to correct issues, the applicant would be fined and subject to monitoring. The City shows that this type of carwash used water at 5.86 acre feet per year. The applicant's reclamation program water budget is 3.6 per year with 63% potable water reclaimed in the model of how these facilities should be run. That should be encouraged.

Ms. Jenkins explained how the reclaimed water system works. She offered to answer questions.

PUBLIC HEARING

Derrick Merchant, 13105 Dover, Lubbock, Texas was sworn in. He is the CPO of Champion Xpress and co-owner with his father and brother. They are excited about this opportunity. He said carwashes have changed over the years and the technology has vastly improved. He offered to answer any questions.

Chair Gutierrez asked how many carwashes he owns, and how many of those have a water reclamation system and is he happy with the system.

Mr. Merchant replied currently they own 19 locations and has just opened a carwash in Silver City, and plan to open two or three locations in Albuquerque. They have locations in Espanola, Gallup and Los Lunas as well. He is extremely happy with the reclaimed water system. His family takes pride in their carwashes. He noted that carwashes used to use a lot of water. A reclaimed system requires extensive training and maintenance but is important to his family.

Chair Gutierrez closed the public hearing.

Commission Discussion

Commissioner Sategna wanted to ask about the water usage. He confirmed the car wash operation will use 3.43 acre feet and an acre foot consists of 325,851 gallons. He confirmed that was where Ms. Jenkins figure of 1,118,004 for GPY, gallons per year was calculated from. He asked to clarify she was saying in terms of actual water use, only 36.8 % of the 1 million GPY will be fresh water, so, they could save 36.8% of 1 million plus gallons used a year.

Ms. Jenkins said no. She explained that the 44 gallons per year is allowing 16 gallons per car and 63% of that is reclaimed per vehicle. The net usage after the reclaimed water is 16.3 gallons per car.

Commissioner Sategna asked if the annual usage would still total over a million gallons per year.

Ms. Jenkins replied the 3.43 assumes the reclamation.

Commissioner Garcia asked to confirm initially the water budget for 4.06 acre foot per year would have required the applicant to purchase water rights.

Ms. Jenkins stated that was based on staff's opinion. The previous water budget was 4.9 and assumed 50% reclamation. The City requires a contingency and water rights, or fees. That adds a fee of 9.8% contingency to their annual water use to cover line loss, leaks, fire protection, etc. when staff reviewed the water budget they suggested the added contingency would put them over five. The applicant did research and revised their budget based on the new information.

Commissioner Garcia confirmed that was how they get to 4.6. He asked if that is similar to other car washes.

Ms. Jenkins suggested staff could speak to that better. This is her first carwash.

Mr. Esquibel suggested either Alan Hook or Patricio could supply the data.

Commissioner Garcia said it was okay. He just wanted a baseline for other carwashes. He appreciates the water reclamation.

Mr. Berke indicated since he began at the City he has only seen one carwash on Cerrillos that uses recycled water.

Chair Gutierrez asked if anyone from the Water Division had information he asked about regarding the other carwashes.

Mr. Hook responded in 2013, Speedy Shine Carwash did a reclamation system and did 44 gallons per vehicle. The reclamation system was monitored every two months for over two years. They saved up to 31 gallons and over time were saving 9.8 acre-feet. That amounted to about \$160,000 in water rights and a \$25,000 rebate and they saved about 70% on their reclamation system.

MOTION: In Case #2021-3354, 4410 Cerrillos Road Car Wash Special Use Permit, Commissioner Hogan moved to approve. Commissioner Faulkner seconded the motion.

VOTE: The motion passed by majority roll call vote with Commissioners Chavez, Clow, Faulkner, Garcia, Hogan, Lawrence, Piccarello voting in favor and Commissioner Sategna [with comment] voting against.

Commissioner Sategna said, for the record, that he could not in good conscience, approve a Special Use Permit. The second criteria of the permit states that granting the permit would not adversely affect the public interest. He thought for those who are concerned about water in Santa Fe, voting on an additional million plus gallons to surface water meets this criteria.

MOTION: In Case #2021-3353, Champion Xpress Car Wash Development Plan, Commissioner Clow moved to approve, subject to conditions of approval and technical corrections as recommended by staff. The motion was seconded by Commissioner Hogan.

