



AGENDA

SPECIAL MEETING OF
THE GOVERNING BODY
JANUARY 21, 2023
10:00 AM
COUNCIL CHAMBERS
CITY HALL
200 LINCOLNAVENUE

PROCEDURES FOR SPECIAL GOVERNING BODY MEETING

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The agenda and packet for the meeting will be posted at <https://santafe.primegov.com/public/portal>.



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1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

Councilwoman Villarreal

3. SALUTE TO THE NEW MEXICO FLAG

Councilor Lee Garcia

4. INVOCATION

Councilor Michael Garcia

5. ROLL CALL

6. APPROVAL OF AGENDA

7. PUBLIC HEARING CONTINUED FROM THE DECEMBER 14, 2022 AND
JANUARY 11, 2023 REGULAR GOVERNING BODY MEETINGS

- a. CONSIDERATION OF BILL NO. 2022-22. ADOPTION OF ORDINANCE NO. 2023-_____.
Case #2022-5063. 2200 Old Pecos Trail Rezoning. Case #2022-5063. Montoya Land Use Consulting, Inc., Agent for Pierre Amestoy, Applicant, Requests Approval of a Bill to Rezone Approximately 9.59 Acres, Located at 2200 Old Pecos Trail, within the South Central Highway Corridor Overlay District and the Suburban Archaeological Review Overlay District, from R-1 (Residential - One Dwelling Per Acre) to R-3 (Residential-Three Dwellings Per Acre). (Dan Esquibel, Case Manager: daesquibel@santafenm.gov, 505-955-6587)

8. ADJOURN

**Governing Body
SUMMARY INDEX
January 21, 2022**

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE</u>
1. Call to Order	Convened at 10:08 a.m.	1
2. Pledge of Allegiance	Led by Councilor Villarreal	1
3. Salute to the State Flag	Led by Councilor Lee Garcia	1
4. Invocation & Remembrances	Led by Councilor Michael Garcia	1-2
5. Roll Call	Quorum Present	2
6. Approval of Agenda	Approved as presented	2
7. Public Hearing continued from December 14 and January 11, 2023 Meetings a. 2200 Old Pecos Trail Rezoning		
8. Adjourn		

**Minutes of the
Special Meeting of the Governing Body
Saturday, January 21, 2023
City Hall
Santa Fe, New Mexico
Hybrid Meeting**

1. CALL TO ORDER

A special meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order by Alan Webber, Mayor, on Saturday, January 21, 2023, at approximately 10:08 a.m., at the Council Chambers at City Hall, 200 Lincoln Avenue, Santa Fe, New Mexico as a hybrid meeting.

2. PLEDGE OF ALLEGIANCE

Councilor Villarreal led the Pledge of Allegiance.

3. SALUTE TO THE NEW MEXICO FLAG

Councilor Lee Garcia led the Salute to the New Mexico Flag.

4. INVOCATION

Councilor Michael Garcia gave the Invocation, thanking Mother Nature for the blessing of snow and asking that love which binds us together will be kept in front of our discussions.

Councilor Romero-Wirth remembered the life of George Baylor who died at 91 and gave condolences to his family and friends.

The Governing Body observed a moment of silence for those who have recently died and their grieving families.

5. ROLL CALL

Roll call indicated the presence of a quorum in-person, as follows:

Members Present
Mayor Alan Webber

Councilor Jamie Cassutt
Councilor Amanda Chavez
Councilor Lee Garcia
Councilor Michael Garcia
Councilor Signe Lindell
Councilor Christopher M. Rivera
Councilor Carol Romero-Wirth
Councilor Renee D. Villarreal

Members Excused

Other Participants Attending

Erin McSherry, City Attorney
Kristine Bustos-Mihelcic, City Clerk
John Blair, City Manager
Dan Esquibel, Case manager
Alex Ladd, Affordable Housing Director
Carl Boaz, Council Stenographer

6. APPROVAL OF AGENDA

MOTION: Councilor Villarreal moved, seconded by Councilor Romero-Wirth, to approve the agenda as presented.

VOTE: The motion was approved on a unanimous voice vote with:

For: Mayor Webber, Councilor Cassutt, Councilor Chavez, Councilor L Garcia, Councilor M. Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, and Councilor Villarreal.

Against: None.

7. PUBLIC HEARING CONTINUED FROM THE DECEMBER 14, 2022 AND JANUARY 11, 2023 REGULAR GOVERNING BODY MEETINGS

CONSIDERATION OF BILL NO. 2022022. ADOPTION OF ORDINANCE NO. 2023-_____.

Case #2022-5063. 2200 Old Pecos Trail Rezoning. Case #2022-5063. Montoya Land Use Consulting, Inc., Agent for Pierre Amestoy, Applicant, Requests Approval of a Bill to Rezone Approximately 9.59 Acres, Located at 2200 Old Pecos Trail, within the South-Central Highway Corridor Overlay District and the Suburban

Archaeological Review Overlay District, from R-1 (Residential - One Dwelling Per Acre) to R-3 (Residential-Three Dwellings Per Acre). (Dan Esquibel, Case Manager: daesquibel@santafenm.gov, 505-955-6587)

Ms. Bustos-Mihelcic read the caption for this public hearing continuing from the last meeting.

Mayor Webber asked Ms. McSherry to explain quasi-judicial roles and that previous testimony people were still under oath at this hearing.

Ms. McSherry did so and added that those not sworn must be sworn before speaking.

Mayor Webber clarified that the Governing Body was at the point for asking questions of Staff, Applicant or others who have testified already.

There are still remaining questions and then he would close the questions while the hearing is still open and then a motion and reasoning or Finding of Facts. He hoped for about 5-10 minutes each on a discussion of the motion and then a vote.

Councilor Villarreal said in looking at the zoning map of this area, she saw R-1, R-4, R-2, and R-2 PUD. The PUD was at Pecos Trail, which was contiguous to this proposed development. She asked specifically about zoning for Plazas Pecos Trail. She noted in the memo, item 6, on page 6 of 15 in the packet material, she wanted to understand precedent in the various methods used in this area. This development has 40 lots on 19 acres or a ratio of 2.1 Dwellings per acre on this parcel. But Staff's calculation came out to be 2.6 dwellings per acre. So how was this calculated at 2.1?

Mr. Esquibel said they divided the number of dwellings by the acreage. The calculation was done in 2005.

A person rose and Mayor Webber asked him to sit down, explaining this portion was not audience participation.

Mr. Esquibel reviewed the GIS program and how Staff gets those values.

Councilor Villarreal understood this calculation was based on the GIS figures. She asked about the PUD designation.

Mr. Esquibel said the PUD is an overlay that allows an applicant to massage some of the development standards typically required by the underlying zoning. Here, they were able to aggregate the density into a smaller area. The PUD designation allows the massage as long as it does not go below the minimum standard.

Councilor Villarreal asked if the applicant considered PUD since there was precedent across the street.

Ms. Montoya said it was in the beginning stages they considered PUD but decided against it because they did not need to deviate from any Code standards. This proposal meets all minimum setbacks, etc.

Councilor Villarreal asked if she said these homes would not allow conversions to Short-Term-Rentals. Would that be in the covenants?

Ms. Montoya said there were no discussions about STRs. A certificate for STR would be possible the same as for any other property owner.

Councilor Villarreal said that was a big issue and she thought someone had stated they would not allow any STR in this development. That has been done before.

Mr. Esquibel reminded the Governing Body they could direct that to the Planning Commission, but we cannot put a condition on an ordinance.

Ms. McSherry agreed. It should not be part of a motion.

Councilor Villarreal asked if the developers consider an increase of AH units.

Mr. Sommer was not aware of any conversations on that, but we are considering it and we have already put more in the covenants.

Councilor Villarreal suggested more AH units would be an easy thing to offer, but not STRs.

Mr. Sommer had no problem prohibiting STRs. But not to adding more AH units.

Director Ladd said no AH unit can ever be a STR.

Councilor Villarreal said that was good to know. She asked if ADUs can be allowed.

Mr. Esquibel said yes, if they have room to fit those on the lot, It depends on the lot size, etc. He could not answer further than that.

Councilor Villarreal asked if Mr. Esquibel was aware of any plans for the other three vacant parcels in that area.

Ms. McSherry said to answer that, which was outside the record, he would need to be sworn.

Mr. Esquibel swore in.

Councilor Villarreal asked if there were any inquiries for those vacant parcels.

Mr. Esquibel was not aware of any.

