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PLANNING COMMISSION MINUTES
JUNE 1, 2023**

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MINUTES OF THE CITY OF SANTA FE PLANNING COMMISSION
Thursday, June 1, 2023 - 6:00 pm

CALL TO ORDER

A regular meeting of the City of Santa Fe Planning Commission was called to order by Chair Clow on the above date at approximately 6:00 p.m. in the Council Chambers at City Hall, 200 Lincoln Avenue, Santa Fe, NM.

1. ROLL CALL

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

Members Present

Chair Janet Clow
Vice Chair Jessica Lawrence
Secretary Peter Smith
Commissioner Pilar Faulkner
Commissioner Phil Lucero
Commissioner Gurushabad Mirando
Commissioner Dan Pava

Members Absent

Two Vacancies

Others Present:

Mr. Jason Kluck, Land Use Director
Ms. Maggie Moore, Planning Manager
Ms. Patricia Feghali, 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.

2. PLEDGE OF ALLEGIANCE

Commissioner Mirando led the Pledge of Allegiance.

3. APPROVAL OF AGENDA

MOTION: Commissioner Faulkner moved, seconded by Commissioner Lucero, to approve the agenda.

VOTE: The motion passed by roll call vote with Commissioners Lawrence, Smith, Faulkner, Lucero, Mirando and Pava voting in favor and none voting against.

4. APPROVAL OF CONSENT AGENDA

MOTION: Commissioner Faulkner moved, seconded by Commissioner Lucero to approve the consent agenda.

VOTE: The motion passed by roll call vote with Commissioners Lawrence, Smith, Faulkner, Lucero, Mirando and Pava voting in favor and none voting against.

5. APPROVAL OF MINUTES

May 4, 2023

MOTION: Commissioner Lucero moved, seconded by Commissioner Lawrence to approve the minutes of May 4, 2023.

VOTE: The motion passed by roll call vote with Commissioners Lawrence, Smith, Lucero, Mirando and Pava voting in favor, none voting against and Commissioner Faulkner abstaining.

6. APPROVAL OF FINDINGS/CONCLUSIONS

- a. Case #2022-6103. Villas de las Soleras Unit 3 Preliminary Subdivision Plat. (POSTPONED FROM MAY 4, 2023)

MOTION: Commissioner Lucero moved, seconded by Commissioner Faulkner to approve the Findings of Fact and Conclusions of Law for Case #2022-6103.

VOTE: The motion passed by roll call vote with Commissioners Lawrence, Smith, Faulkner, Lucero and Mirando voting in favor, none voting against and Commissioner Pava abstaining.

- b. Case #2022-6134. 1864 Paseo de Vista Rezoning.

MOTION: Commissioner Lucero moved, seconded by Commissioner Lawrence to approve the Findings of Fact and Conclusions of Law for Case #2022-6134.

VOTE: The motion passed by roll call vote with Commissioners Lawrence, Smith, Faulkner, Lucero and Mirando voting in favor, none voting against and Commissioner Pava abstaining.

- c. Case #2023-6488. 1864 Paseo de Vista Master Plan

MOTION: Commissioner Faulkner moved, seconded by Commissioner Lucero to approve the Findings of Fact and Conclusions of Law for Case #2023-6488

VOTE: The motion passed by roll call vote with Commissioners Lawrence, Smith, Faulkner, Lucero and Mirando voting in favor, none voting against and Commissioner Pava abstaining.

- d. Case #2023-6487. 3900 Constellation Drive Setback Variance.

MOTION: Commissioner Pava moved, seconded by Commissioner Faulkner to approve the Findings of Fact and Conclusions of Law for Case #2023-6467.

VOTE: The motion passed by roll call vote with Commissioners Lawrence, Smith, Faulkner, Lucero, Mirando and Pava voting in favor and none voting against.