VOTE: The motion passed by majority roll call vote with Commissioners Chavez, Clow, Faulkner, Garcia, Hogan, Lawrence and Piccarello voting in favor and Commissioner Sategna voting against.

Commissioner Clow noted there are two Findings of Fact and both have the same error. Paragraph #6, Findings of Fact on Case #3354, states there were no public attendees at the ENN meeting. That was incorrect and there were three members of the public present, and a concern voiced about the prairie dog environment.

Commissioner Clow indicated the same error is also on the second Finding.

Attorney Paez asked if they also should clarify it is with condition number one, as amended at the hearing by Mr. Esquibel and if they should specify that since they amended condition number one as set forth in the staff report.

Attorney Paez confirmed with Mr. Esquibel that condition #6 was amended and the correct amended language was on screen.

Chair Gutierrez was disconnected, and Vice Chair Hogan presided.

Vice Chair Hogan said a motion is on the table that includes the condition of approval #6 as stated: "The water rights transfer, water budget and water offset amount for the project shall be approved by the City Water Division prior to the filing of the development plan."

MOTION: In Case #2021-3353 and Case #2021-3354, Findings of Fact and Conclusions of Law, Commissioner Clow moved to approve both cases subject to correction of the ENN and number of public entities present and the concern about prairie dogs; and the amendment to condition #6 should read, "A water budget and water rights transfer, of the offset water amount be subject to approval by the City Water Division prior to the filing of the development plan." Commissioner Faulkner seconded the motion.

Commissioner Clow indicated her motion was only to approve the Development Plan.

There was confusion on the intent of the motion. The stenographer thought the motion made was for the Findings of Fact.

Attorney Paez agreed. She suggested the motion on the case could be explicit and incorporate staff's recommendation.

Commissioner Clow clarified her motion, and the motion was seconded by Commissioner Faulkner

VOTE: The motion passed by majority roll call vote with Commissioners Chavez, Clow, Faulkner, Garcia, Lawrence and Piccarello voting in favor, and Commissioner Sategna voting against. As acting chair, Vice Chair Hogan did not vote.

4. **Case #2021-3355. 4323 and 4319 Airport Road Casa de Todos Final Subdivision.** Liaison Planning Services, Inc., Agent, for Casa de Todos, LLC, Owner, requests final subdivision plat approval for 58 single-family residential lots located at 4323 and 4319 Airport Road. The properties are zoned R-6 (Residential- six dwelling units per acre) and total approximately 10.3 acres. (Lee Logston)

Staff Report

Mr. Logston explained this is for Casa de Todos final subdivision for 58 single-family lots. Dolores Vigil is the agent. This was before the Commission on March 4, and preliminary approval was granted. The subdivision is between Airport Road almost to Rufina Street. He reviewed the path and the new road connection on Lilac Lane to Zepol.

He reminded them the Traffic Engineer and ADA had asked that the crosswalks be configured in a safer location where the two roads pass each other. The applicant had volunteered to do site built homes and prohibit manufactured homes. That has been made a condition of approval. Also, the applicant volunteered to provide a wooden fence. Mr. Logston clarified for the record that the applicant could not be required to build the fence and had volunteered to do that during the preliminary subdivision stage. That will also be added as a condition of approval.

Mr. Logston said staff recommends approval of the final subdivision with the conditions of approval as listed and technical corrections. He offered sample motions if needed.

Applicant's Presentation

Dolores Vigil, PO Box 1835, Santa Fe with Liaison Planning Services, was sworn in. She said she had nothing further to add. The applicant received and addressed DRT comments and has agreed with all conditions.

Public Hearing

Fabian Trujillo, 1157 Vuelta de las Acequias, President of Las Acequias Neighborhood Association (LANA) was sworn in. He said the Association opposes and does not support the approval of the subdivision because the applicant will not provide a block wall. LANA felt the applicant had not lived up to his agreements during the ENN meeting. He wanted to remind the Commission again about the socio-economic loss in the area. He said 92% are minority; per capita income is \$18,309 and the unemployment is 7.4%, which is significantly lower than Santa Fe County as a whole.