Councilor Villarreal had no more questions.

Councilor Lindell thanked Councilor Villarreal for those questions. She had a couple for Ms. Moore and asked if she was able to an audience member to come to the microphone. She kept Ms. Moore on deck.

Councilor Lindell asked Bruce Throne a question. "From Ms. Moore's slide deck, she references on December 13, 2001, correspondence from the Old Pecos Trail Neighborhood Association that said, "We support an enactment by the City Council of Santa Fe of an ordinance to protect the open scenic character of the Old Pecos Trail entry corridor by means of restrictions on future developments within the corridor, including but not confined to R-1 through R-3 zoning or rezoning." She asked why that isn't valid today. "

Mr. Throne replied, "I was a personal participant, as the Staff knows, in the public participation process called for in the implementing policy regarding the Old Pecos Trail City Corridor that Councilor Chavez actually read aloud at the July 11 meeting. Actually, one of the exhibits to my December 2 comments has the minutes from one of those meetings, which explains not only why I was there – and one of the reasons was because, it says right in there, that the City Attorney's Office at the time, did not have anybody with any legal experience to help draft, to help Councilor Heldmeyer or Council Cris Moore who were involved in that. They didn't have anybody to do the drafting. So I participated – and by the way, unlike any of the Staff witnesses that you've heard from so far at any of these hearings. And one of the reasons I was there was specifically because, contrary to what the Applicant has stated in the March 22 application in the report to the Planning Commission and even in the Staff's memo, the City Council, when they approved the General Plan on April 4, 1999, in the City Resolution 1999-45,

The City Council did not designate a density specifically for this portion of Old Pecos Trail at R-3 to R-7. There are a number of ways you can do that. You know that. One is because it says that on Page 3-12 on the General Plan that Councilor Chavez read at the last meeting. And that was there because former Councilor Moore actually, in the minutes for that meeting, which unfortunately, I provided to the City Clerk; I provided to the City Attorney; I provided to the Staff and asked on January 3 that they add it to your packet. But I didn't further comment for me. So you would see that. That confirms that the designation of 3-7 dwelling units per acre on that south section of Old Pecos Trail, between St. Michael's Drive and I-25, came from the Planning Department - Reed Liming was the individual. So I knew, because I participated in that process, that contrary to what has been argued to you over and over again, the City Council never made that designation.

In fact, what they did was exactly what the General Plan said. It said ‘no, what we are going to do is a general policy in favor of affordable housing.’ But there is something more specific in the General Plan – of implementation Policy 3-i-9. It is in there and, as a general rule of interpretation of rules or laws, that when you have something specific, it prevails over the general. And on this particular area, because of its value to the community, we are going to have this public participation process. As part of that process, we are going to develop density and other development standards and bring that back to the Governing Body and codify that in the Land Use Planning.

We all know that has not been done to date.

In response to Councilor Lindell’s question, and he thought he was the only person with personal knowledge of this, under oath and subject to perjury, Why was I there discussing density with other people and why was I helping draft the policy? I was a volunteer spending hours and hours of time and it was 22 years ago. It was because we know the Governing Body had not made the designation to have this policy. So what was discussed and reflected in those minutes is that the entire corridor as defined from Cordova Road to I-25, – what should be the density there? There was a lot of discussion by a lot of different people, and not just the neighborhoods and Sol y Lomas right next door. These were people all along the corridor. And the discussion was what the density should be. Should it be what Staff wanted – what they put into the Future Use Map without any approval from the City Council - 3-7 dwelling units per acre or something less. The consensus was that it should be protected, and the density should be 1-3 units per acre.

He commented that the letter that was referred to was not in the record. And that means you can’t rely on it as a quasi-judicial body. But he was more than happy to address that because that density – not to be didactic to the Governing Body and say that it all has to be R-1. The point was to that group, acting responsibly, they did propose two – It was Councilor Heldmeyer, right in those minutes, and say to the Governing Body that it should be 1-2 dwelling units per acre. And that should be the discussion. Once you establish that, then the developers can come back and make an application. The Chapman Family was very sensitive to the Old Pecos Trail Scenic Corridor and used the PUD zoning so they could set it back so little was visible from Old Pecos Trail. The 50% open space was part of the restrictions of the South-Central Highway Corridor District. What the Chapman Family did was to allow the higher density and allow for common open space and had 20 acres of it.

Councilor Lindell interrupted Mr. Throne to say she asked a pretty simple question and he really “went around the barn on it.”

Ms. McSherry interrupted Councilor Lindell to say if you want to see the document, you certainly can, but you do not have to.

Mr. Throne said he submitted that on January 3rd.

Mayor Webber was not sure that comment was addressed to Mr. Throne.

Ms. McSherry said, “Yes, we closed the written comment period several weeks ago. But if someone is referring to something during sworn testimony that you would like to see, that is fine.”

Mr. Throne said he told Ms. McSherry that he was happy, if someone called on him, to refer to it but felt the best evidence was to read the evidence itself. Why should you take my word for it?

Mayor Webber thought Councilor Lindell had a different question in mind which he interpreted to him.

Councilor Lindell thought Mr. Throne’s answer was not really directed to her question. He went a lot of different places. But the document from the Old Santa Fe Trail Neighborhood Association stated exactly what she read, which was in the slide deck from Ms. Moore. The thanked him and had no other questions.

Mr. Throne said the implication was that I ...

Councilor Lindell said no, she was not...

Mayor Webber showed the slide on it from Ms. Moore’s slide deck.

Councilor Romero-Wirth called a point of order and asked Mayor Webber how he came to have that.

Mayor Webber said he asked for a print of it.

Councilor Romero-Wirth said she was told she could not have a print of it – that she had to go to Zoom.

Ms. McSherry thought she had to go to Zoom too.

Mayor Webber said he did both.

Councilor Romero-Wirth said we probably will be walking through it painfully because she didn’t have time to do it.

Mayor Webber apologized if it upset the process. But there is a document in the slide to which Councilor Lindell was referring. And her questions were simply, if this matter was recorded, if there is a difference in that level today. And Mr. Throne answered the question.

Councilor Lindell yielded the floor.

Mr. Throne said this was not a letter from him.

Mayor Webber said nobody said it was from him.

Mr. Throne said he was not with the Old Santa Fe Association.

Mayor Webber said that was fine and Mr. Throne was missing the point. She was simply asking if he had an opinion, based on his deep knowledge of this matter as to why what was acceptable then wouldn't be acceptable now. It was not holding him to account and was not being put on the griddle.

Councilor Michael Garcia said with the letter on the screen now, he asked Staff regarding that information. The document stated that the Old Pecos Trail Neighborhood Association, which is a private organization, passes a resolution within their own organization, stating their stance on a potential ordinance. Did the potential ordinance ever get passed by the Governing Body?

Ms. Moore said she could find no record of an ordinance being presented to the Governing Body voted on or passed in this effort to develop an Old Pecos Trail Scenic Corridor.

Councilor Michael Garcia pointed out that OPTNA resolutions have no impact on City policy. They do not determine City policy.

Ms. Moore agreed. They would not.

Councilor Michael Garcia thanked her. If they wanted to change it to R-9, it would not change the City zoning policy.

He pointed out in the packet, starting on page 5, Staff memo, criterion one has three sections. In Section One, there was a mistake in the original zoning. The Applicant's response was that there was no true mistake and in Staff's response there was no mistake. That criterion was not met.

In criteria 2 and 3, it gets murky. Criterion Two, there had been a change in the surrounding area, altering the character of the neighborhood to such an extent as to justify the changing of the zoning. The applicant's response refers to the Future Land Use Map and Staff's response refers to that as well.

Councilor Michael Garcia asked Mr. Throne about his statement that Criterion Two was not met. He asked Mr. Throne to help him understand he felt it was not met.

Mr. Throne said Criterion 2 was whether there has been a change in the environment such that it justifies the proposed change of zoning. But looking at

the Applicant's application on Marcy 4, 202, there was no factual evidence supporting that. And looking at the development that had occurred, it was PUD, R-2 PUD. And that did not create a change in the surrounding area to justify a straightforward non-PUD R-3 zoning requested here. Even looking at Quail Run, which is R-4, you can drive by there and you cannot see any of the homes there from the road. That was respectful of that corridor. So there was no change there. Staff's Dec 12 report to the Planning Commission and Staff's Dec 14 memo to the Governing Body you will see in the Second Criteria, Staff gets off the criterion. What Staff said was that there was a conflict or a mismatch between current R-1 zoning under our zoning code which doesn't exist anymore and the designation specifically approved by City Council in the General Plan at 3-7 units per acre for this south section of Old Pecos Trail. That designation was not made by the Governing Body. That designation was made by the Planning Division by Reed Liming that was reflected in those minutes. And we know the Planning Department does not make policy. It is the Governing Body that makes the policy. So it doesn't meet the second criterion.

