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PLANNING COMMISSION MINUTES
AUGUST 5, 2021**

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MINUTES OF THE CITY OF SANTA FE PLANNING COMMISSION
Thursday, August 5, 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 Janet Clow, Secretary
Commissioner Pilar Faulkner (left at 7:43 pm)
Commissioner Jessica Lawrence
Commissioner Lee Garcia
Commissioner Dominic Sategna

Members Absent

Commissioner Mark Hogan, Vice Chair (excused)
Two vacancies

Others Present:

Mr. Jason Kluck, Interim 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

Commissioner Faulkner led the pledge of allegiance.

C. APPROVAL OF AGENDA

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

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

D. APPROVAL OF MINUTES

1. July 1, 2021

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

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

E. APPROVAL OF FINDINGS/CONCLUSIONS

None

F. OLD BUSINESS

None

G. NEW BUSINESS

1. **Policy Subcommittee recommendations for Cannabis Legislation.**

Commissioner Faulkner thanked staff and fellow Subcommittee members for their work. She believes they have something workable. The full report is attached as Exhibit "1".

REPORT

In the 2021 Special Session, the New Mexico Legislature adopted the Cannabis Regulation Act (House Bill 2), which legalized recreational cannabis use by adults twenty-one (21) years old and over. The Act, which took effect on June 29, 2021, allows local jurisdictions to adopt zoning and land use regulations but limits the extent of local

regulatory authority. The Policy Subcommittee requested input from the full Planning Commission on their recommendations. Following input from the Planning Commission, the Policy Subcommittee will work with Staff to incorporate the recommendations into draft amendments to the Land Development Code, as set forth in Chapter 14 of the Santa Fe City Code. The resulting legislation will require review at public hearings before the Planning Commission and Governing Body before adoption.

RECOMMENDATIONS

Mr. Berke referred to his memo of the State's outline of what the City and the Commission could and could not do.

He reviewed the Policy Subcommittee recommendations:

- The adoption of a minimum distance between commercial retail establishments, as measured from the property lines of a parcel, to avoid the potential negative consequences that might result from concentrating retail establishments. They recommend a uniform minimum distance across the city to promote equitable requirements in all areas of town and for ease of enforcement.
- Limiting commercial retail establishments to operating hours of 7 AM – 12 AM (midnight). This would be consistent with what Santa Fe County has adopted.
- Cannabis establishments should be located no closer than 300 feet from a school or daycare center. The Policy Subcommittee does not recommend a minimum distance from religious institutions or residentially zoned districts. The Policy Subcommittee notes that existing provisions in Chapter 14 require up to an 8 foot wall and a 15 foot landscape buffer between commercial uses and residentially zoned districts, which appear sufficient to address potential residential concerns about noise and odor. To further protect residential neighborhoods, the Policy Subcommittee also recommends prohibiting home occupations that involve commercial cannabis activities, which would be consistent with what Santa Fe County has adopted.
- A Special Use Permit should be required for all outdoor commercial growing operations; all large growing operations (22,000 sq. ft. of canopy or more); and all growing operations in C-2 and BIP districts.
- The City should adopt regulations to allow recreational cannabis consumption areas, but not as part of the initial legislation currently under way. The Policy Subcommittee recommends that consumption areas should be prohibited until the City has had an opportunity to conduct further study and obtain additional input from the community and stakeholders.

- Various types of cannabis establishments should be added to the Table of Permitted Uses.
- Regarding safety and security, House Bill 2 requires the Cannabis Control Division of the New Mexico Regulation and Licensing Department to adopt regulations to address security requirements, and comprehensive draft regulations have been published for comment. The Policy Subcommittee intends to review the regulations when they have been promulgated and made available to the public to ensure they are appropriate for the City of Santa Fe. The Policy Subcommittee intends to propose additional legislation if any gaps are identified.
- Regarding odor and ventilation, the Policy Subcommittee notes that existing building and fire codes and the City's nuisance ordinance likely address most of the concerns about preventing nuisance odors and ensuring safe, well-ventilated operations. The Policy Subcommittee recommends adding some general language to Chapter 14 to further address these issues, based on provisions that have been adopted by the City of Albuquerque and the County of Santa Fe.
- The Policy Subcommittee recommends that the City continue to issue media releases to alert the public to additional opportunities to provide input at upcoming Planning Commission and Governing Body meetings. Additional public input will also be sought for the regulations for cannabis consumption areas.
- The definitions in Chapter 14 should be consistent with State and County definitions, as customized to describe various types of land uses.

PUBLIC HEARING

There were no public comments.

COMMISSION DISCUSSION

Chair Gutierrez thanked the Subcommittee for their hard work.

Commissioner Garcia asked about the timeframe for the sale of cannabis. He asked if, like alcohol sales, sales on Sundays had to be after 12 p.m.

Commissioner Faulkner explained the State recently changed the alcohol sales laws. The Subcommittee followed some of the alcohol sales laws, but Sundays was not discussed.

Attorney Paez confirmed the State changed law concerning alcohol sales on Sundays.

Commissioner Garcia asked how the dispensing of recreational marijuana works within the guidelines to dispense medical marijuana.

Attorney Paez said medical retail is treated as pharmacies and apothecaries. They have a broader permit area use than recreational cannabis sales.

Commissioner Faulkner said she had one concern after talking with the State Licensing and Regulations Division superintendent. He told her all medical facilities licenses come due by the 31st of August. They can open a commercial facility and with their new license split their commercial and medical consumption. She thought until the State addresses the regulations around consumption and retail, they will not be able to do a lot.

Attorney Paez agreed. Under State law the City needs to grandfather them and anyone newly entering the commercial or retail that wants to do both medical and recreational, will have to comply with the new retail use being established.

Commissioner Garcia asked how a current grandfathered location outside the parameters of the recommendations would be handled if it becomes noncompliant.

Attorney Paez explained a facility that is currently licensed would be a legal nonconforming use and is allowed to continue but could not expand. They cannot be made to relocate either.

Commissioner Faulkner said the State is not clear if a medical facility that only does consumption, can expand into retail, production and/or manufacturing. Their current license allows them to expand outside that location per the State license. She didn't think there was a lot the City could do because they are grandfathered in. She said we cannot prohibit them from doing business.

