

**SUMMARY INDEX  
PLANNING COMMISSION MINUTES  
APRIL 7, 2022**

| <b>ITEM</b>  | <b>ACTION TAKEN</b>      | <b>PAGE(S)</b> |
|--|--------------------------|----------------|
| Roll Call  | Quorum Present           | 2              |
| Pledge of Allegiance   | Recited                  | 2              |
| Approval of Agenda   | Approved, as amended     | 2-3            |
| Approval of Minutes<br>February 17, 2022   | Approved as presented    | 8              |
| <u>New Business (Revised Agenda)</u><br>Consideration Of Bill No. 2022   | Recommended Approval     | 4-8            |
| <u>Consent</u><br>#2022-5006.<br>4149 Fairly Rd. Development Plan<br>and Special Use Permit Extension  | Approved                 | 9              |
| <u>Old Business</u><br>3600 and 3740 South Meadows<br>#2021-4648 General Plan<br>#2021-43649, Rezoning<br>#2021-4650, Gen Plan Amendment<br>#2021-4651, Rezoning | Postponed<br>"<br>"<br>" | 9-14           |
| <u>New Business</u><br>2339 Botolph Rd. Rezoning<br>#2022-4942   | Postponed to May 5, 2022 | 9              |
| #2021-4647 Zia Flats<br>Final Development Plan   | Approved                 | 14-29          |
| #2021-3662<br>Zia Station Right of Way Vacation<br>and Dedication Plat   | Approved                 | 14-29          |
| Staff Communications   | Comments                 | 29-30          |
| Matters from the Commission  | Comments                 | 30-31          |
| Adjournment  | Adjourned at 10:40 pm    | 31             |

**MINUTES OF THE CITY OF SANTA FE PLANNING COMMISSION**  
**Thursday, April 7, 2022 - 6:00 pm**  
**VIRTUAL HEARING**

**CALL TO ORDER**

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

**A. ROLL CALL**

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

**Members Present**

Commissioner Brian Patrick Gutierrez, Chair  
Commissioner Janet Clow, Secretary  
Commissioner Pilar Faulkner  
Commissioner Zulema Hinojos-Fall (joined at 6:04 pm)  
Commissioner Jessica Lawrence  
Commissioner Dan Pava  
Commissioner Dominic Sategna  
Commissioner Peter Smith  
Commissioner Jeremy Jay Toya

**Members Absent**

**Others Present:**

Mr. Jason Kluck, Land Use Director  
Mr. Daniel Esquibel, Senior Planner  
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.**

**B. PLEDGE OF ALLEGIANCE**

Commissioner Smith led the pledge.

**C. APPROVAL OF AGENDA**

Mr. Esquibel requested that under New Business, consideration of the Ordinance amendment be heard first.

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

**VOTE:** The motion passed by unanimous roll call vote with Commissioners Clow, Faulkner, Hinojos-Fall, Lawrence, Pava, Sategna, Smith and Toya voting in favor and none voting against.

#### **D. APPOINTMENT OF VICE CHAIR**

Chair Gutierrez appointed Secretary Clow as Vice Chair. He noted at the next meeting he would appoint a Secretary for the Commission. Director Kluck or Vice Chair Clow could explain the duties of the secretary position. He said they are happy to have the new Commissioners and will miss those who left.

Director Kluck introduced the three new Planning Commissioners. He said each has a varied background and he looked forward to the experience they bring. He asked Commissioner Smith, Commissioner Hinojos-Fall and Commissioner Toya to provide some of their background.

Commissioner Smith lives in District 2 said he was honored to be appointed. He came from Vermont where he served in the Legislature and U.S. Congress for a term. He has been in Santa Fe for 10 years. He works remotely as an educator with the University of Maryland Global Campus and serves excluded students. He has had the honor of being the founding president of two colleges. He said he will be listening a lot and appreciated any advice.

Commissioner Toya said he is honored to represent District 3 and serve Santa Fe. He is a lifelong resident of Santa Fe and a Native from Jemez Pueblo. He has worked in financial industry and has been in banking 19 years and currently is with First National Bank.

Commissioner Hinojos-Fall from District 4 said she was honored to serve in this position. She moved to Seattle after graduation to attend the University of Washington School of Law. She then worked as the County prosecutor, an adjunct professor of law and an administrative judge for 15 years. She moved back to Santa Fe and worked as the attorney for the New Mexico VA Healthcare System until retiring in 2016. She looked forward to working with everyone.

Chair Gutierrez thanked everyone for serving.

Commissioner Faulkner wished Chair Gutierrez a happy birthday.

**THE FOLLOWING ITEM LISTED UNDER NEW BUSINESS ON THE AGENDA WAS HEARD FIRST.**

1. **CONSIDERATION OF BILL NO. 2022- .** (Councilor Cassutt)  
An Ordinance Amending Table 14-6.1-1 of the Land Development Code, The Table of Permitted Uses, to Permit Small and Large Preschool and Daycare Facilities in all Zoning Districts Except Industrial Districts. (Daniel Alvarado, Planner Senior: Jesse Guillen, Legislative Liaison)  
**(POSTPONED FROM MARCH 17, 2022)**

Mr. Esquibel introduced the Ordinance followed by a presentation by Planner Daniel Alvarado.