Councilor Michael Garcia asked, regarding the Future Land Use Map regarding the third criterion. It says a different use or category is more advantageous to the community or articulated in the General Plan or other adopted City plans. So the Future Land Use Map is referenced here, Staff Recommendation references policy. He asked if Mr. Throne, in his written comments to the Governing Body and because of time, he could state why he believed the application did not meet Criterion Three.

Mr. Throne said the key phrase in there is as is articulated in the General Plan or other City plans. First you must look at as Mayor Webber stated, cost vs. benefits – is it more advantageous to the community. He agreed that “community” is referring to the community at large and he agreed with Staff on that. The question then becomes what the General Plan articulates. Councilor Chavez read what it articulates. And when you look carefully at those minutes, the City Council said they were going to act on the Future Land Use Map but added they were also going to designate the Old Pecos Trail Scenic Corridor and Councilor Moore made the motion and accepted as a friendly amendment by the City Council. There were other comments by Councilors about the inconsistencies - some intentional and some not intentional between the General Plan and that Future Land Use Map that Staff had developed and that would need to be addressed in future meetings.

Mr. Throne said there was no record that this land use map has been approved by Council. Thus making it City policy. He referred to Commissioner Hinojos-Fall who hit the nail on the head. She called Mr. Sommer up and asked him which criterion he was referring to. Mr. Sommer acknowledged it was the criterion that said it was more advantageous to change it as articulated in the General Plan. Then she asked to talk about what would be provided here. There are 20 market rate homes there and she asked Mr. Sommer what he thought they were going to cost in that area. He replied, probably in the \$700,000 - \$1,000,000 range. And

her comment about it was that she was acting in the benefit of existing members of the community. That was her question – she questioned those advantages.

Mr. Throne said it was not an argument against affordable housing. He agreed that is needed in Santa Fe. He asked if five affordable units, none of which had been identified in the record, even though that was asked for during the early ENN meetings, of which there were three (one in December, one in January and one in February). He noted that three of the lots are less than 1/16 of an acre and exist in a flood plain – the Foothills Arroyo, which is a FEMA designated flood plain area.

He said Ms. Montoya’s answer was that the AH units would not be placed there because it is the most attractive lots for market rate sales.

He disagreed with what the City Attorney said about it being a precedent. Of course, he said, it will be a precedent.

Councilor Michael Garcia said he was getting off topic and decided to move on to Criterion 3. It was on page 10 of the Memo. This criterion said, “Rezoning is consistent with the applicable policies of the General Plan, including the Future Land Use Map.” But, as confirmed earlier, the Future Land Use Map doesn’t have any policies. The policy stated in the General Plan is, “Development Standards include land use, density, and design controls will be developed through a public participation process” which hasn’t come to fruition. The Land Use Map of 2003 designates the zoning uses for this property.

His concern was in not being able to find record that this land use map has been approved by City Council. Mr. Throne had submitted an IPRA request requesting any documentation, anything regarding justification that this land use map was approved by City Council, thus making it City policy. He asked Mr. Throne if that IPRA resulted in no documentation on the record being found.

Mr. Throne agreed. He had four or five exhibits in IPRA requests, looking for where the April 1999 Future Land Use Map was. Ms. Lewis, who testified previously was entrapped in her research even before the minutes were found and not disclosed to anyone. It was Ms. Lewis who uncovered it, to her credit. But the Future Land Use Map was never produced. But Ms. Lewis told him that 3=4 days before the first Council hearing on December 14, they had finally found in a box somewhere a map dated April 19, 1999, that showed that designation. The folded map was posted online, and you couldn’t read any of that. So he kept asking for it. He didn’t know if that had been put in the record. He remembered Ms. Moore referring to that, but it just aligned exactly what the minutes showed it was a map the Planning Department developed.

He had asked repeatedly if there was any City Council Resolution after April 14, 1999, when the General Plan was approved. The City never found that. The only

thing they pointed to was City Resolution 1999-45, which is the one passed by City Council on April 14, 1999 that adopted the General Plan.

Councilor Michael Garcia asked help from Staff any confirmation regarding the passage of the 1999 General Plan – the resolution that approved it. And were there any maps as part of that package. He asked if Staff could untangle any of this from the documentation Mr. Throne submitted. Councilor Michael Garcia didn't see any evidence that any map was approved by the City Council that there would be documentation showing the proposed rezoning of Old Pecos Trail Corridor.

Mr. Esquibel said he couldn't confirm what they presented to the Governing Body at the adoption of the 1999 General Plan. He knew Councilor Bushee, after a recommendation was made to adopt the 1999 General Plan, who added a friendly amendment that was accepted by the person who made the motion and went through. But in terms of the map itself, the General Plan includes that map as an exhibit identified as Figure A-2. Within that map, it does identify those zoning parameters at the time were accepted and adopted. Currently, the City doesn't use the old General Plan because it has been digitized. That is why it was folded and whoever ran it through the scanner at the time probably didn't have a scanner that was large enough so however it was folded, it was folded. He described how they found that original map among Greg Smith's records. In that original map it identified that the Council did adopt, as part of this General Plan, a low-density requirement for this area. That was what the Council wanted because they adopted that map as part of the overall and global approval of this General Plan.

In terms of the Old Pecos Trail, it was put on that old map and highlighted to identify the boundaries of Cordova Road and I-25 and identified as a scenic corridor. It was further requested of Staff to develop rules and regulations to identify how development across that area would be achieved. He could not speak to anyone who was part of that administration because they are no longer with the City.

Councilor Michael Garcia thanked Mr. Esquibel. He found it concerning that our City Government does not have proper archival standards to quickly go back and see what was approved through such a significant piece of legislation such as the General Plan. It caused him concern to not have proper documentation and no concrete evidence.

Councilor Romero-Wirth asked Mr. Sommer what would happen on this property.

Mr. Sommer said the road would be the same. Lots would be much larger. Setback would still be at 75 feet. And the setback on each lot and 50% (2100 square feet) Houses height could be up to 25 feet.

Councilor Romero-Wirth asked Mr. Esquibel if the R-1-3 is from the General Plan. She asked where we got the okay for R-3-7.

Mr. Esquibel said it has to be consistent with the General Plan. When a request comes in, we compare it with the General Plan to be consistent with it. And with the future land use map. And we have heard the future land use map now is not the same as the one that was approved. We believe it was a map error that we corrected. It was not identified by width, so it was not adopted. No ordinance identified what it was. He didn't have authority to decide the width without an ordinance.

Councilor Romero-Wirth asked if the more advantageous part is objective or subjective.

Mr. Esquibel said it is somewhat subjective on whether it meets the goal.

Ms. McSherry opined it would be best to document those that do exist.

Councilor Romero-Wirth noted that Councilor Cassutt walked us through those things at the last meeting. But the General Plan also talks about adoption of the scenic corridor that was found to be advantageous. There were networks of open space and smaller parks in the neighborhood, etc. boundaries between urban and rural, that we value open space and need to balance those values.

Councilor Cassutt asked if this is the Future Land Use Map we've used since 1999.

Mr. Esquibel said it is. We must correct the error with what the Governing Body has changed. And if it is a correction needed, we either bring it back or correct the error. It was a highlight along that area. The boundaries have not been adopted yet. They were changed from higher density to lower density and those changes can be found throughout the City.

Councilor Cassutt observed that R-3 sits between very low residential and low density residential.

Mr. Esquibel said R-3 is very low density.

Councilor Cassutt reasoned that it doesn't change categories then. She asked if there is any definition of scenic in the Code.

Ms. McSherry said there was not a definition in the Code.

Councilor Cassutt asked about grade of the property lots compared to the grade of the road.

Ms. Guerrerortiz described them as low and the height of those closed to the road are lower than the Old Pecos Trail road – as much as eight feet lower.

Councilor Cassutt asked Mr. Esquibel about the landscaping design options used elsewhere to shield developments from public view that could be used here.

Mr. Esquibel said the Staff did require as a condition of approval for more landscaping there than there is now. All significant trees removed must be replaced, some of those not significant would be destroyed in the development.