Director Kluck suggested the illustrations of the buffer zones, etc. be shown.

Chair Gutierrez asked if there are existing facilities within 300 feet of anything recommended to be prohibited.

Mr. Berke said he wasn't sure, but if so, they will be grandfathered. He noted the map with the zones and explain the focus is to show distances between property lines and density to determine the limitations for the City.

Chair Gutierrez asked if the 300 feet recommendation went forward would that limit the areas in red.

Attorney Paez said yes. They want to determine whether to have minimum distances between establishments and if so, what the distance should be. The red area shows within 300 feet.

Commissioner Garcia said he could see the majority of where the medical are within the same location. His other concern is that new businesses will target the areas where the current medical facilities are that have more traffic and easy access

Chair Gutierrez asked if the buffer zone could propose keeping the existing medical facilities 300 feet away.

Attorney Paez said the current recommendations do not include that. The existing medical facilities will likely serve both and expand into commercial. Depending on the buffer zone established around the existing retail establishments, which could preclude new ones coming in.

Chair Gutierrez suggested they look at including the existing to avoid overlap.

Mr. Berke referred to the downtown location on the map. He noted requests are pending for retail establishments. He said it is important to understand the recommendation determined as a distance should not monopolize a retail area and should provide a market for economic development. The Commission should consider each of the distances downtown; the number of properties, addresses that would be affected and disqualified at each distance.

Commissioner Clow said there was concern where new businesses would open, especially downtown, and makes sense to have a buffer. Albuquerque has 600 feet between businesses, and a one-year moratorium on retail businesses in Old Town. They were concerned the character and current economics would change in Old Town. The County did 200 feet instead of 600, because they don't have as much commercial space. It makes sense to have limits and why the subcommittee recommended a range between 300 and 600 feet and to get public and City Council input.

Chair Gutierrez asked if the Commissioners had discussed a moratorium in the Plaza area.

Commissioner Clow said she mentioned that, but others in the subcommittee didn't like that idea. After listening to the other members, she was convinced if they buffer the density they could reach the goal and not change the character of downtown.

Commissioner Faulkner added that the members felt strongly the challenge is to balance the density buffers in all districts. They want to avoid making the buffer downtown so large that it pushes cannabis into the rest of the city. It should be uniform throughout and in alignment with the State. The State legislation intent is to avoid clustering cannabis in the cities and to be uniformly spread out. If the Policy Committee recommendations are followed, the buffer determined for downtown, will be the same throughout the city.

Chair Gutierrez asked Commissioner Faulkner to bring up the discussion in the

subcommittee about a buffer zone for already established medical facilities.

Commissioner Sategna said the map demonstrates that Santa Fe is unique, and it doesn't have a lot of places where new retail can be, like Albuquerque. Also, Santa Fe not only has density downtown that is distinct, but the denseness of the buildings within that space is unique. He noted that a 600-foot buffer would eliminate another establishment and while it might protect the downtown area, they should consider whether it is equitable to other businesses that want to go into the area. They should ask if 600 feet is too restrictive, given the density and available retail space.

He said the majority of the Policy Committee did not believe that one district should be treated any differently than any other. Staff also agreed that is consistent with New Mexico law.

Attorney Paez said she does have concerns about a moratorium and the City Attorney's Office is not inclined to recommend that. State law emphasizes entry into this new economy and a need to foster smaller, local businesses as well as equity. In addition, the City cannot do anything that would prohibit a licensee from operating.

Commissioner Faulkner said she tracked the hearings at the Legislature on cannabis. There is a definite benefit to have cannabis in areas of town with the highest number of tourists. And there are unintended consequences, including that it is better to have people who buy cannabis when the GRT is from out-of-state. That offsets the cost of cannabis by boosting areas of town that will have the most traffic for buyers. However, if you're not careful, you risk overwhelming some city traditions and values.

She contacted the land-use departments in several cities like Los Angeles, Boulder, Denver, Las Vegas, etc. Cannabis can overwhelm the downtown area and they have to strike a balance of high traffic, but not overwhelming. The challenge is getting the benefits without losing the traditional Santa Fe they want to protect.

Chair Gutierrez asked Mr. Berke about the special use permits for locations indoors and whether that includes I-1 and I-2 in the memo.

Mr. Berke said that was the intent to include I-1 and I-2.

Being that there were no public comments, Chair Gutierrez closed the public hearing at this time.

Commissioner Faulkner said the Policy Committee would appreciate the Commission's feedback regarding the 300-600 foot range. She will work with staff to ensure the public is aware they could provide input through the Planning Commission, so they have more community feedback.

Chair Gutierrez asked that Commissioners forward their comments to Mr. Berke to forward to the subcommittee.

Commissioner Sategna noted they might have noticed under Growing, that many of the various categories are permitted in the same areas. He thought it important to point out they are placeholders and why they were created. He explained the State defines by numbers of plants. That doesn't necessarily include the size of the growing operation and 200 plants can be grown in a 20 square foot greenhouse or an entire acre. The Planning Commission deals with the built environment and square footage is very important and why they have the various sizes, extra small, small, medium, and large. It is based on canopy size with indoors based on the lighting canopy and outside on the growing canopy. They may need to make modifications to limit the micro businesses because it is only based on 200 plants.

2. **Case #2021-3809. Southside Teen Center Development Plan.** Wilson & Company, Agent for the City of Santa Fe, owner, requests final development plan approval for construction of a new teen center to be located at the southwest corner of Valentine Way and Country Club Road, approximately 500 feet north of Jaguar Drive. The teen center will comprise a building of 17,188 sq. ft. to be constructed and operated by the City of Santa Fe, along with on-site parking and open space area(s). The property is located within the Tierra Contenta Master Plan Area Phase 1A, as Tract 11, zoned PRC (Planned Residential Community) and is approximately 1.81 acre in size. (John Neunuebel, Case Manager)

STAFF REPORT

The proposed Southside Teen Center development plan will provide for the construction of a 17,188 sq. ft.-building to be utilized as a teen center operated by the City of Santa Fe, along with on-site parking and open space area(s). The subject 1.8 acre project site is located on a larger City-owned, 4.5-acre parcel within the Tierra Contenta Master Plan area located at 6600 Valentine Way. Other nearby public facilities include the City's Southside Public Library located to the east (east side of Country Club Road), the Santa Fe Family YMCA located to the west, and the Boys and Girls Club is located to the south. The Family Advocacy Center, a social services provider, is located to the north (north side of Valentine Way).