7. **CONSENT AGENDA**

- a. **Case #2023-6657. 3978 Rufina Street Development Plan Approval Extension.** NM Land Solutions LLC, Agent, for Alfredo Garcia via Manuel Garcia, Owner, requests approval of a Development Plan Approval Extension for a development plan to construct an 88,822 square foot hotel with 100 guest rooms on one lot currently totaling approximately 9.825 acres. The extension is requested in conjunction with case #2023-6658, Lot Line Adjustment and Easement Vacations for 4075, 4085 Cerrillos Road, 3978 Rufina Street and 4701 San Ignacio Roads, which would reduce the subject property to approximately 3.25 acres. The property is zoned C-2 (Community Commercial). (Daniel Alvarado, Case Manager)

This item was approved under Item #4, above, Approval of Consent Agenda.

8. **OLD BUSINESS**

- a. **Case #2023-6486. 3900 Constellation Drive Development Plan.** NM Land Solutions LLC, Agent, for Luxelocker Santa Fe, Owner, request approval of a development plan to establish development standards for a 71,588 square foot storage facility with 83 storage-units located at 3900 Constellation Drive on three lots totaling approximately 3.931 acres. The property is zoned I-1 (Light Industrial) and is within the Airport Road Overlay District, the Southwest Area Masterplan and the Santa Fe Airport Industrial Business Park Masterplan. (Daniel Alvarado, Case Manager) **(POSTPONED TO JULY 6, 2023)**

9. NEW BUSINESS

- a. **Case #2023-6484. 5254 5101 Las Soleras Drive and 4822 Rail Runner Road Development Plan.** JenkinsGavin, Inc., Agent, for Keystone Companies, Inc., Applicant, requests development plan approval for a 183-dwelling multi-family development plan totaling ~~217,523~~ 226,226 square feet of new construction. The Property is approximately 28.59 acres identified as Lots 9A-2 and 11-B of the Las Soleras Master Plan. The project site is zoned R-21 (Residential - twenty-one dwelling units per acre), located within the Suburban Archaeological Review District. (Dan Esquibel, Case Manager)

EXECUTIVE SUMMARY

JenkinsGavin, Inc. (Agent), Keystone Companies, Inc., (Applicant) requests approval of a Development Plan to construct a 183-dwelling multi-family development plan totaling 226,226 square feet of new construction, infrastructure improvements and related accessory amenities.

The Applicant has complied with Subsections 14-3.1(E) "*Pre-Application Conferences*", 14-3.1(F) "*Early Neighborhood Notification Procedures*" and 14-3.1(H) "*Notice Requirements*".

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 identified in Section II "*Conditions of Approval*" listed in the staff memorandum.

Commissioner Pava asked what the General Plan Land Use map designation is for this.

Mr. Esquibel said since the master plan was recently amended, all of the zoning is multi-family, high density and matches Las Soleras and R-21.

Commissioner Pava asked if there are many R-21 lots in the city of comparable size.

Mr. Esquibel said there are many. This multi-family apartment complex is unique for the city in that these are spread out in little casitas. He said there is another complex like this coming.

Commissioner Pava asked to confirm that the intensity of Santa Fe's R-21 zoning is cumulative. Someone could put up to 21 multifamily homes and will also allow less density uses.

Mr. Esquibel said that was correct. He noted that often Pulte requests higher zoning density but will build less.

Ms. Moore added the future land use map per acre is 12-29 dwelling units.

Commissioner Smith asked if approved, there is an opportunity this will be built with fewer units.

Mr. Esquibel said it is possible someone could, with an administrative adjustment, get higher density approved. That would not come to the Planning Commission. The Land Use administrator could adjust the density if the scope and intent of the approval is maintained.

Commissioner Smith noted that on condition #2 the staff report has nothing to suggest anything but an approval. He asked if staff had language.

Mr. Esquibel said the Planning Commission can have a different set of findings than staff. Staff is charged with ensuring applications meet the requirements. They force the applicant to comply with conditions of approval and changes in the review stage and to complete all of the staff requirements and negotiations. He said staff has to recommend approval if the applicant meets the rules and regulations. However, that does not mean that the Commission has to agree. The Commission would have to come up with their own findings, so their decision is not found arbitrary and capricious.

Attorney Feghali said there are Finding of Facts either way. If the Commission has different reasons for their approval, they must state those.

Commissioner Smith asked to have a presentation on the in lieu of, in the next few meetings.

Commissioner Faulkner confirmed that each apartment will be a separate casita and said how is that not a single-family dwelling.