Councilor Cassutt asked regarding traffic if historical traffic on Old Pecos Trail has decreased over the years.

Mr. Leroy Pacheco said the Santa Fe MPO measures traffic all over town and there are records that could be used which described that data over the last ten to fifteen years. In a development like this, the same criteria are used all over town. One issue is time of day for counting. For this one on West Zia, the development will generate five cars in the morning peak hour and seven cars in the afternoon peak time. The change specifically on Old Pecos Trail, 18 cars in the morning and 20 cars in the afternoon peak hour. The volume is flat.

Councilor Chavez asked about AH impact if zoning was reduced,

Mr. Sommer said the Applicant would pay a fee in lieu instead of AH homes.

Councilor Chavez noted the rezoning criterion 3 says it is consistent with applicable policy in the General Plan, including the Future Land Use Map and asked what "applicable" meant here. We did say that the General Plan is often subjective. When she thought about applicable, she thought it applies to case at hand but also ties to City Code. We would want a correlation of the Application to the General Plan but then also City Code that backs up or defines more clearly what is stated in the General Plan. Earlier she had asked why there was no General Plan amendment. We don't have City Code that would justify a General Plan Amendment.

Mr. Esquibel said if they were requesting to comply with the Future Land use Map, there would not be a General Plan Amendment needed.

Councilor Chavez asked him to expand a little on criterion 3. How do you feel the Applicant met these criteria?

Mr. Esquibel asked if she was talking about criterion 1, item 3, or criterion 3.

Councilor Chavez restated it was on criterion 3.

Mr. Esquibel read that the zoning was consistent with the applicable policies of the General Plan including the Future Land Use Map. Together with what the Applicant presented to Staff as their application, We believe that affordable housing, infill, all of those other items that have been rattled off here tonight along

with what the Governing Body and what the Planning Commission identified within their Findings of Fact, that they are comply with the General Plan relevant to their Application. As they complied with other aspects of the zoning criteria, we also believe they are in line with all of those requirements. So it is a compounding requirement. Some build on themselves. If you don't meet one, you won't meet 2, etc. As a result, as they meet criteria, they build upon their compliance with all aspects of the General Plan relevant to their request, and there are some subjective analyses that must be made and has to be made by this body to move forward for rezoning.

Councilor Romero-Wirth found what she was looking for. Chapter 2 of the General Plan talks about heritage resources. It says, *“Throughout the public meetings and comment period, which led the participation of this document, Santa Fe Heritage Resources was cited as some of the planning areas’ major assets. These resources reflect Santa Fe’s archaeological, historic, and cultural heritage. The physical layout of older and established neighborhoods were looked at as critical elements in planning for sustainable development. The preservation of Santa Fe’s visual character was identified as essential. This chapter provides a context for Santa Fe’s heritage resources by presenting a historical overview of the development of the City. Santa Fe’s current efforts at identifying and managing of heritage assets are demonstrated. Implementing policies establish a means by which the City intends to further its efforts of appropriately managing its heritage resources and integrating them into the urban design and development strategy.”* So this goes through the themes and one of the themes is character. *Maintain and respect Santa Fe’s unique personality, sense of place, and character. The guiding principle – foster municipal and community awareness, positive appreciation, and support for Santa Fe’s agricultural, cultural and heritage resources, manmade for the aesthetic, educational, economic, and scientific contributions they make to Santa Fe’s quality of life. Respect and scientifically manage archaeological, cultural, and historic patterns, resources, and symbols, preserving the contribution they make to understanding Santa Fe’s characteristic cultural traditions. Preserve the heterogeneous cultural, historic, and visual qualities of Santa Fe. Recognize that the City’s policies of promoting affordable housing, and preserving the cultural, historic, and visual qualities of Santa Fe may require close coordination.”*

In this, there are a couple of different mentions for an overlay. How many times does the General Plan mention the Old Pecos Trail overlay and the need for it?

Mr. Esquibel thought he only read it once but later had three.

Councilor Romero-Wirth said she had two.

Ms. Lewis pointed out where they were in the General Plan. In Chapter 3 in Land Use, it is mentioned three times. And first was the Future Land Use Map. It is mentioned in the Implementing Policy and has a brief little paragraph as well.

Councilor Romero-Wirth asked what an implementing policy was.

Ms. Lewis thought every chapter has guiding principles and then an implementing policy. The Introduction to the General Plan covers these definitions and they have definitions for the theme, the guiding policy, and implementing policies. So implementing policies are at the end of each chapter and represent commitments to specific actions. They refer to existing programs or call for establishment of new ones.

Councilor Romero-Wirth, going back again, said, “Besides the General Plan, we also have a Resolution that suggests there should be an Old Pecos Trail Overlay which is 2015-92.

Ms. Lewis believed that resolution was specific to direct Staff to reconvene the efforts to establish the corridor. And then it references it in the General Plan.

Councilor Romero-Wirth said it was by following the necessary public processes in 2015.

Councilor Romero-Wirth asked if that was under criterion 3, a different use category more advantageous to the community as articulated in the General Plan or other adopted City plans. Does this Resolution count as an adopted City plan? Or would it have been the corridor if it had been adopted?

Ms. Lewis said if there wasn't an adopted corridor, that would have been an ordinance, which would have been in Chapter 14, like the South-Central Highway Corridor. And then it would have applied those standards, had they been set.

Councilor Romero-Wirth concluded it is not another adopted City plan. It is basically a memorial or statement of what this Governing Body wanted to have happen.

Ms. Lewis agreed.

Ms. McSherry thought it sounded like it was upgraded and a desired future plan that had not happened yet – like a prediction for the General Plan.

Councilor Romero-Wirth said, in essence, the only thing we have to go on – a different use category is more advantageous to the community as articulated in the General Plan, is the General Plan and the three references to creating Old Pecos Trail Overlay.

Ms. Lewis said what we have to go on are the 14 themes that are adopted as part of the General Plan and referenced specifically in the language chapter and throughout the other chapters. The other one we talked about was affordable housing that we will actively participate in the creation of affordable housing. The

infill has been urban form. That has been one of the themes – compact urban form and encourage sensitive compatible infill development. There were several here that could be stretched to apply. Transportation alternatives, along a corridor that has bike trails. They will be doing a design of sidewalks that people can walk along day-to-day. There is sustainable growth, ensuring that development is sustainable and natural resources are protected. There is the flood zone that is not buildable. There is a 25' setback from the arroyo.

Councilor Romero-Wirth noted another theme in Chapter 2, the character – maintain and respect Santa Fe's unique personality: sense of place and character.

Ms. Lewis said all these things are listed in the General Plan. They are not prioritized. One is not preference over another. These were the concerns of the community and one is not superior to another.

Councilor Romero-Wirth said she could prioritize them.

Ms. Lewis said the Planning Commission or the Governing Body could prioritize them, but to her knowledge, never had. She explained the sequences the City uses, starting with themes and then to guiding principles.

Councilor Lee Garcia asked about building height in this project. He assumed there were no two-story homes in this project.

Mr. Sommer said that was correct.

Councilor Lee Garcia thought he heard if it was left at R-1, a two-story house could be constructed.

Mr. Sommer said that would be at 25' and a two-story house is generally considered to be 25' in height. The structures would all get to 25' at R-1.

Councilor Cassutt read one change to the South-Central Highway Corridor at 2010-9, "A minimum building setback from the edge of the right-of-way and the street shall be fifty feet except that the minimum building setback from Old Pecos Trail between I-25 and St. Michael's Drive shall be 75 feet. Was the redline put in?"

Ms. McSherry agreed as well as the other changes. That was the only one specific to that section.

Mr. Esquibel clarified that this project is a subdivision in the rezoning- no development plan. So all conditions that were imposed previously of the subdivision are specific to the subdivision, we have no conditions related to the zoning request.

Councilor Cassutt noted the Governing Body spent far more time than normally in the General Plan. She was looking at the conversation about Old Pecos Trail and on Chapter 3, there were some different border protection areas identified. There is Rodeo Road, I-25 corridor, the greater Agua Fria Area, and the Siler Road Redevelopment Districts. She asked if the Governing Body had adopted any specific plans around these areas.

Mr. Esquibel said none that he had heard of.

Councilor Cassutt asked if there were rezonings.

Mr. Esquibel said there were.

Councilor Cassutt that that was important – that there were rezonings in other areas of the City where there was a call for border protection and that has not stopped development from occurring in those areas, and took into account the balance of needs.