STAFF RECOMMENDATION

The proposed Southside Teen Center Development Plan meets all applicable development standards and will not create non-conformities with either Chapter 14 Land Development or the Tierra Contenta Master Plan; therefore, staff are recommending APPROVAL, subject to conditions of approval and technical corrections outlined in this report.

APPLICANT'S PRESENTATION

Brett Beaty, 4512 Jupiter St. NW., Albuquerque, was sworn in. He said this is an important project for the City of Santa Fe. He showed the site plan and described the location of the property. The proposed plan is on the corner with residential neighborhoods surrounding them and it fronts the street. There is no abrupt change of elevation, and the parking is shielded in the back. The play area is protected and there is potential for future additional parking. There are pedestrian connections to the library and adjoining neighborhoods. The purpose of the facility is primarily for teenagers between nine and 14 years who mostly walk, bike, or are dropped off. There is a main control desk, because of the importance of knowing who comes and leaves. He described various rooms of the floor plan. The elevation plans were shown and renderings of how massing would be reduced. The building is primarily stucco with ceramic tile with some translucent panels to give light to the interior. Views were shown of the courtyard, stage, kitchen and gymnasium areas. One change since the renderings is they have canopies with photovoltaics to reduce the heat and generate electricity. They hope to have the building LEED Certified, so the parking lot will be shaded and covered.

PUBLIC HEARING

Elena Gonzales, 20 Rael Lane, was sworn in. She is a youth leader from Earth Care and Yucca (Youth United for Climate Crisis Action). She said they are very excited about the teen center, and they have engaged parents and peers in learning about the teen center. They held planning meetings, attended the public neighborhood meetings, and met with their area City Councilor and the Mayor's Youth Advisory Board. The youth of the community, especially the Southside community, are ready to lead the process. They want to be sure they have a seat at the table. They are from the area and have a stake not only in this project, but all projects proposed for their community. She referred to a presentation they created from the input they gathered that has been given to Mr. Berke. The presentation includes a slideshow, a video and a report conducted with extensive community engagement. The Power Point presentation is attached as Exhibit "1".

Ms. Gonzales shared a few slides. She said Mr. Berke could share the folder with the complete presentation with the Commission. Included are important recommendations on things inside the building, accessibility, overall safety, and leadership, including staff and governance and decision making at the teen center. She asked that the teen steering committee be allowed a seat at the table to have a strong leading voice, and that their recommendations, from many people in the community, be included in the process.

Gabe Romero, 2195 West Zia Road was sworn in. He said he was curious whether there has been discussion about the charter school that had identified this location for their school. They have an application in to become a district charter school in Santa Fe.

Chair Gutierrez closed the public hearing.

COMMISSION DISCUSSION

Commissioner Faulkner said this has been a dream for the people in Tierra Contenta for the last 15 to 20 years. It is vital for the community and this facility would definitely help the at-risk populations. She said it is exciting to see the teen center going in and has been a long road to get to this point. She commended the young people who are helping and believed it important they have a voice at the table and stay involved. She urged the Commissioners to support the project.

Commissioner Garcia said he would echo Commissioner Faulkner. It is very much needed. He gave kudos to Ms. Gonzales and the youth helping to get this through and hoped their ideas can become a part of the project.

Commissioner Garcia said looking at the use on the site plan, he wondered other than the indoor weight room and gymnasium, if there would be things like a skate park, outside.

Sam Burnett, 131 Sam Street, was sworn in. Mr. Burnett is the City of Santa Fe representative for this project. He explained the project is broken into two phases. Phase 1 is focused on the building and surrounding landscape. Phase 2 will include expansion of the landscape and they will engage the community in the planning. The current plan does not include everything Earth Care presented but there is room for community input in the additional phase.

Commissioner Garcia said he read that the limited parking spaces are largely because of walkability and kids who ride their bikes. He asked Mr. Burnett to elaborate on the additional parking and when that will be added.

Mr. Beaty responded. There are a couple of reasons for reduced parking, and one is they anticipate parents will drop off their kids. There is a potential for more parking. They are also trying to meet the City's reduced parking regulations and LEED requirements. He said it is possible the additional parking spaces might be better used for outside activities. There will be a balance of needs moving forward.

Commissioner Garcia said the reality is people will still be coming to the park. He asked if other community members would be allowed use of the facility.

Mr. Beaty said he couldn't answer that, but the City and City staff will manage it.

Mr. Burnett thought use of the facility would be open to the community with an emphasis on the neighborhood youth. The programming and management of use is through the Recreation Division and still in process. He said they have discussed incorporating the entire community throughout the planning and design process.

Mr. Neunuebel added that the term “reduction in parking” is probably not applicable. The City standards for this kind of recreation is not specific to the number of spaces per square footage of building, it is open-ended. That allows them to determine the appropriate standard.

Commissioner Garcia said parking can be a major issue when many people want to use this. He hoped that they spend an adequate amount of time to address the parking to avoid having too many issues. His other concerns are adequate staffing and good governance and operation. He said kudos to everyone, this will be well received.

Chair Gutierrez suggested to Mr. Burnett that it might be worthwhile to look at base course and grading for makeshift parking. He thought this is wonderful for the Southside and is excited this is happening. One thing he sees with facilities of this nature is that they are used at the same time, after school and weekends. It might be worth considering pickleball for the elderly in the daytime. Lastly, since it has a kitchen, it would be wonderful for the Southside if it had a catering kitchen that could be rented out.

Commissioner Sategna said he wanted to acknowledge the effort to make this a LEED Certified building. He also wanted to acknowledge Elena Gonzales for being a youth that is advocating for other youth.

MOTION: In Case #2021-3809, Southside Teen Center Development Plan, Commissioner Sategna moved to approve, subject to the conditions of approval and technical corrections recommended by staff; and to approve the Findings of Fact and Conclusions of Law as presented. The motion was seconded by Commissioner Faulkner.