Mr. Trujillo stated in addition, this was discussed a lot as an affordable housing subdivision. It is not. Only 20% of the homes are affordable (47) and the rest are market rate. The applicant will generate about \$16 million and net about 40% of that or \$6.3 to

\$7 million. So, the applicant's concern that a block wall is too expensive doesn't hold water.

Mr. Trujillo said the Las Acequias Neighborhood Association supports a block wall because it is affordable at \$3500 for a \$340,000 home; it meets the General Plan and Economic Development Plan requirements; it deters crime; and it improves equity between the north and south sides of town.

Chair Gutierrez reconnected at this time and assumed the position of Chair.

Robert Benavidez and Anita Trujillo, 1288 Chestnut Street and 4093 Chestnut Street, were sworn in.

Ms. Trujillo stated that she hoped the Commission would not pass the subdivision plat. At the last Commission meeting it was stated it had been a long night and they were ready to make the motion and move forward. She said they waited the same amount of time and felt they were unjustly not given their fair time. What should have happened is that it should have tabled to the next meeting or scheduled for a special meeting. Mr. Fabian Trujillo made a presentation. And Mr. Rodriguez in a public meeting stated he agreed to pay for this wall. She asked if the chair in the Commission could explain why they would not have him follow through. In the end it was stated that a brick wall was not necessary, and a border wall would work. A brick wall will stop a bullet, it will stop a car, it will not wear and is a better sound barrier and harder for someone to go over it. Mr. Rodriguez and the Neighborhood Association were to negotiate, and a meeting was held, and Mr. Rodriguez did not attend. Mr. Rodriguez will make millions of dollars on this at the expense and endangerment of Las Acequias. Mr. Rodriguez should be made to follow through on the agreement. The south side is made mostly of essential workers, whatever color, poorest of poor, the richest of the rich, and everybody in between.

Attorney Paez indicated two minutes were up.

Chair Gutierrez allowed Ms. Trujillo to continue but asked her to wrap it up in a couple of sentences.

Ms. Trujillo continued we all bleed the same, the walls are going up for a reason. Mr. Rodriguez I hope you will reconsider and stay a man of your word. I think it will be shameful if you don't.

Mr. Benavidez said Ms. Trujillo said it all.

Chair Gutierrez closed the public hearing.

Karl Sommer, PO Box 2476, was sworn. He said staff has done an extremely thorough job and what the Director, Mr. Berke and Mr. Logston have done is impressive. Their work has been thorough and helpful throughout the process. He said what was

done by staff has been thorough and helped us. They appreciated that and the process was made a lot clearer and allowed them to address issues directly. That saved them time and money and aggravation. He thanked all of them.

Commission Discussion

Commissioner Faulkner wanted to ask Fabian Trujillo a question on the brick wall.

Chair Gutierrez opened the public hearing for his answer.

Commissioner Faulkner asked Mr. Trujillo how he got the cost he offered for a brick wall.

Mr. Trujillo said he was told that amount when talking with Kokopelli Landscaping. They have been doing brick walls all over the County for about 20 years. He submitted the plans in the packet and walked the wall with them. They quoted \$65 a linear foot, and said a cost of \$125 a linear foot was exceedingly out of the price range for the average cost of a wall in Santa Fe.

Chair Gutierrez asked if there were other questions for the public.

Commissioner Garcia asked Mr. Trujillo how recent the conversation was and if the quote was written or verbal.

Mr. Trujillo said it was a verbal quote done when they looked at the property in February 2021, after the public hearing.

Chair Gutierrez closed the public hearing.

Commissioner Faulkner asked Mr. Sommer his estimated cost for the brick wall and how he arrived at that number.

Mr. Sommer said the \$125 a linear foot was verified through Mr. Rodriguez with a contractor he has dealt with for years. That information was provided to him by the applicant, and he verified that. He represents in his practice, at least half a dozen general contractors that do that type of work. Two are doing development work specifically for a 6 foot wall. Both contractors said \$125 a square foot was in the ballpark and roughly accurate.

Director Isaacson pointed out that nothing in the Code allowed the Commission to require a fence, let alone a brick wall. He was concerned about going too far in comparing quotes. Regardless, nothing in Chapter 14 supports asking for additional improvement.

Commissioner Faulkner asked if anything in the Code prohibits the Commission from requiring a brick wall.