Following up on what Councilor Romero-Wirth was discussing regarding Chapter Two – “historic, archaeological and cultural heritage.” It discusses history – who was here and when. When we are talking about character, are we restricted to just looking at the physical character of the City or also talking about the demographic character of the City? In Chapter 2, it really talked about our cultural heritage and culture comes from people. She asked what information we have about the demographic changes in this part of the City over the past twenty years. She had a few of them, having grown up in Sol y Lomas. She described all the children who lived in that area and didn’t believe there were many children living there any longer.

Mr. Esquibel didn’t know that the Department has that demographic information to answer that question. The minutes when that was adopted said the City was about 73,000 in population and now are about 83,000. So the population has definitely grown. The mix of races that populated these areas he didn’t have without looking at the census data.

Councilor Cassutt had no other questions.

Mayor Webber did a check with the Governing Body. He understood Councilor Michael Garcia might have more questions to explore and he had not had a chance to ask any questions yet.

Councilor Romero-Wirth said she might have a couple more questions but asked for a short break.

Mayor Webber suggested a ten-minute break to stretch.

The Governing Body took a break at 12:10 pm and asked members to be back at 12:20 pm.

The Governing Body reconvened at approximately 12:27 p.m.

Councilor Lindell said Councilor Michael Garcia had Mr. Throne go through the criteria on a rezoning. Now, she asked Mr. Sommer to go through the other side of those steps.

Mr. Sommer understood she wanted him to address the reasons the criteria have been met.

Councilor Lindell agreed.

Mr. Sommer said the General Plan has various stated adopted policies and they carry with them a Land Use Map that incorporated expressly the designations on the Land Use Map. One was an infill area. This is in the infill area. The General Plan says that infill usually at higher densities maybe than the surrounding density for purposes of promoting affordable housing. Affordable Housing is an expressly adopted policy of the General Plan. The other was the efficient use of existing resources. The property as currently zoned allows for a use of septic tanks at R-1 on this property. It does not require that anyone connect to the City's sewer line which is there. This designation would require connection to the sewer line – the efficient use of that sewer. Without that, the property can be developed on septic lines. Those are the prominent policy: infill, affordable housing, efficient use of existing infrastructure and the last is to avoid urban sprawl. Sprawl is defined as the extension of city services and infrastructure beyond the location for purposes of accommodating future development. It is not the use of existing infrastructure to accommodate that development. It is akin to the policy of the efficient use, but it avoids urban sprawl.

Those are the five policies that are stated in the General Plan that he believed this zoning incorporates and is more advantageous than the R-1.

He believed the question Councilor Romero-Wirth was getting at was the question on whether it was advantageous was subjective. It is the prerogative of the Governing Body to determine what is more advantageous – look at the list of policies and say these are more advantageous or they are not. That is the central question.

Councilor Lindell wanted to clarify a couple of issues with either Ms. Moore or Mr. Esquibel. She asked, if this property were to remain R-1, it would allow for each resident to have a septic tank.

Mr. Esquibel responded that Chapter 22 requires that anyone within 200 feet of the sewer line must connect to it. If this is beyond that 200-foot threshold, then they would be allowed a septic system.

Councilor Lindell asked if this development was beyond 200 feet.

Mr. Sommer said it is beyond 200 feet.

Councilor Lindell said the other thing she heard was if this were to remain R-1, these houses could be two-story. She asked Mr. Esquibel if that was correct.

Mr. Esquibel said currently, the applicant can go to 25 feet to the roof deck, according to the South-Central Highway Corridor. They restricted themselves to 18' heights. So if it went back to an R-1, which would have to go back to the ENN process to revise their original subdivision, The final plat would not be compatible with the preliminary plat. So they would have to go before the Planning Commission again. They could offer or not offer that 25 foot restriction to 18' and utilize the benefit of the ordinance which is up to 25 feet.

Mayor Webber thought the conversation was impressive and increasingly fine-hone what the Governing Body is working on for a decision. He saluted all members for the level of preparation and work that went into this hearing. It has been a good balance for affordable housing and preservation to maintain the character and quality of life in Santa Fe.

He went to some criteria to make the question of what is advantageous less subjective. He agreed we should strive for consistency and clarity so as to not whipsaw the community with only subjective decision-making. One way to be more consistent was the South-Central Highway Corridor Protection District, which lays out standards for any development in that corridor.

Councilor Romero-Wirth raised a point of order to get that on the screen again as this refers to a paper copy which she was not allowed to access.

Mayor Webber said his reference was to the City Code. The City Code lays out development and design standards. Chapter 14-5.5a – South Central Highway Corridor Protection District. The standards include density maximum at 21 units per acre, maximum height of 25' structures, setback minimum in building yard of 75' from of the right-of-way, but changed for Old Pecos Trail to have 75' setbacks, existing landscaping to the greatest extent possible and shall not be disturbed within 75' of the property line that adjoins the right-of-way, no parking structures or parking allowed, plant material provided in the open space setback, etc.

He asked to what extent this proposal met or missed those protections.

Ms. Moore replied that the preliminary subdivision plat before the Planning Commission meets or exceeds all the requirements of the South-Central Highway Corridor. There were no variances requested as part of the application.

Mayor Webber asked if there were any items on this list it did not meet.

Ms. Moore said no. It meets every requirement in Code, except for the commercial requirements which do not apply. All applicable standards have been met.

Mayor Webber asked about screening (fences and walls and screening). He knew Quail Run had an extensive fence running the length of the property and a gate. He asked the Applicant if the proposed development included walls or fences at this time.

Ms. Moore said the Planning Commission placed a condition on the property to beef all landscaping along Old Pecos Trail which will be shown when they go for the final Plat, if the application is successful today. They had no commitment to build a wall but have committed to make sure that if someone does build a wall, that it is setback to the 75' setback.

Mayor Webber concluded there is no talk about walls or fences of any kind.

Ms. Moore agreed.

Mayor Webber asked if the neighborhood association had asked for that or how it became a requirement.

Ms. Moore said it came from a concern about what people would see as they drove along Old Pecos Trail. From that came additional landscaping and no additional structures within that 75' setback.

Mr. Esquibel said that was a condition required by Ms. Lamboy before it got signed.

Mayor Webber asked to see the draft ordinance from 2016 and it was shown. He asked how far that got.

Ms. Moore said she found three iterations of a draft on different dates for this effort and various in-person meetings with Staff back and forth with the Sena Group and Land Use Staff. She clarified that she only had the draft but not an adopted ordinance.

Mayor Webber asked Ms. Moore, if she applied it to these criteria, to what extent they would meet or exceed what was a working draft between the Land Use Department and the neighborhood association.

Ms. Moore said that was a hypothetical. Mayor Webber agreed.

As applied to 2200 Old Pecos Trail, the boundary would be 600 feet from the right-of-way, which is the same as the South-Central Highway Corridor. We have an open space setback of 20 feet so as was discussed, they are exceeding that by 55 feet since they committed to a 75-foot setback of essentially an open space. The residential requirement would be met of 50% open space per lot. The building height proposed here was going to 25 feet which matches what the South-Central Highway Corridor overlay, and the applicants and Staff and Planning Commission have conditions that the height of this proposal would be limited to 18 feet. Residential density would be limited to R-3-7. The arroyo setback is 20 feet and the application is committed to a 25 foot setback.

Mayor Webber asked Ms. McSherry if a member of the Governing Body can introduce an ordinance at any time.

Ms. McSherry agreed, as long as it is on the agenda, it can be introduced.

Mayor Webber surmised there would be nothing to prevent him from introducing this draft ordinance for the Governing Body to consider, as it is described on this paper.

Ms. McSherry said she had not analyzed this with Staff. She was not aware of anything at that moment. And the Governing Body can waive any rule at any time.

Mayor Webber asked if there was anyone present who was active in the Neighborhood Association at the time; anyone who participated in that activity.

Pat Lewis came forward and was previously sworn in.

She made a note that this was not for Old Pecos Trail from Calle Medico going south. It was Old Pecos Trail from Calle Medico going to Cordova.

Mayor Webber agreed and said it could be extended without any problem. His question was, having listened to the criteria of the South-Central Highway Corridor Protection, what she would add as protections to this area to make it more sustainable, more attractive, and to do more to preserve the nature and character of that corridor. .

She replied that she was a member so that was not an appropriate question to ask without a public participation process.

Councilor Michael Garcia said legislation is drafted and many times it goes nowhere.