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

Commissioner Faulkner excused herself from the meeting at 7:43 p.m.

3. **Case #2021-3804. Villa Sendero Development Plan Amendment for Phase II.** Dekker/Perich/Sabatini - Will Gleason, Agent, for Villa Sendero, LLC, CSM Properties, LTD, Owner, requests approval of a Development Plan Amendment. The Applicant requests approval of Phase II of the project to include 24 additional multi-family units on a parcel, approximately 1-acre in size, to the southwest of the subject property, directly south of the Fashion Outlets of Santa Fe. The Amendment to Phase II also includes a fitness building, to replace an apartment building in Phase I, resulting in a net gain of 6 units to the Villa Sendero project to 258 units and minor changes to a drive aisle and multi-use trail. The property is approximately

11.4 acres, zoned C-2 (General Commercial) and is located at 5132 Beckner Road. (Donna Wynant, AICP, Case Manager)

STAFF REPORT

The Villa Sendero apartment development (Case # 2019-1330) was approved by the Planning Commission on January 23, 2020 for a 252-unit multi-family apartment community. The development is currently under construction on an 11.4-acre site located at 5132 Beckner Road. The applicant, Villa Sendero, LLC, is now requesting an amendment to the Villa Sendero Development Plan for Phase II of the project that includes the addition of an approximately 1-acre parcel to the southwest of the subject property, located directly south of the Fashion Outlets of Santa Fe, totaling approximately 12.4 acres. The additional parcel will facilitate the construction of 24 additional units of multi-family housing, comprised in a single 3-story building. In addition, within the original parcel, a fitness building will be replacing an 18-unit apartment building. These changes amount to a net gain of six units to the Villa Sendero project to total 258 units. Other minor changes include the drive aisle extending to the adjacent 1-acre parcel as well as the multi-use trail moving to the south edge of this road. The overall site and surrounding area is zoned C-2 (General Commercial). Multi-family residential development is a permissible use in the C-2 district.

The Applicant has indicated, at the time this application was submitted, that the additional 1-acre parcel is owned by CSM Properties, LTD and is under contract to be purchased by Villa Sendero, LLC. When the purchase is complete, the Applicant will submit a lot line adjustment to fully incorporate the 1-acre parcel into the Villa Sendero development.

The proposed development plan requires Planning Commission approval as it will be new construction exceeding 10,000 square feet per Subsection 14-3.8(B)(3)(b). The additional 1-acre site will add 26,499 square feet and with Phase I, will total 257,621 square feet of new construction.

Subsection 14-3.19(D)(1) states that development plan amendments *“shall be the same as those that apply to a new application for the type of approval proposed for amendment, unless a specific alternative procedure is provided in this section or elsewhere in Chapter 14.”* The Commission’s review of this development plan amendment will therefore focus on compatibility with surrounding uses and consistency with applicable site design standards.

STAFF RECOMMENDATION

Staff’s analysis finds that the applicant has addressed the necessary findings per Subsection 14-3.8(D) “Approval Criteria and Conditions” and recommends **APPROVAL** subject to conditions of approval and technical corrections identified in the staff report.

Ms. Wynant noted she met with the Fire Marshall and applicant to evaluate fire access. The applicant will discuss that. She indicated the third condition in the report should read: *"Shall comply with section (D)106 Multifamily Residential Developments, with the remoteness provision"* - and added at the request of the fire marshal is: *"and/or third emergency fire apparatus access road to meet the intent of the international fire code."*

APPLICANT'S PRESENTATION

Will Gleason, 7601 Jefferson Drive, NE., Albuquerque, was sworn. He said they are requesting a small addition to add 24 units to the approved existing 252 units. The site under construction is off Beckner Road next to the Outlet Mall. He pointed out the location of the project and that Phase II is outlined in red. The proposal would create a fitness center and remove 18 of the units already approved. Instead, they want to build 24 units in a different location, a net of six additional units overall. There is plenty of parking and the trail is moved slightly, but otherwise is as approved last year.

He displayed the footprint of the additional six units noting they are the same configuration as the others. He pointed out interior courtyards, parking areas, dog park, pool area/community building and the proposed fitness building. He said this meets the City's affordable housing criteria and the applicant will pay a fee in lieu of. The first two buildings are scheduled for completion this summer with final completion midyear 2022.

Mr. Gleason noted the three conditions of approval. The first is to provide bike racks, which was planned and has been done. The second is to extend the link to the trail. This requires the NMDOT to allow access to cross their land. The applicant is willing to work with DOT, but he thought they may be more amenable if the alignment is further south. This condition is not up to the applicant. They request this not be a condition of approval as the applicant is not sure that access can be obtained. The third condition they focused on the most. The remoteness provision was adopted by the City in 2019 and requires a certain distance between the two access points to the site. Code language says placement shall be not less than one half the length of the maximum overall diagonal dimension of the property. He displayed the two access points and explained how the distance is determined. The most obvious would be a connection through the mall parking lot. The owner pursued many alternatives, including contacting the mall owner for access through the mall parking lot and offering a substantial compensation. He has not been successful.

Mr. Gleason reviewed the potential solutions. One would create a point of access, but the applicant has no control over access to the roundabout. That requires negotiations with Presbyterian, the property owner. There is no guarantee cross access will be allowed. Another solution is to create access along the PNM easement. He added that this property had been approved under the prior Code, and this is a minor addition of less than 10% of the project. He suggested the Commission waive the provision.

PUBLIC HEARING

Chair Gutierrez asked for public comment. There was none.

COMMISSION DISCUSSION

Commissioner Sategna said he was trying to understand the new development as compared to the existing development. He asked if considered was the impact to the freeway or outlet mall in terms of how the new three-story buildings impact the horizon line.

Mr. Gleason said he did not have renderings to illustrate that, but the topography there is fairly level. He noted a rendering that shows the perspective of the addition in relation to the mall. He agreed it will be visible from I-25.

Commissioner Sategna said his concern is the I-25 viewscape. He asked if the elevation of the building is significantly lower or higher compared to the other apartments.