Mr. Logston said nothing in Chapter 14 requires or says you cannot require. He said because the applicant volunteered to build a fence, the Commission can make those conditions if they choose. At this point the applicant has offered a fence.

Commissioner Faulkner confirmed there was nothing to support that the developer had offered a brick wall.

Mr. Logston noted this case and Agua Fina have been going on for two years. There have been numerous meetings where notes were taken. He could vouch that there was a discussion of a wall quite a bit. But he could not verify whether a wall was promised or not. He thought it fair to say that in two years the building costs have probably gone up. What might have been on the table may no longer be financially feasible. That is a question for the applicant

Mr. Berke said this is a final subdivision request and the approval criteria is outlined for the subdivision. It says they must be consistent with the approval for the preliminary subdivision request. We could also go further - under 14-2.2 requiring walls and fences is not one of the powers of the Commission. The only time we require walls and fences is when there are two different zoning districts or if Code requires it. It is not a requirement for a single-family subdivision such as this and is not adjoining two zoning districts. He wanted to point that out as clarification.

Commissioner Faulkner asked Attorney Paez if she concurred with Mr. Berke's assessment.

Attorney Paez said she doesn't see anything in the subdivision criteria that a wall or fence are required. Her recollection was that in the Agua Fina case the Commission expressly found that a wall/fence is not legally required, therefore cannot be imposed by the Commission. This decision tonight should remain consistent because she could see no basis to distinguish this case.

Commissioner Garcia said after all of the information in considering the previous subdivision, there has been a lot of discussion over this wall. Along with the information stated by Director Isaacson, condition #6 says that the applicant shall build a wooden fence. That is telling the applicant that they on condition of approval, shall build a wooden fence. With that being said, the Commission could strike that from the condition and put in wording that the applicant shall build a brick wall. He knew costs are higher and possibly in good faith the applicant could build a hybrid wall. He asked for clarification why the Commission could tell the applicant they need to build a wooden fence, but cannot require a wall.

Commissioner Clow explained the Commission is limited to requirements allowed by the ordinance. There is no requirement for a fence or a wall in this situation. There have been situations where the neighborhood and the developer reached compromises and agreements. In this case a compromise was reached where the developer willingly

agreed to build a Japanese cedar fence. The Commission can accept that agreement. Just as the Commission accepted the fact that they would not build manufactured homes, as a compromise to the neighborhood. Which they legally have the right to do. We can only agree because the applicant agreed to those compromises.

She thought without that compromise the Commission does not have the ability to require that. With the manufactured homes the Commission would have been violating federal law. And if we required them to build the fence when they didn't agree, the Commission would basically be taking their property. In other words, making them spend money on something the Commission has no right to make them spend. Because of the agreement it can be made as a condition. It is beneficial for the applicant and the neighborhood to try to live harmoniously and compromise and enter agreements. She appreciated the compromises and agreements that were done in this case.

Commissioner Garcia responded if the neighbors in Las Acequias didn't accept this compromise, even though they developer accepted it, there is no compromise. It is still a condition of approval and we are specifying a Japanese cedar fence. On the other hand, if the Commission has an issue because the developer hasn't fully compromised by building a brick wall, the Commission could vote against this.

Attorney Paez thought Mr. Logston included this condition in his staff recommendation because it is the subdivision adjacent Las Acequias. They will be surrounded by continuous new developments. The Commission, at the Agua Fina hearing, made findings that the applicant volunteered to construct a Japanese cedar fence along the eastern border of the project, in response to the neighbors' request for a wall between the existing LANA neighborhood and the new subdivision. Construction of a cedar fence will be significantly cheaper than construction of a cinderblock wall. That results in less cost for the developer and will be passed on those who purchase homes in the project.

The relevant conclusions are that the Japanese cedar fence is not required by law. The construction of the fence should be added as an additional condition of approval because the applicant has agreed to construct a fence in response to requests from neighboring residents.

Attorney Paez said the Commission should be consistent in their decisions and apply the Code consistently. Even though these are separate applications these are the same facts and body of information.

MOTION: In Case #2021-3355. 4323 and 4319 Airport Road Casa de Todos Final Subdivision, Commissioner Clow moved to approve the final subdivision plat subject to the conditions of approval and technical corrections recommended by staff. The motion was seconded by Commissioner Piccarello.