Mr. Esquibel said every apartment complex is a single family dwelling. He said the definition of "dwelling" *is any structure with facilities that contains eating, sleeping, sanitation, and living.*

Commissioner Faulkner was concerned that this looks like a development for single family dwellings, but it is calling itself a multi-family project. She said she was trying to understand how someone who builds separate single family units following certain codes, could call this the same multifamily project and that is just accepted, even though they are single units.

Commissioner Clow said they are rented and not owned.

Mr. Esquibel said they have hotels that have converted to apartment complexes, apartment complexes that have transferred from apartments to condominiums. He said it will be seen within the review process which requires some to come to the Land Use Department to make changes. Staff evaluates what is needed for those changes.

Commissioner Faulkner said the Commission is being asked to approve this project as though it is an apartment complex when it is separate units.

Mr. Esquibel said staff does not distinguish between an apartment and single-family use because it *looks* different. He said the applicant has the ability to convert to single-family units, but that is not what they are doing. Staff does not enforce something that may or may not occur in the future. He noted that the applicant has signed an agreement which is in the packet.

Director Kluck suggested that the applicants speak. He said this is a prototype of development and the applicants can explain the project. This is not like a single family subdivision, it is a multifamily project.

Commissioner Faulkner asked if the units are sold at some point if mechanisms are in place to make a certain number of the units affordable.

Mr. Esquibel said there are several. The requirements for density compliance if going to a condominium require the applicant to be given a form to record their declaration. Without the form the declaration cannot be filed.

Commissioner Faulkner asked if a mechanism is in place for affordable housing if these are rented for four to five years and the owner decides to sell as housing.

Mr. Esquibel said that would be through a Certificate of Density which is sent to Affordable Housing for review before the certificate is signed.

Director Kluck clarified if the Commission approved a multi-family project, any change requested in the future would be sent to the Planning Commission. He said he would not administratively approve any changes unless very minor.

Commissioner Mirando asked if correct that there is no mechanism currently, and the property would have to be subdivided to sell individually.

Mr. Esquibel said if the applicant wanted to create fee simple lots, staff would measure per the lot size requirements or subdivision rules and regulations. That automatically comes to the Planning Commission. If the applicant wanted condominiums, staff would need to fill out the declaration form for the applicant to file and record their declaration. He said staff always knows if there is going to be a conversion. He added that the Commission could put a condition of approval requiring the property to be reevaluated for affordable housing, should this go from an apartment complex to a fee simple property.

Commissioner Mirando said his point was on the statement made that there is nothing saying that this is different from single-family. He said it does look like single-family, but he wanted everyone to understand there is something saying this is different, which is the property line.

APPLICANT PRESENTATION

Jennifer Jenkins, 130 Grant Avenue, Suite 101, was sworn. She introduced the team on the Havenly Santa Fe project. She showed the aerial of the vicinity and described the area and the location of the property. The applicant will do a lot line adjustment for the two parcels. She noted 9.5 acres is not part of this project or acquired by the applicant. The future Land Use map designation for zoning is 12-29 units per acre with a diverse, mixed use environment and different densities and uses. She showed the zoning map and described the zoning of surrounding properties. This is a build to rent project. She said Keystone does not convert their projects and have established deed restrictions to prohibit that. She described the main access point off Rail Runner Road on the west side from Beckner Road. She described the trail that will be constructed. A rendering was shown of a similar Keystone project completed in the Phoenix area. Amenities were described and gathering areas for the community that would increase opportunity for interaction. She noted that staff requested the review how the units relate, and the terrain flows through the property. The open space was described. The traffic study and intersections that were analyzed were reviewed. She said with the assumed growth rate the level of service in 2025 when the units have been implemented, is excellent except for one road. That issue can be addressed by the timing of the signal. She reviewed the planned roadway improvements.