Mr. Gleason thought it approximately the same, and the impact comparable to elevations already approved.

Commissioner Sategna thought the existing development appeared to sit lower than the corner piece.

Mr. Gleason said from his perspective it didn't seem significantly different. He offered to try to pull up the topography drawing.

Mr. Berke stated that only the Fire Chief could waive the International Fire Code adopted by the City. Mr. Gleason cannot ask the Commission to do that. But the Commission could postpone for the applicant to work with the Fire Marshal. He noted that Geronimo Griego, the Fire Marshal, was present and could answer questions.

Mr. Gleason said they are working with the Fire Marshal to resolve this.

Eric Cornelius, 1599 S. St. Francis Drive, was sworn in. He responded to the question on building heights. He noted I-25 sits south of the property and is about 8 to 10 feet higher than the portion to be approved. The finished floor elevations of the existing approved buildings sit 1-3 feet of the proposed building. He indicated the four elevations, relative to the interstate, will be comparable to the others already approved. They will be lower and not much different than what had been already approved.

Commissioner Sategna said that answered his question.

Commissioner Garcia followed up on Commissioner Sategna's concerns. He thought the new development would block the view coming off I-25 to the south. They approved three-story buildings in phase one, but this addition looks awkward.

Chair Gutierrez closed the public hearing portion.

Commissioner Lawrence asked if someone from Land Use or MPO could answer what to expect regarding the access for the trail connection.

Mr. Berke indicated MPO had been invited to the meeting. He was surprised they were not present and offered to try to contact them.

Commissioner Lawrence asked Mr. Berke what will happen if this condition is approved but turns out to be impossible.

Mr. Berke said the MPO went off their master trails and it would be okay if this connection isn't made. They could pursue a connection in the future if the applicant agrees to an easement through their property for a future bike lane.

Commissioner Lawrence asked Mr. Gleason if he was amenable to that.

Mr. Gleason said the owner was present and he thought he would be amenable.

Mark Tekin, 2600 Dallas Pkwy., Frisco, Texas, was sworn in. He said they would be happy to provide easements for future planning. He said apparently NMDOT is holding the land for future construction projects, but he was more than happy to comply. In addition, he would be happy to comply with the fire issue, the intent and the Code. Even if that means a third access or working with Presbyterian Hospital.

Commissioner Garcia asked if the intent of the second phase was for a fitness room and additional units.

Mr. Tekin explained the reason for the amendment was originally this was designed with a ratio that exceeded the requirements of the Parking Code. They do not build to sell; they build to keep good communities. Parking is the first thing that becomes a problem, and it is a hard problem to fix. Buying an adjoining parcel and relocating the 18 units was assurance. Six units were added but they were able to exceed the parking requirements and they believe they will need that. They think everyone who will live here will have a car. In doing that, they also thought they made the community building too small. So, they relocated the gym and repurposing that space made sense. They are more concerned with the experience of the residents and want this to function long-term.

Commissioner Garcia thought the issues with regard to the Fire Code could be worked out. The building height isn't really a factor, but he thought it somewhat tall for the area. If that wasn't a concern with anyone, they could move forward.

Commissioner Lawrence asked Eric Aune with the MPO, to explain how the condition came about to connect the trail to the Diamond Trail crossing the NMDOT property.

Mr. Aune said looking at the proximity of the Diamond Trail they thought it would be fair to have that connection. He asked to clarify the issue.

Commissioner Lawrence explained as she understood, the applicant could have an easement from their property but the connection to the Diamond would be on DOT property.

Mr. Gleason responded that was correct. The property to the south of the site is NMDOT surplus land. He added that Mark Tekin would love to have that connection, but NMDOT wants the land for other purposes and would have to agree.

Mr. Aune said the connection would be practicable and is what they recommend but if it isn't possible they understand.

Commissioner Sategna asked Mr. Cornelius if correct that the elevation of this project is higher than that of the Outlet Mall.

Mr. Cornelius said everything is higher than the Mall because the site was cut down and everything is in a hole.

Commissioner Sategna said this property appears 7 to 10 feet higher than the Outlet Mall.

Mr. Cornelius said it is at that location. Their intent was to avoid a massive amount of earthwork and to work with the existing terrain as much as possible.

Commissioner Sategna expressed concerns about putting a three-story building on that corner, specifically, the setback with the freeway is a big gap. The first phase of the project, the buildings in addition to the parking lot, creates an additional setback on top of the one already there. If approved, this would be a three-story building that sits up against where the freeway wraps and exits to Cerrillos. Being 10 feet above the Outlet Mall is a concern. He wasn't sure he could support this with the impact it would have to the viewscape coming into the City.

Commissioner Garcia agreed. He thought possibly the solution was to reduce the building to a two-story or another design to make it appear further stepped back. He wasn't sure he could support this height.

Commissioner Clow said this isn't a view corridor and the zoning allows three-story, and the setbacks are to Code. She asked staff if there were grounds to deny the project.

Mr. Berke explained the Planning Commission has the right to impose conditions in density and to grant up to a certain height. A highway corridor study was done in 1999 that identified parcels along I-25 but was never adopted. He said this was discussed in the Zia Station conversation, that while it is a right to have up to 45 feet in height, which doesn't mean the Commission has to grant that. They should correlate how this is an inappropriate height in the approval criteria.

Commissioner Clow confirmed they would have to have reasons to show it does not meet criteria. Her concern was they allowed a three-story on St. Francis and Zia, which was in the view corridor because of affordable housing. She thought this project even less intrusive.

Mr. Berke noted that the applicant is paying a fee in lieu.

Commissioner Clow said she understood, but there is a need for housing in Santa Fe and the more supply, the more the prices hopefully go down. She said she wanted to hear the criteria that allows the Commission to deny the third story.

Chair Gutierrez thought the application needed work. He wanted the fire issue solidified before this moves forward. Also, he would hate for this to go to a vote and be denied if the project may be going to a lower elevation, opposed to working through this.

Commissioner Sategna said yes, they have approved other three-story buildings along the freeway. This is unique because there is a significant decline in elevation as you move along the freeway north and a lot of these buildings sit lower. He pointed out the Outlet Mall is about 10 feet difference in the elevation of the freeway and where this is being built. That is a significant difference in what they have approved in the past.