Mr. Esquibel said Councilor Ives sponsored such legislation that all of them go through the process, but it did not go that way for Old Pecos Trail.

Councilor Michael Garcia thanked him for the clarification. He wanted to find a definition for scenic and couldn't but did find one on spot zoning and that was in State Statutes. He was stating that for the record and gave the citation and read it.

Ms. Moore said it was also embodied in the zoning requests. In the General Plan, Section 3, page 3 and on what would be page 5 is the map in question. It is dated April 2000. And she questioned how this got in here. It was from page 4 - map on page 5, and map on page 6 but then goes to what is on page six. So the Future Land Use Map was sandwiched in. She asked how that could be. It was obviously a paper copy.

Councilor Michael Garcia said he was trying to clear up the process. The map in here is dated April 2000. The Land Use Map (General Plan) was from 1999. So any change should be an addendum to the process. And the pagination made it look like a Future Land Use Map was squeezed into the document somehow along the way.

Ms. Moore explained how the process has gone to GIS and digital formats.

Mr. Esquibel further explained that our maps are living documents so some of them will look very different when they get downloaded at another time. The date stamp reflects the time of the update.

Councilor Michael Garcia asked then, why the 2003 map was not part of the Plan.

Mr. Esquibel explained that Staff members now use the GIS and use what is the latest version now. He offered to have the original scanned and available to all.

Councilor Michael Garcia asked if there had been any other rezonings since 2015 for the Old Pecos Trail scenic corridor. The Councilor Ives resolution was considered prior to that General Plan.

Councilor Michael Garcia asked Director Ladd whether affordable housing should be done if this rezoning were to be denied.

Director Ladd said it would be considered a small project so no AH would be built. It was only a fee in lieu of building. The fee would be roughly \$40,000. That was rough because the fee schedule changes every year.

Councilor Michael Garcia asked why the developer wouldn't build that unit because there is such a need.

Mr. Sommer clarified that AH is financially driven. The developer could build one affordable unit but that would cost 3-4 times as much as the fee in lieu to be paid.

Councilor Michael Garcia asked Staff, if the project was denied, whether the applicant could come back with a new application after Chapter 14 is overhauled.

Ms. McSherry said an applicant can return and reapply after one year.

Councilor Michael Garcia had no other questions.

Councilor Lee Garcia asked what the setback was if that plaza development plan was built out.

Mr. Esquibel said he was not familiar with the plaza development plan but through the GIS, it appeared that everyone had met the 75 foot setback there. He explained that the plaza was a completely separate development because it was subject to the PUD standards. But this one does not have a PUD standard.

Councilor Lee Garcia asked Mr. Sommer if this project would seek to meet or exceed the setback.

Mr. Sommer said yes. The setback was the same. It was not proposed to change the setback at the plaza.

Councilor Romero-Wirth asked Mr. Throne if his presentation on the history, basically reflected the City's side of the story from the City archives.

Ms. Lewis said they basically came from the files that she found, including the records of the Old Pecos Trail Working Group that included developers, neighborhood associations and City staff members. There was also a white paper that was written about the effort. It was a dialogue among the members and Staff. She also had access to the work of the Old Santa Fe Association. There were other emails that came from individuals.

Councilor Romero Wirth asked Mr. Throne one more question. She noted than in his testimony, Mr. Throne said in his memos that he thought the Applicant had not met the third criterion – that a different category is more advantageous to the community as articulated in the General Plan.

Mr. Throne said he did.

Councilor Romero-Wirth asked him to articulate specifically why he felt that way. She recalled the Applicant had addressed the various parts: infill, affordable housing, avoids stall, uses big infrastructure, and one other. So she asked him what the reasons were that he felt showed they did not meet criterion three.

Mr. Throne reminded her she has to look at what is in the General Plan. It is not just whether R-1 or R-3 is more advantageous. He accused Staff and Applicant of cherry-picking certain parts of the General Plan to say what their advantages are. But are there advantages to five affordable homes? Certainly there are but does that outweigh the damage to the Old Pecos Trail Scenic Corridor as articulated in the General Plan or the 2015 Resolution 2000-92?

Councilor Romero-Wirth said we have already established that the Resolution cannot be referred to for why this application does or does not meet the third criterion. But she wanted him to say why the application does not meet the third criterion.

Mr. Throne said it was a fact-finding exercise the Governing Body is engaged in. There would be more infill with this but there would still be infill with R-1. There would be 20 market-rate houses that Mr. Sommer acknowledged would probably cost in the range of \$700,000 to one million each. He asked if that was an advantage to the existing community. Those are not affordable houses to people in the community now. The General Plan says there should be a minimum density of five dwelling units per acre to reach the people who really need what was described in the 1999 General Plan as families earning \$70,000 or less.

Councilor Romero-Wirth pointed out those were not in the General Plan.

He said there were other disadvantages such as traffic issues and the TIA, which had a 200-page analysis. Most people don't have the time or patience to go through it all. It had a ten-year projection of traffic – 2024 to 2034. In it, they assumed there would be no other developments in the area because there were no other pending proposals for any property along Old Pecos Trail. But he pointed out there are for sale signs there right now. It is not a reasonable assumption. And the required U-turns will make the traffic problems worse.

Mr. Throne continued to express his opposition to the plan and Councilor Romero-Wirth halted his commentary as getting away from answering her question.

Mayor asked for any other questions. There were no others.

The Public Session was closed at 1:26 p.m.

Action of the Governing Body

MOTION: Councilor Romero-Wirth moved, seconded by Councilor Michael Garcia, to deny Case #2022-5063. 2200 Old Pecos Trail Rezoning and direct Staff to draft proposed Findings of Fact and Conclusions of Law reflecting the Governing Body's decision on the basis that the application does not meet Criterion #3. A different use category is more advantageous to the community as articulated in the General Plan or other adopted City plans.

Discussion on the Motion

Councilor Cassutt said there was a lot that speaks to the broader processes the Governing Body needs to be moving forward with in terms of planning, especially with the General Plan update coming forward. There is a lot of challenging conversation here about the challenges our community is facing. We are at a tipping point and might be over it of really needing to understand that the world has changed and that the housing market has become almost untenable for a lot of individuals.

When she talked about character, she specifically referenced the character of Sol y Lomas. But we need to think about what is happening all over the City of Santa Fe. People are being displaced out of our City. We cannot stop people from moving here. This is an incredibly beautiful community. There is a reason we all love it so much. And people come here, and they moved, and they have more money. And they make cash offers and push people out. And we are losing the diversity that has created the cultural heritage that Santa Fe is today. We are losing our young families. I should not exist in this City. I'm a single mom and make under \$40,000 a year. But I'm lucky. I have a safety net – an incredible safety net in my family. So I do get to be here. But that means it is my job to look at those individuals that do not have the safety net that I have and see how we can make this City work for them.

Five affordable housing units will not solve the problem. Nobody on here think that will solve the problem. But the thing about housing is that we have a few different options for how we start to solve this issue. We need more units. Now we can build giant apartment buildings, we've been told that you don't like those. We can build the sprawl of suburbia that you are seeing all over District 4 and District 3. Or we can start looking at infill. Chances are, with how short we are on housing right now, we are going to have to do a combination of all of them. And as the General Plan states, there should be no neighborhood – there should be no part of the City that does not do its part. What I find really interesting about this application is while it will meet the letter of the Future Land Use Map, which I understand, by the way, the Old Pecos Trail Corridor was called out in the General Plan in the same breath the Governing Body that did have the ability to, I imagine at that

point, did have the ability to amend the Future Land Use Map, and could say we believe the Old Pecos Trail Corridor is so important, that on this area, on the Future Land Use Map, we are going to actually change it to 1 to 3 - take it out of the infill zone which gives it a minimum of R-5 and they did not do that. So they understood this issue. This is a balancing act that we are going to have to be looking at . So we are taking this opportunity to say, yes, infill is important and also how we do the infill. Is incredibly crucial.

With our current Code, with our current zoning, we do not necessarily have the tools at our fingertips to perhaps do this in such a way that might be more creative, more amenable, might allow us to balance out these areas' needs. And I hope we take a really hard look at that as we move forward with the General Plan and the Code update coming forward. But right now, sorry, circling back, I know that twenty houses won't change this. I know that five houses will not change this. But the point is that it is an additive or fact and the entire City has to be part of this.