Ms. Jenkins addressed the condition of approval they received in April in a memo from the MPO (Metropolitan Planning Organization). MPO requested connecting the trail to the sidewalk to the Soleras Station. The applicant agreed to add a sidewalk to the Rail Runner to the Northwest boundary of the property. She said the applicant received a revised memo within the hour that asked them to extend the trail to the Rail Runner. The staff report included a memo dated May 24th stating condition # 1 requires the trail to be extended and constructed off of the applicant's property. That is a concern and a big surprise to the applicant who is fulfilling their obligation by building the trail corridor through their property. She said this type of improvement often happens sequentially as development occurs. She requested the memo dated May 12th, condition #1 be written to say, *"to continue the central public trail to the northwest edge of the property"*.

Chair Clow asked who owns the 9.2 acres of property.

Ms. Jenkins said all the property is still owned by the current property owners. Keystone is under contract to acquire 19 acres, not the nine acres.

Commissioner Lucero said this development is very impressive and appears it would be a nice addition, but he is concerned about the trail. He asked if the intention was to connect to the park and Las Soleras.

Ms. Jenkins said the easement goes all the way to the park. The long-term intention is for the trail eventually to continue once the 9 ½ acres is developed.

Commissioner Lucero said the trail currently ends at the end of the property.

Ms. Jenkins said there is a dirt path that is used. She read from the memo, *"connect the internal sidewalk to the Rail Runner side path to provide access to Las Soleras Park since the full trail connection to the park will not be completed at the time of development."*

Commissioner Lucero said he appreciated that. Eventually the intent is to make that connection. He said he would argue the trail should be connected for the sake of the residents in the development. He wondered if this were a road if conditions would require the road to connect.

Ms. Jenkins said, yes if the road is needed for access. She said roadway extensions are not always required. Roads are stopped in the interim when not necessary.

Commissioner Lucero said he has a problem with that, and he wasn't sure how to move forward.

Ms. Jenkins said she was also confused and surprised and this was not what was discussed.

Director Kluck said he understood completion of the trail is required as a condition of the masterplan but it does not say the sequencing. He said often there are trails in the property line of a project that was approved. He sees the benefit of completing the trail but thought it should not be required. He said there could be irregularities with this condition. He said the memo he approved had language to the effect "to extend as far as possible past the property line" but that is not what this condition says.

Chair Clow asked if he thought it not appropriate for the applicant to extend the trail.

Director Kluck said he was not making that statement; he just wanted to give the Commission the facts. He said it is a reasonable condition but many times that was not required. He added the trail system was discussed with the master developer for months to ensure the trail system. He thought they had agreed on the basic conditions. He said the applicant is not required to make trails in the park. The master plan actually excludes the applicant doing that. The master developer is responsible for park improvements.

Commissioner Lucero asked if the development will be gated.

Ms. Jenkins said there would be a wrought iron type enclosure around the perimeter of the site. The Rambla easement is 45 feet wide and will be landscaped and

people's backyards are on the east and west edge. The backyards of the units will be enclosed. Gates will provide access to the trail, which will not be blocked in any way and fencing will be internal, not in, but on the edge of the easement.

Commissioner Lucero clarified there will be a vehicular gate for access.

Ms. Jenkins showed the site with secure gates for parking.

Commissioner Lucero said he thought every effort should be made to connect to the park in the public's best interest, to easily access the park from the trail.

Chair Clow asked staff to indicate the point of the dispute.

Mr. Esquibel pointed out the area in dispute.

Commissioner Lucero asked to see where the existing trail ends at Las Soleras Park.

Mr. Esquibel noted this trail is not developed at all. He said the applicant proposed to develop only within their property and to have developers of the 9 acres complete that.

Commissioner Lucero asked what conditions are in place to ensure that.

Mr. Esquibel said the master plan identifies that the trail to be developed, whether now or later.

Director Kluck said the 2019 Master Plan indicates the master developer is required to complete the trail or choose to defer that to sub developers.

Commissioner Lawrence was concerned about including the condition. She said they are asking the applicant and potential property owner to negotiate with another property owner for construction on their property. She asked if the applicant would accept the condition mentioned earlier that would require reevaluation of the affordable housing component if ownership changed. She said that was fine because the property would never be converted. She liked the language because the housing ordinance is organic and can change over time.

Commissioner Faulkner asked to confirm there will be an easement where the trail is supposed to be, and the applicant doesn't need to negotiate with the other property owner.