He said Criteria Number 2 states that the project will not negatively affect public interest. To impact the view coming into the City is a concern. Secondly, Criteria Number 3 is the use of any associated buildings is adaptable and compatible with buildings, structures and uses of properties in the vicinity under consideration. He thought "associated structures" includes the freeway. The Outlet Mall sits 10 feet below this and the building would definitely be towering over the Mall. That was enough for the Commission to consider whether criteria number three would be met.

Mr. Tekin shared his screen showing a photograph of the street view. He said they talked about a grade offense, but this site was already approved where there are three-story buildings. The grade of the new site is not much different. He offered to do more homework but appreciated that Commissioner Sategna shared the three criteria points. He said the one that stood out is the view. Obviously northbound, there isn't much impact.

But going southbound, the majority of the views have already been approved with three stories. He asked Commissioner Sategna to elaborate on which view would be blocked that wasn't already blocked or if he was missing something.

Commissioner Sategna said he didn't know that the images provided supported Mr. Tekin's case. One thing he invited the Commission to consider is the setbacks. There can be three-story buildings next to a major highway corridor, but where they were previously approved are setback further. What is proposed is pushing right up to the corner of a major entrance into Santa Fe. The Outlet buildings are not three-stories, and he is using elevations of 7-10 feet listed on the drawings. That is one story higher than next to the Outlet Mall and another story would be added to that on a major entryway into Santa Fe.

He said this is different because of setbacks and the Commission has to consider those when considering height. The setbacks in those previously preapproved three-story buildings are more significant than where this building is located.

Commissioner Garcia asked the net additional units that will be added.

Mr. Tekin said six units would be added.

Commissioner Garcia wasn't sure if the benefit of the six units outweighs the visual elevation of concern.

Commissioner Lawrence said she generally doesn't feel three stories is unreasonable in this context that would add more housing that is desperately needed. This is already in a mixed-use area surrounded by other mixed use development. The Commission has to be open to having some height in order to have housing that conserves water and is reasonably affordable and allows more people to live in Santa Fe. She supported the project because it is part of a larger picture of what the community should support.

Mr. Tekin pointed out again, the reason they are trying to relocate 18 of the units to the site is because of parking. He believes everyone here will have a car and if they cannot find parking they will be frustrated. He will be forced to remove 18 units from the project if not approved and that doesn't make good sense to build this under-parked.

Commissioner Clow said she would emphasize what Commissioner Lawrence said in terms of consistency relative to the Zia Station, which is in a view corridor and is the only three-story buildings in the area. Photographs show Presbyterian Hospital is three stories. The Commission should appreciate their need for more density, means more height, and this *is* a mixed-use area, and we need more housing. She said she is in favor of the amendment.

Commissioner Sategna indicated he didn't see a signage plan and wasn't sure one would be provided. He asked if the building would have signage on it.

Mr. Tekin replied no, other than the building addresses.

Commissioner Sategna said he agreed with Commissioners Lawrence and Clow on affordable housing and height increases. But he was trying to point out architectural design in Santa Fe. He said denying this application is not about whether they need to build lower or higher, or the need for affordable houses. This is a fee in lieu. He was saying they should not sacrifice the viewscape into Santa Fe with a building not only 10 feet higher than the Mall, but another 36 to 40 feet on top of that. They also need to consider setbacks, which are important when considering height. The hospital that is set back 200 to 300 yards is a different consideration than 30 feet away from the freeway at a major view into the City. That is an important consideration. Approving this would be approving a sore thumb versus less standout of other three-story buildings. He said he couldn't approve the project given the two criteria he mentioned earlier.

Chair Gutierrez agreed with Commissioners Sategna and Garcia. He recognized that Mr. Tekin has done a lot of work. He would love him to remedy the issues with lower height or more dirt work and to obtain an easement for the MPO trail.

Mr. Tekin said he appreciated their comments. He indicated they have two ways to meet the intent of the Fire Marshall. Either to supply a third access, or work with Presbyterian for easements and that has been resolved.

He addressed Commissioner Sategna's concerns on height. The Commissioner mentioned they might approve a two-story project and that would lose 10 feet over the view corridor. He asked Mr. Cornelius, if it is possible, to make up the 10 feet in the grade by 1) lowering the height of the grade elevation and 2) building a two-story not a three-story building.

Mr. Cornelius said everything is possible from an engineering standpoint. A concern is that it would greatly impact the sewer design gravity flow system. Lowering the site would require the use of a pump, which requires more maintenance, more frequent trips from City staff. Also, they will continue to use electricity forever to pump the effluent uphill. Also, developing the extra one acre provides an opportunity to greatly improve the drainage system he designed in phase 1 and to reinforce the drainage on the back side of the Mall. They have to consider with a lower grade, the alternatives like subterranean drainage. That tends to not work as well and requires more maintenance and you are never sure they are working properly, versus the over land system they have now.

Mr. Tekin said before they were at 10 feet of grade with a 30-foot building. He asked if the Commission would support a total of 32 feet with grade and adjusting the building heights.

Chair Gutierrez asked the Commissioners to comment.

Mr. Berke said before getting into concessions, the Commission should look at what is before them. If the Commission approved what Mr. Tekin talked about, that would severely affect the current drainage plan that is already been reviewed and radically amended. The elevations were based on natural finished grade and would also need to be changed. Staff would suggest the application be denied and the applicant return with a better design and grading plan reflecting what they would be asking for based on the Commission's feedback.

Attorney Paez agreed they should move to postpone and ask the applicant to work with staff to revise their application. Approving the amendment would be complicated.

Mr. Tekin asked for direction on how he could revise the application.

Commissioner Sategna said he would not recommend postponement because it is important to vote on what was presented and based on the criteria. That also provides the applicant an opportunity for revision. He agreed it would be complicated to start making changes and the elevation would have to be significantly lower. He added that he was interested, given the location, for the applicant to include the site sections, the freeway, and the surrounding buildings if this comes before them again.