I read the numbers we brought up last time that we have for what is going on with units in that housing pipeline, remembering that our districts are not geographically equally spread and District 4 is currently the smallest geographic district with District 1 at 780, District 2 at 906, District 3 at 4,034 (second smallest district), and District 4 at 4,651. We can see that the southside is taking the brunt of the housing crisis. And everyone says, "well that's where there is land." There is land here too.

"I think I have hit the majority of my points. I know I sound very passionate about this because I am. And because I do see that there is such a challenge here. And I worry about what is happening to our City. The General Plan calls for this area to be denser. It put it in the infill zone and calls for it to be at least R-5. If we think that housing is done, such a crucial need and even that R-3 doesn't meet the need, well, what does? R-5? R-7? You get more affordable units there. So this is a balancing act. Going to R-3 – actually R-2.6, is still keeping it in the very low density residential, we work on increasing the density, we work on this gentle density as it is sometimes referred to, without making drastic changes to the neighborhood. And whether or not that is enough, I'm sure there are members of our community that said, this project was not dense enough. I think that its been really interesting – I haven't asked them – but to see that the housing advocacy groups have not come out for this one, and I'm going to guess, if I asked them, that would say this isn't good enough to support because we need more density in the City. But I do understand, as I mentioned, that I grew up in this neighborhood. This is the neighborhood that raised me. Zia and Old Pecos was the very first intersection that I turned onto a major street, because I was too afraid to turn onto Rodeo. So I drove through on those dirt roads to make the right turn. Onto Rodeo, i was not ready for that yet. And I do understand that there is something

extremely special about this corridor. I drive it every single day to take my child to school. It is beautiful and part of the beauty of this corridor is actually the architecture. As you drive through you know, there are these gorgeous walls with these beautiful gates that are that bright blue that we see all over Santa Fe in the ristras. There is a lot that goes into the visual appeal of the character of our City. And I think we need to take all that into consideration. The open space, the view of the mountain but also ultimately, the people that live here, I think is the most crucial piece that we need to be thinking about. Thank you, Mayor.”

Councilor Michael Garcia said the proposal is very challenging and what has complicated the process is the trust factor. What he meant by the trust factor was that in 1999, the City committed to a public participation process that would develop standards, land uses, density, and design controls. He couldn't explain why that didn't happen, but it didn't happen. Then, in 2015, there were a number of Councilors and Mayor Gonzales, that brought forth the resolution requested to reinstate that process. There were two sides of the story during the hearings on what happened and how things broke down. Again, it comes back down to trust. As a City Government, it behooves us to complete what we commit to. This is a perfect example of when we don't get our work done, it comes back to bite us in the rear end. What Staff stated that, through the Chapter 14 recall, it will address this. This public participation process needs to begin immediately in his opinion. Not only with one community group, but for any person who wants to participate. That's a public participation process. As the Governing Body moves forward with this, it is critical that we have a public participation process as outlined in the General Plan, and through the approved resolution that that process is fulfilled, that recommendations are put forth to this Governing Body, and that ultimately, our community is not put through a troubling situation like this. It then comes down to housing and the discussion of whether nine houses is good enough, or is 25 houses good enough.

Councilor Michael Garcia said, “I am a strong proponent of housing and affordable housing in particular. So any affordable unit we can put on the market, is a positive. We need to complete this process. We need to move forward as a community. That way, we can determine how we as a City can continue to grow. That is what this City has done since its inception, hundreds of years ago. We grow as a community; we grow as a culture. And it is up to us as a government to ensure that we are adapting to that growth and moving forward in this community's and the residents' best interests. Thank you, Mr. Mayor.”

Councilor Villarreal thanked the Staff for the amount of work they did with this project and the different iterations. It was a lot of work and very complex. She also wanted to commend the community members who took

so much time to dive into the details and learn about the facts and understand how complicated land use is in Santa Fe She also thanked her colleagues for their thoughtful questions and trying to gain clarity in land use cases that can be so difficult. There were a lot of layers and the history there of past councilors, and decisions we had no control over. That is what is hard about where we are today.

She wanted to note that she was active in the process with very passionate community members like themselves in the completion of the West Side Santa Fe River Overlay – a couple in-house that participated in that. At the time, the City did have Long-Range Planning Staff available to assist. That project took priority and community members worked diligently with Staff for 6-8 months or so. There were compromises made, many around the development and design standards. There was middle ground found and not everybody was happy. But in the turnout, there was a good balance. Some would say that overlay did not do enough to protect the corridor and others said it was too rigid and didn't allow for enough growth and density. And this is part of El Camino Real historic area. Some would say it was an unspoiled area of Santa Fe, and it was near the Santa Fe River and how precious that was, which is no longer flowing. Some would say there are no longer any unspoiled parts of Santa Fe and others would say there are new ones. We have beautiful areas that we come into that are very different from the past but they are what we have right now in contemporary times.

Her point was that we can't keep an urban area suspended in time as it was in the 1960's, 1970's, but we can commit to a planning process that takes into account an area that has unique characteristics but also balances what we consider future growth and housing. As a former community planner, which she is, Councilor Villarreal thought we definitely need to move forward with how with this corridor plan and update to the General Plan. It is a must and has to happen and we need to be part of the process. Keeping the R-1 zoning anywhere in the City is not equitable. And it is poor planning. If we go through any future overlay or corridor plans, R-1 should not be allowed. She would not support anything that was R-1. It didn't make sense in the urban setting. That should only be seen in the County in the semi-rural areas. She noted that also contributes to having 60% of Santa Fe's workforce living outside the City. That is unsustainable.

She noted there were aspects of this development that are reasonable. They may need modifications. It will be nice for people to get to live there, whether they are market-rate homes or affordable homes. She thought the developers will be under a microscope and will need to do everything right. People will be watching to make sure they uphold all the promises made.

Councilor Villarreal asked her colleagues to consider a temporary moratorium in this area so the Governing Body could complete the corridor

overlay design and development standards in partnership with the community and Staff. She didn't know what that would look like, but we cannot do anything unless our standards are clear and not have anything in place without that.

R-1 should not be allowed in any overlay district. There are aspects that are reasonable and everything in the development should be upheld and done right. A temporary pause should be made on it. It is up to Staff to commit to this process and to update the General Plan.

Councilor Romero-Wirth agreed this has been a tough one. She thanked everyone for their participation and to the other Councilors for their patience and time. Thanks to the Staff for their time and willingness to answer questions. For the record, that who is to blame for why the Old Pecos Trail Corridor was not adopted and the fact she tried to get movement on it aren't relevant to what the Governing Body has been asked to use in forming a decision around the whether we approve this zoning or not. But she thought the General Plan does lay out three different times that this corridor is special and there should be an overlay district. And we should approve the density and development standards for this area that were never done. The General Plan said it should be done. She found it in conflict that the General Plan said there should be zoning in this area for a particular level when we must have development standards and density requirements for this particular area. Without an overlay, we don't know what that must be.

The General Plan also says we should maintain and respect Santa Fe's unique personality, sense of place and character. She did not deny her Colleague's comments that we may be at a tipping point. We certainly struggle with affordable housing. We are struggling with people being able to afford to live here. People are being displaced. We need to deal with those things. But if we don't also honor our character, our uniqueness, our sense of place at the same time, we will lose something not only special to those of us who live here but also "It is an economic driver. If we just want to build the whole city up and not pay any attention to our historic nature, our open space, the things that make us unique, the things that give us character, we are shooting ourselves in the foot. I don't think this meets the criteria that it is more advantageous to the community because we are not honoring things in the General Plan that we say we hold as valuable and should be guiding policy."

Councilor Chavez thanked everyone for their time. It has been a difficult discussion and there was lots of passion and heart in the discussion from every end. It has been very insightful.

She spoke to "advantageous." We all have different views on what that is. She often goes back to youth since that is the population she works with.

And the number of homeless youth right now is alarming and more than most people know. She hugs and interacts with those youth who are going through it, so she knows of it first-hand. When we talk of five affordable houses, we are talking about family homes. She sees firsthand when these kids are able to have a house of their own. It works. We have great programs and they do end up in these homes. There was some conversation about who would benefit. It will benefit these kids. When the units become available, we can share information as educators and educational leaders with families that they will finally have a home. It is amazing and the impact is long lasting because it is youth who define our future as Santa Fe.