Ms. Jenkins said they will be allowed to construct within the easement, but will need to address the legal liabilities, insurance etc. with the other property owner.

Chair Clow said she agreed with Commissioner Lawrence about requiring the developer to extend the trail. It would be a benefit to extend the trail but seems to go with

the other 9 acres. The applicant is extending the trail through their property and does not seem appropriate.

Mr. Esquibel said regarding the easement, it is not uncommon for the Planning Commission to enforce improvements across properties. When the lot line adjustment is included, the project involves the entire piece of property and the owners. He said whether the Commission includes the condition, the 9 acres will be required to extend the easement and build it out.

Commissioner Lucero confirmed if approved, there would not be a gate and the pavement would end in a natural traversable walkway.

Commissioner Faulkner asked if the developers had to pay impact fees.

Ms. Jenkins said they pay impact fees within the master plan, but because the regional park was paid for by Las Soleras, the parks impact fees were waived.

Commissioner Miranda said builders are often required to build on someone else's property, it could be traffic signal, sidewalk etc. He felt in general, the density of the plan is great, but he did not see a significant financial burden for the applicant to do the trail.

Ms. Jenkins responded that the condition of approval reads the trail must be built to the neighboring property and into the park and connect. She said the numbers are not insignificant. This is a 10 foot wide road and easily in the \$100,000 range. She offered a compromise of creating a compacted base course that could be improved later.

Commissioner Miranda thought that was a good solution and language could be added because it is on another property that could be facilitated with the other property owner.

Mr. Esquibel also thought it a good compromise and he offered to develop the language for the condition of approval. He said the applicant could go just to the end of their property instead of into the park.

Ms. Jenkins said a financial guarantee for Phase 3 is already in place for the master developer to construct that. They do not want to build something that does not align with the master developer's construction.

Commissioner Miranda agreed it might differ with the park design.

Commissioner Pava asked how the company will govern uses commonly allowed in residential zones, like daycare and home offices on the rental agreements. That could affect parking.

Ms. Jenkins said small home offices are permissible because of the City Home Occupation ordinance and compliance would be regulated by the City.

Commissioner Pava asked if no rental conditions would be placed, such as using garages as storage.

Ms. Jenkins said the requirement is garages are to be used only for parking.

Commissioner Pava said in early May the Commission discussed the consistency in the General Plan and the Land Use map with density parameters. A recommendation was that lots along Vista would be acceptable. He said this proposal will be 25% less than the lower value of the Land Use map range of density. He said the development is charming, but this is a nice chunk of R-21 land they are looking at allowing development of 75% of the lowest value of the General Plan and Land Use map. He said he has a problem with that.

Ms. Jenkins said she understood in order to rezone property, it has to align with the General Plan. The applicant is within the bounds of the zoning and compliance with all of the R-21 zoning standards. Zoning covers how the property can be developed.

Commissioner Pava replied he respectfully disagreed with her analysis.

Commissioner Smith asked Commissioner Pava to explain his concern.

Commissioner Pava explained that the Land Use map allows 12-29 units per acre. This proposal is 9 ½ dwelling units; 25% below the threshold. He said the area has a plethora of C-2 zoned land multifamily apartments could be built. He wondered why this project is special in this location.

Commissioner Smith asked if there are deed restrictions on short term rentals.

Ms. Jenkins confirmed there are restrictions.

PUBLIC HEARING

Lynn Deardorff, 5011 Las Soleras Drive, Senior Development, said four of them are present who have been talking about this since first learning about the project. They attended the ENN. She said the applicant has been very transparent and met with them privately to answer all of their questions. Their concern was the impact because it is at their back door and is quite high. She said for the record, they are overall very pleased with what they have learned. There are some pluses; this will be at a lower density meaning less traffic impact, and they are pleased with the style and aesthetics. The applicant reassured them on their concerns about the roadway through the project and that it will be done properly. And they like the fact that the project will be buffered with landscaping to help with the visual and possibly the noise. She said it could have been a lot worse.

Chair Clow closed the public comment section.