VOTE: The motion passed by majority roll call vote with Commissioners Chavez, Clow, Faulkner, Hogan, Lawrence and Piccarello voting in favor and Commissioners Garcia and Sategna voting against.

Commissioner Faulkner explained she voted for this because it is a barrier of some kind. She thought the wall was not going to happen and at least it is a fence as a barrier that would not be there otherwise.

Commissioner Garcia said he realizes the developer had agreed to a wooden fence, but he was hopeful he would make a classy barrier and work with the neighbors. That is why he voted no.

Commissioner Sategna said for the record, his vote against was based on his vote against on the preliminary subdivision plat. His comments made at that time led to this vote. He wanted to acknowledge for the record, although he had concerns about connectivity and poor planning, that many of the conversations happened over two years ago with staff who are no longer present.

Commissioner Piccarello said it is important to remember that cost ultimately gets passed on to the new residents. Those residents will become a part of this community. And it is important to consider that the developer is taking on more cost already.

MOTION: In Case #2021-3355. 4323 and 4319 Airport Road Casa de Todos Findings of Fact and Conclusions of Law, Commissioner Clow moved to approve. The motion was seconded by Commissioner Piccarello.

VOTE: The motion passed by majority roll call vote with Commissioners Chavez, Clow, Faulkner, Hogan, Lawrence and Piccarello voting in favor and Commissioners Garcia and Sategna voting against.

J. STAFF COMMUNICATIONS

Director Isaacson indicated he will present to the Quality of Life Committee on May 19. He offered to make the same presentation to the Commission at the June 3 meeting.

Mr. Berke reported that the budget was passed for the Land Use Department and for the City as a whole, as presented. Desperately needed staff will be added to the department.

Mr. Berke said also, staff member Carlos Gemora will be leaving Santa Fe and moving to Albuquerque. He thought his last day would be at the end of the month and they will probably advertise for a senior planning position at that time.

He said he wanted to publicly thank Carlos for his service and great work he has done with the Department. He will be very missed, and he is wished the best in his new endeavors.

K. MATTERS FROM THE COMMISSION

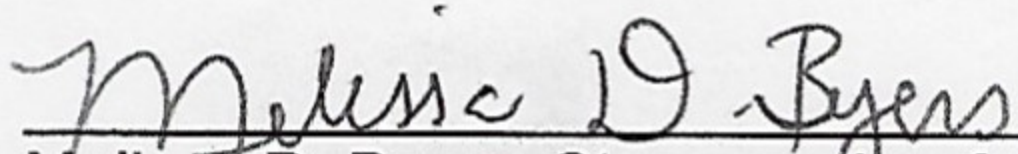
Commissioner Faulkner said the Policy Committee met two Mondays ago and established an administrative process to follow. They will identify priorities for policies at the next meeting for the subcommittee to address. Those will be presented to the Commission for consideration. One idea is to select a priority from those submitted by the Commissioners. She hoped to report in June. She noted it may be necessary to meet twice a month to address policy in order to affect change and support staff in their initiatives.

Chair Gutierrez said he is excited about the subcommittee and their work and wished them the best.

L. ADJOURNMENT

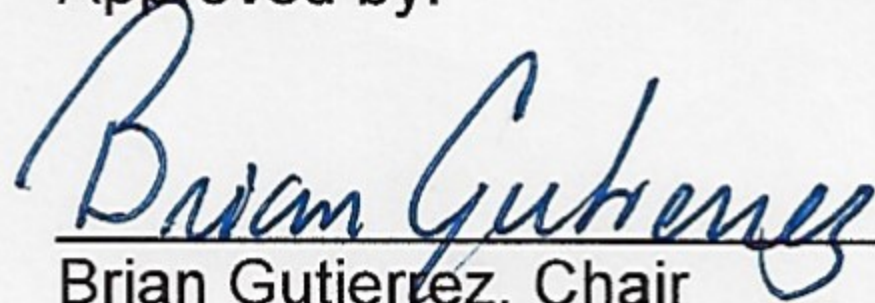
Chair Gutierrez adjourned the meeting at 8:07 pm.

Submitted by:



Melissa D. Byers, Stenographer for
Byers Organizational Support Services

Approved by:



Brian Gutierrez, Chair