She also wanted to value what Councilor Villarreal said about adding value to our City. We have people that add value to our City. We have developments that bring people together and form communities and we have kids meeting up and riding bikes and exploring the beautiful City that we have, that is supposed to support and nourish them. And development isn't negative. Bringing diverse people that define Santa Fe as Santa Fe together, we are creating a space for them. I value that. I find that advantageous. I find placing children in a home advantageous. I think with this development in particular, we are still valuing things. That is why we are meeting setbacks. That is why we are not going too tall. That is why a design is actually presented to the Planning Commission. It will respect the design of other neighborhoods in the area. But she didn't want to rest on the fact that we think developments are creating neighborhoods where people can come together is not advantageous, because she sees it firsthand. She sees it as a mother of teenagers, and she also struggled with finding housing. She lived with her parents for a very long time as an adult with kids. Fortunately, she was able to move up in leadership and provide for them. But when others did not have hope to provide a home for their children, it might look a little big different.

Councilor Chavez said, "I believe in equity. I believe in housing people. We don't have equity right now. Councilor Cassutt expressed some of those numbers across our Districts right now in regard to housing. Our neighborhoods are growing and some of us have had to deal with that growth exponentially. And there has not been much voice along with that growth." She encouraged the Councilors to reflect on that fact. It was not acceptable in her mind. She looked toward the surprise it could offer, if passed today.

Councilor Rivera thanked everyone for being here, both applicant and neighbors. The issues were difficult and for those living in that area, this decision means a lot. He also thanked the Applicant for going through the process. He also thanked the Staff for getting here on a Saturday to answer questions and for all of the work they put into this. This has been Dan

Esquibel's finest presentation he had ever seen him make. He has done a lot of good ones but this one was very well thought out.

Councilor Lee Garcia felt this was presented very well by both sides. He appreciated having the opportunity to ask questions of both sides. Especially about the criteria. We keep on talking about objectivity and how difficult it was because everyone was passionate about our community. As an elected official for District 3, he didn't just represent them but the whole City. This was a very difficult process and Staff worked hard to present the details in a way we can understand. The public was also passionate about where they live. We will decide shortly.

Councilor Lindell also thanked everyone who showed up and others whose points of voice were not shared from the Chamber. Also to her colleagues who all have done an exceptionally good job on this, as well as Staff putting in hundreds of hours. Everyone is worn out with it, having done their best. We have talked about things we needed to talk about. There were terrific questions asked; some concepts brought forward that needed to be talked about and had not been talked about before. It has been a mammoth amount of work from the Council. No one took this lightly. Certainly Staff didn't either.

Mayor Webber also gave thanks and gratitude. He felt this Land Use decision tells us much more about Santa Fe than about a particular zoning case. "This is about Santa Fe at its best. There is a reason why our community is the best place to live. It is because the people who live here care about it more than any other place. The level of engagement, commitment, concern, desire to get to a good outcome, is why Santa Fe, regardless of the decision today, will continue to be an outstanding, unique and exceptional community. People here love the City. Members of the community love their City. Members of the Governing Body love their City. And they are willing to take the time and make the effort, read the documents, participate in the process, so we not only express that love, but we make every effort to demonstrate it in a way that will preserve, protect, and respect the unique qualities of Santa Fe. In listening to his colleagues getting ready to take a vote, he was struck by the fact there were two discussions going on simultaneously. One was about this case – that is what we will vote on. The other is about the teachable moment we are in as a community. Teachable moments are when something becomes so crystal clear that you have to talk about the underlying principles and the deep opportunity to learn from the specifics that goes far beyond the specifics.

He shared some of the thoughts in his mind in wrestling with this challenging case. It is clear there are tough decisions by this Governing Body and none is more challenging on Land Use cases. Our job in these

quasi-judicial hearings is to come as if we were judges with open minds and listen to both sides. We understand the zoning code, the facts in the case, and render a decision based on whether the facts in the case hit the zoning code on the books. It sounds simple but almost always complicated in its application. Land cases are almost always emotional and divisive – often filled with anger and frustration. Not everyone in the community understands that in these Land Use cases, the Governing Body’s role and rules are different from our usual position. It looks the same as voting on a contract, but it is different. We are prevented from conversing or reading emails from either side. He was even getting emails this morning from constituents urging him to vote one way or the other. He was not supposed to read those and certainly not to respond. They couldn’t read editorials or letters to the editor about them or even be influenced by the numbers in Council Chambers for either side. The Governing Body must be impartial, unbiased, and nonpolitical.

Second, in most of these cases, both sides have a strong and compelling point of view. There’s truth on both sides. In this case, it is true that the corridor coming into the City, that is the Old Pecos Trail, is lovely, attractive, and needs to be respected and protected. And we understand that the proposed development meets the zoning called for in the General Plan, responds to our critical need for housing, including five affordable units, in a part of the City where affordable single family units are hard to come by. Arguments on both sides are true. The Governing Body ends up weighing and balancing the conflicting points of view. If nine homes are permitted under the existing R-1 zoning, would the 25 homes proposed under R-3 zoning substantially harm the beauty of the corridor? Are the five affordable homes a benefit that makes the tradeoffs worth it? These are hardly black and white arguments, despite how they are presented during the public hearing. That makes it hard for the Governing Body to make a decision.

It is made more complicated by the emotions cases like this engender. Most of the facts are agreed upon by both sides who understand how important the corridor is. Both agree housing is a priority. It is emotion and often anger that make it more difficult. How can the Governing Body make these cases less divisive? Mayor Webber suggested Revising the ENN process. Not much was done in 3 ENN meetings in this case to bridge that divide. ENN cannot solve every dispute but Santa Fe can look at what other communities have developed to do that.

Mayor Webber showed a book that had a solution using ballots so individuals at their kitchen table could evaluate a proposal and send their ballot back in. Albuquerque has a mediation process. Clear information sent to the residents’ homes.

Second, the City needs to do a better job with explaining why these Land Use cases are handled in a quasi-judicial manner and what it means for the Governing Body and why they are conducted as they are. It is hard to distance ourselves from the comments of our constituents. A packed chamber often does influence a vote and explicitly not supposed to drive our decision on Land Use cases.

Third, we need to update our General Plan. Our Land Use Code needs updating. That work is now underway. COVID disrupted the plans made several years ago to do that. But our Code is impressive, still standing up after 25 years after initial adoption. And the zoning code is still fundamentally sound. Despite amendments over the years.

Finally, we need to say out loud how important these cases are for Santa Fe's future and the legitimacy of differing points of view in resolving them.

"We need to acknowledge there are pros and cons to each proposal. We need to look for solutions that emphasize a both/and perspective on preservation and smart growth. We are blest as a City that we can still make these decisions and provide a better future for our City and for the residents of the City and those who will live here in the future."

VOTE: **The motion failed on the following roll call vote with:**

For: Councilor L Garcia, Councilor M. Garcia, Councilor Lindell, and Councilor Romero-Wirth.

Against: Councilor Cassutt, Councilor Chavez, Councilor Rivera, Councilor Villarreal, Mayor Webber.

MOTION: **Councilor Rivera moved, seconded by Councilor Cassutt, to approve Case #2022-5063. 2200 Old Pecos Trail Rezoning, adopting Bill 2022-22, and direct Staff to draft proposed Findings of Fact and Conclusions of Law reflecting the Governing Body's decision that the Applicant has met all the criteria for rezoning.**

VOTE: **The motion was approved on the following roll call vote:**

For: Mayor Webber, Councilor Cassutt, Councilor Chavez, Councilor L Garcia, Councilor Lindell, Councilor Rivera, and Councilor Villarreal.

Against: Councilor Michael Garcia, Councilor Romero-Wirth.

Councilor Romero-Wirth asked for guidance from the City Attorney for talking about this case. She believed she would be bringing Findings of Fact and Conclusions of Law to the Governing Body. She thought they would like to discuss that.

Ms. McSherry agreed. We will be reviewing the Findings of Fact and Conclusions of Law. The action is not formally final until the Governing Body adopts those. Should this be appealed, please consider yourselves in a quasi-judicial posture because if the District Court were to take action, it could be to remand it back to the Governing Body.

Mayor Webber, for clarification, said if members are asked to explain their vote at this point, are we free to do that?

Ms. McSherry said if it was only to explain your vote, and you made a statement about the vote, it was okay. But no discussion about the case because it would be ex-parte communication. Also, you do not need to explain your vote if you do not wish to

8. ADJOURNMENT

Having completed the agenda and with no further business coming before the Governing Body, the meeting was adjourned at 2:17 p.m.

Approved by:



Mayor Alan Webber

ATTESTED TO:



Kristine Bustos Mihelcic, City Clerk

Respectfully submitted by:



Carl G. Boaz, Council Stenographer