COMMISSION DISCUSSION

Mr. Esquibel read the new condition into the record that requires, "construct a 10-foot trail with compacted surface approved by the Land Use Director to the northern terminus of the La Ramba easement." He addressed Commissioner Pava and said the Commission has approved so many projects below the minimal or maximum requirements within the zoning density it would be hard to stop this project from moving forward. He said the applicant does have the ability to reduce below R-21 density, given what has been approved in the past.

Commissioner Faulkner said she wanted to say again, that something has to be done about the in-lieu of. This cuts off an entire segment of the housing market and is unbalanced. The money received from developers does not align with the need for affordable housing.

Mr. Esquibel mentioned the discussion on the second condition in the event of condominiums or subdivisions the project would be reviewed again by the Affordable Housing Authority and a note would be placed on the development plan.

Chair Clow noted that Condition #1 has been amended as read and there is a new condition regarding the Affordable Housing review if ownership changes.

MOTION: Commissioner Miranda moved to approve the Development Plan with the amendment to Condition #1, as read into the record, and additional language on the development plan requiring review by the Affordable Housing Authority, and subject to the conditions of approval and technical corrections recommended by staff. Commissioner Lucero seconded the motion.

Chair Clow requested the Finding of facts, if approved, reflect the amendment and the new condition.

VOTE: The motion passed by roll call vote with Commissioners Lawrence, Smith, Faulkner, Lucero, and Miranda voting in favor and Commissioner Pava voting against.

- b. **Case #2023-6655. 2200 Old Pecos Trail Final Plat.** Montoya Land Use Consulting, Inc., Agent for Pierre Amestoy, Applicant, request Final Plat approval for a 25-lot residential subdivision with innovative street design. The property is zoned R-3 (three dwelling units per acre) and within the following Overlay Districts: South Central Highway Corridor and Suburban Archaeological Review District. (Dan Esquibel, Case Manager) **(POSTPONED TO JULY 6, 2023)**

- c. **Case #2023-6658. 4075, 4085 Cerrillos Road, 3978 Rufina Street and 4701 San Ignacio Road Lot Line Adjustment and Easement Vacations.** NM Land Solutions LLC, Agent, for Plaza Camino Real NM LLC, Owner, requests approval of a lot line adjustment and easement vacations to allow for the development of an 88,822 square foot hotel with 100 guest rooms effecting four lots totaling approximately 21.31 acres. The lot line adjustment and easement vacations requests are made in conjunction with case #2023-6657, Development Plan Approval Extension for 3978 Rufina Street. The properties are zoned C-2 (Community Commercial). (Daniel Alvarado, Case Manager). **(WITHDRAWN)**

10. STAFF COMMUNICATIONS

Attorney Feghali introduced the new Assistant City Attorney Rebecca Mnuk-Hermans. She will take over as the lead attorney for the Planning Commission next month.

Ms. Mnuk-Hermans said she is looking forward to working with everyone. She has been in practice for ten years, most recently at an immigration firm, as well as in prior years in the public defender's office, civil legal services, areas of family law and real estate foreclosures. She grew up in Albuquerque and moved to Santa Fe in 2015.

11. MATTERS FROM THE COMMISSION

Commissioner Faulkner said the Policy Committee and staff have a workplan to use on policy recommendations and developing policy. They are in the discovery phase and currently looking at mediation as part of public access process. The plan is to contact community members and community leaders, developers, and stakeholders for presentations to gather all the information needed. Then staff and the subcommittee will start developing a policy and what mediation would look like. Once developed that will be presented to the Planning Commission for review and approval.

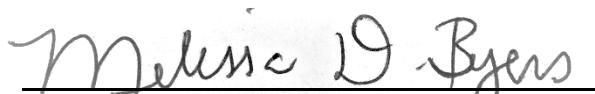
Chair Clow asked if they would be looking at the mediation before the ENN.

Commissioner Faulkner said they are leaning toward when necessary but that is still being considered.

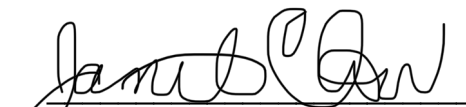
12. ADJOURNMENT

There being no further business, Chair Clow Adjourned at 7:40 pm.

Submitted by:


Melissa D. Byers, Stenographer for
Byers Organizational Support Services

Approved by:


Janet Clow, Chair