MOTION: In Case #2021-3804, Villa Sendero Development Plan Amendment for Phase II, Commissioner Sategna moved to deny based on criterion #2 that is not met that this would negatively impact the City and the public; and criterion #3 was not met that the use and associated buildings are compatible with and adaptable with the uses of abutting property and other properties when considering the viewsapes, the setback in relation to the freeway and the Outlet Mall, based on what the Commission has ruled for setbacks of other buildings down the way. The motion was seconded by Commissioner Garcia.

VOTE: The motion passed by majority roll call vote with Commissioners Garcia [with comment], Sategna and Chair Gutierrez voting in favor and Commissioners Clow and Lawrence voting against.

Commissioner Garcia explained the reason he voted against is that this site is the wrong place for this height. He agreed there is a need for affordable housing and the inventory does affect the rates.

Chair Gutierrez said his reason for denying the application was the same; the setback is needed and because of the impact on view.

Attorney Paez said she will work with her replacement to include a draft of the Findings in the next packet.

Mr. Berke noted the next case has one packet but the four cases, General Plan, Amendment, Rezoning application, Development Plan and a Preliminary Subdivision will be presented concurrently by staff and the applicant.

4. **Case #2021-3805. Aleksander Estates Subdivision General Plan Amendment.** Montoya Land Use Consulting, Agent, for Next Generation Contracting, Inc., Owner, requests approval of a General Plan Future Land Use Amendment to change the designation from Low Density Residential (1 dwelling unit per acre) and (1-3 dwelling units per acre) to (3-7 dwelling units per acre) for approximately 8.38 acres of land located on the east side of Kates Way, north of South Meadows Road. (Donna Wynant, AICP, Case Manager).
5. **Case #2021-3806. Aleksander Estates Subdivision Rezoning.** Montoya Land Use Consulting, Agent, Next Generation Contracting, Inc., Owner, requests approval of rezoning from R-1 (1 dwelling unit per acre) to R-7 (7 dwelling units per acre) for approximately 8.38 acres of land located on the east side of Kates Way, north of South Meadows Road. (Donna Wynant, AICP, Case Manager).
6. **Case #2021-3807. Aleksander Estates Subdivision Preliminary Development Plan.** Montoya Land Use Consulting, Agent, Next Generation Contracting, Inc., Owner, requests preliminary development Plan approval of a preliminary subdivision for 59 single-family residential lots on approximately 8.38 acres. The property is zoned R-1 (Residential and is located on the east side of Kates Way, north of South Meadows Road. (Donna Wynant, AICP, Case Manager)
7. **Case #2021-3808. Aleksander Estates Preliminary Subdivision Plat.** Montoya Land Use Consulting, Agent, for Next Generation Contracting, Inc., Owner, requests preliminary subdivision plat approval for 59 single-family residential lots on approximately 8.38 acres of vacant land. The property is zoned R-1 (Residential- one dwelling unit per acre) and is located on the east side of Kates Way, north of South Meadows Road. (Donna Wynant, AICP, Case Manager)

STAFF REPORT

This proposal consists of the following four applications:

- **General Plan Amendment:** from Low Density (1 dwelling unit per acre & 1-3 dwelling units per acre) to Moderate Density Residential (3-7 dwelling units per acre)
- **Rezoning:** R-3 (three dwelling units per acre) to R-7 (seven dwelling units per acre)
- **Preliminary Development Plan:** Proposed 59 lot residential subdivision.
- **Preliminary Subdivision:** Proposed 59 single family residential lots, and

The requested zoning district increase from R-1 to R-7 is not within the range classification "Low Density Residential" shown on the General Plan Future Land Use Map, so an amendment to the General Plan is required for the proposed Project.

If the Governing Body approves the proposed rezoning of R-7, the density for the proposed subdivision would be 59 residential lots which is less than the possible density of 67 units. (Calculation: 8.38 acres multiplied by R-7 zone = 58.66 gross density plus the affordable housing density bonus of 15% of an additional 8.79 units = 67 allowable lots/dwelling units which is 8 more units than proposed.)

The subject site is a vacant parcel along the east side of Kate's Way off of South Meadows Road. The site is bordered by Kates Way to the west, El Camino Real Academy to the east, NM 599 highway to the north and South Meadows Road to the south. Kate's Way is an unimproved private street with a right of way width of approximately 34.5 feet and South Meadows is a public right of way from 75 - 100 feet wide and is classified as a minor arterial street according to the Santa Fe Functional Road Classifications Map.

The subdivision will be accessed by two public streets (shown on the next page). Access #1 is a newly constructed public road through properties owned by the Santa Fe Public Schools and the State of New Mexico to connect the north end of the subdivision to the round-a-bout at NM 599/South Meadows Road. Access #1 will be dedicated to the City of Santa Fe for Public use. Access #2 connects the south end of the subdivision to South Meadows Road via Kates Way.

The proposed residential lots within the subdivision range in size from 4000 sq. ft. to 6000 sq. ft. Each lot will accommodate a single family residence meeting the standards for the R-7 district including front, rear and side yard setbacks, maximum 24 foot height of structures, minimum number of two parking per lot, and will not exceed 40% lot coverage.

The proposed rezoning and development plan requests are compatible with the uses, character, and densities of the surrounding area and the development plan will not increase or create any nonconformities with Chapter 14. The preliminary subdivision plat meets approval criteria and does not create or increase any non-conformities with Chapter 14 and is compatible with residential development in the surrounding area.

STAFF RECOMMENDATION

The Commission should recommend **APPROVAL** of the general plan amendment request (Case #2021-3805), the rezoning request (Case #2021-3806), and the preliminary

development plan (Case #2021-3807) and should **APPROVE** the preliminary subdivision plat (Case #2021-3808) with the conditions of approval and technical corrections listed in this report.

APPLICANT'S PRESENTATION

Monica Montoya, 726 Gregory Lane, was sworn in. She said she is representing Next Generation Contracting, Inc. She said Oralynn Guerrerortiz from Design Enginuity, project engineer and Melanie Bishop, traffic consultant were present. She provided a brief PowerPoint presentation giving a project overview. She reviewed the location, the design of the subdivision, the anticipated architectural design and general plan, and rezoning criteria. Ms. Montoya's Power Point Presentation is attached as Exhibit "3".

Ms. Montoya said at the request of the MPO, they will explore extending the sidewalk from the southwest corner of the subdivision to South Meadows Road. An issue is they have to work with the adjoining property or incorporate something in the existing design. They will bring that solution back to the Planning Commission with the final plat as a condition. An ENN (Early Neighborhood Notification) was held, and they will continue to stay in touch with them through the project.

PUBLIC HEARING

Fred Tapia was unable to speak due to technical difficulties.

Chair Gutierrez suggested Mr. Tapia call in. Mr. Berke provided the information.

COMMISSION DISCUSSION

Commissioner Sategna asked Ms. Montoya to review the options and explain the condition of approval.

Ms. Montoya said the MPO requested a condition to continue a sidewalk from the southwest corner to South Meadows Road. They don't own the property between them and South Meadows but do own property to the west of Kate's Way, an approved subdivision. They will try to adjust some of the subdivision to the west to accommodate a five-foot setback.

Commissioner Sategna said he recalled that project was currently paved, or would this project pave the entire Kate's Way.

Ms. Montoya said the paving of Kate's Way was approved with that subdivision and they will continue the paving all the way around.

Commissioner Garcia asked to clarify if correct that there will be two access points, and that they will develop along 599 all the way to the intersection.

Ms. Montoya said that was correct. It will be a 52 foot right of way that includes two 10-foot asphalt lanes and an additional 10-foot multipurpose lane and have curb and gutter.

Commissioner Garcia said the inventory in this area is rather high and this will add to the many other units on South Meadows. He had reservations about R7 zoning and concerns about the school. It is already large with a lot of kids and there is housing on both sides of the street, and this adds more. He asked staff to elaborate on the construction plan at Agua Fria and South Meadows intersection because a big issue is the traffic there. He said he was happy to see the extra outlet and the road planned because that will help.

Mr. Berke said when the intersection was rezoned R21, the City Council imposed an impact fee to pay for that signalized intersection. The project is priority and is funded and the drawings have been approved and is starting soon.

Commissioner Garcia said this area has a school at capacity and a couple of projects have already been approved with more development to happen. That poses a big issue in terms of traffic, safety, the trails, and walkability, especially going north. But they do need the housing. He thanked the applicant for their other projects that were well designed.

Fred Bonifacio Tapia was sworn. He said he has property on Kate's Way. He asked if this project would include a park or a play area.

Monica Tapia, 3303 Avenida del Oro was sworn. She explained they wanted to know if Kate's Way will be paved if this is approved, and the extent of facilities that will be provided.

Chair Gutierrez closed the public hearing.

Oralynn Guerrerortiz, 1492 Luisa St. was sworn in. She responded that Kate's Way will be paved with curb and gutter on both sides and sidewalks on the east side. Also, they will put in sewer and water. She suggested if the Tapia's wanted taps for water/sewer connections they may be able to negotiate with the owner. She added there will be green space with grass, etc. but no playground equipment. There are no plans for a park because of the retention ponds.

Commissioner Sategna said this is another example of narrow tracts of land not properly addressed by the General Plan or Chapter 14. There is no street parking and developments on narrow tracts have streets that are packed. He said he wanted to point out the need for a General Plan update and raise those concerns. He added that doesn't prevent him from voting in favor of the project.

Ms. Guerrerortiz said there is reported 30 on-street total parking spaces; a half space per lot, which meets current code.

Ms. Montoya added that is in addition to the 2 parking spaces on each parcel and units with full garage spaces.

Commissioner Garcia said he would assume with the narrow street design that parking would only be on one side.

Ms. Guerrerortiz explained parking flips back-and-forth from one side to the other and additional street parking is on Sangre Azul. She thought usually Next Generation built two car garages with two spaces in front of each garage.

MOTION: Commissioner Lawrence moved to: (1) recommend approval in Case 2021-3805, Aleksander Estates General Plan Amendment; (2) recommend approval in Case 2021-3806, Aleksander Estates Rezoning Request; (3) recommend approval in Case 2021-3807, Aleksander Subdivision Preliminary Development Plan, subject to conditions of approval and technical corrections recommended by staff; and (4) in Case 2021-3808, to approve the Preliminary Subdivision Plat, subject to the conditions of approval and technical corrections recommended by staff. The motion was seconded by Commissioner Clow.

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

MOTION: Commissioner Lawrence moved to approve the Findings of Fact and Conclusions of Law for Case 2021-3805, Case 2021-3806, Case 2021-3807 and Case 2021-3808 as presented. The motion was seconded by Commissioner Clow.

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

H. STAFF COMMUNICATIONS

Mr. Berke said we were planning an in-person meeting, but it will not happen on the 19th of August. The agenda will be big; it is only three cases but has a lot of components and the agenda includes the formal recommendations on cannabis.

Mr. Berke noted this was Attorney Paez's last Planning Commission meeting. He wanted the record to show how much he has enjoyed working with her. He said he will miss her as part of the team but is happy for her in her next adventure. Also, an offer was extended to a senior planner to replace Carlos Gamora's position. Lastly, John

Neunuebel announced his retirement effective December 3, 2021. He will not be presenting to the Planning Commission after September.

Attorney Paez thanked the Commissioners for volunteering for the City and doing a great job. She indicated that Kyle Hibner will temporarily cover Commission meetings through the August 19th meeting and hopes to have a couple of new attorneys starting soon.

Director Kluck said it was an honor to work with Attorney Paez and he thanked her for her service.

I. MATTERS FROM THE COMMISSION

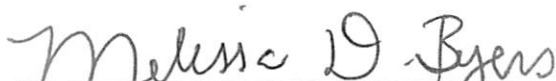
Commissioner Sategna told Attorney Paez that she will be missed, and he has a lot of respect for her. He wanted it on the record that the Supreme Court will get a good attorney. He wished her the best of luck.

Chair Gutierrez also thanked Attorney Paez and the subcommittee members.

J. ADJOURNMENT

Chair Gutierrez adjourned the meet at 9:56 pm.

Submitted by:



Melissa D. Byers, Stenographer for
Byers Organizational Support Services

Approved by:



Brian Gutierrez, Chair

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MATTERS FROM THE ...

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