### **EXECUTIVE SUMMARY**

The proposed Bill reduces regulatory barriers to creating new, affordable childcare facilities in Santa Fe. The proposed Bill amends the Table of Permitted Uses 14-6.1-1 of the Land Development Code to permit small (under 6 children) and large (over 6 children) preschool and daycare facilities by-right in all zoning districts except industrial districts. Currently, large facilities are either allowed by right or require Special Use Permits in all districts except AC and I-2, while small facilities are allowed by right in all districts except AC and I-2.

### **STAFF RECOMMENDATION**

The Land Use Department recommended approval of the bill as presented and finds it meets the criteria to amend the Code.

City Councilor Jamie Cassutt said this is a piece of the effort to increase childcare access and affordability. They also hope to have funding passed in this year's budget. She has partnered with the Fire Department and the State to look at regulatory barriers many childcare providers have to increase access.

Vice Chair Clow noted the material provided states that new facilities would still be required to meet zoning requirements, which precludes a large commercial facility in residential areas. She asked if that is because a large facility would be over the bulkhead of 12 children.

Mr. Alvarado said a childcare center is a large facility usually in a church, school, or commercial office space. Zoning standards will still apply to any childcare facility and be the same as a house to prohibit a three-story childcare center where zoning only allows a height of 24 feet.

Commissioner Pava asked if staff had benchmarked Albuquerque, Rio Rancho or surrounding areas with regard to zoning.

Mr. Alvarado said he personally did not, but the State of Colorado adopted something that requires cities to allow childcare in all zoning categories. Also, the Secretary of Education had pointed out this as an example of a success.

Commissioner Pava said he mentioned this because Rio Rancho and Albuquerque require the equivalent of a special use permit for seven children and above. And, the American Planning Association encourages opportunities to broaden daycare in underserved communities. He was concerned about allowing this without a caveat of a number like 7 to 12 without a review process that allows for an appeal.

Mr. Alvarado explained the State has regulations for a set amount of space per child and building size would be limited to the size of a single-family home. He noted Commissioner Pava's concern is the main concern pointed out, but mostly childcare centers will be limited to schools and churches.

Councilor Cassutt said some institutions have had extra space not utilized. Prior to the pandemic in 2019, there was space for only 7% of the newborns in the City. This is a dire need and Santa Fe is one of the of the worst in the State. Starting a childcare business is already a financially challenging endeavor. They want to reduce the administrative burdens of time and finances, and there are already a number of hoops to jump through at the state level and the life safety standards that are in play. Currently a sprinkler system is required in the home which most people do not have. That will impact most of the institutions within residential neighborhoods. They will be looking at that as well as the needs for safety while taking down the more challenging barriers.

Commissioner Pava asked how many unlicensed caregivers are in Santa Fe.

Councilor Cassutt said there is a lot of unlicensed, unofficial child providers. She personally has experienced trying to find childcare for a working parent. Many childcare facilities have business hours and many of Santa Fe's families are in the tourism industry. Their schedules are not traditional hours. Part of the effort is community partners working together to resolve the problem and bring the unofficial childcare providers into the fold. That allows them to access resources and funding that can reduce costs or costs to families and bring them up to standards.

Commissioner Hinojos-Fall asked for more information on the signage.

Mr. Alvarado said the sign code does not change for this use. Two signs are allowed per building with a combined service area not to exceed 20 feet, including as an entrance sign.

Commissioner Lawrence said she wanted a sense of how larger size facilities would fit into a neighborhood. She thought potentially this would allow facilities like La Casita or the Garcia Street Club. She asked if the larger facilities within residential neighborhoods, as an option, would be easier to locate.

Mr. Alvarado said it does allow those types of facilities if they meet the zoning standards. They also are also looking at recommending a new development code to set

aside land or buildings for childcare. He thought that could be a component of the overhaul of Chapter 14 Land Development Code.

Councilor Cassutt added it was not just childcare, but with an understanding of what neighborhoods need to thrive and ensure they are incorporated. She gave an example of the Montessori school in the Villa Caballero subdivision that did not survive the pandemic. There are a number of those that shut down during the pandemic. This is an opportunity to reinvigorate and reopen those that were already childcare facilities and make it as easy as possible.

Chair Gutierrez asked about the elimination of I-1 and I-2.

Mr. Alvarado explained that I-2 was already restricted, and they decided childcare did not need to be in I-1 any longer if broadening childcare facilities to be in most of the other districts. It is not an ideal childcare situation and mirrors some things in the educational uses, etc. not allowed.

Councilor Cassutt said the cannabis regulation restricts the proximity of a childcare facility and some municipalities use that to stifle the cannabis industry. They want to balance the needs of the community.

Chair Gutierrez said looking at other cities, gyms and barber shops are going into light industrial areas. Childcare might complement the way these areas grow and change.

Commissioner Smith asked if there was an analysis to determine costs in overhead and resources to run a facility with 4 or fewer [children] versus 13 or more.

Mr. Alvarado asked for clarification.

Commissioner Smith said if you level out all of the regulation with the first three treated the same, that changes the expense context of the third group of 7-12. That could be an inhibitor that was not intended because there are other types of costs like the sprinkler system, with a smaller number of children.

Mr. Alvarado said they had not considered that specific. They are generally trying to lower the burden of time and finances for childcare providers. It is a step toward affordability, especially for home childcare who are usually parents looking to earn income on the side.

Councilor Cassutt said a number of economic factors come into play and a different ratio is needed for 18 months and younger. That changes costs in terms of staffing and supplies. Providers can apply for state opportunities and other variables to reduce costs. Managing the business for childcare can get complex and is where the costs issue can come in. That is where they are looking to provide assistance.

Commissioner Pava asked if staff had received comments from the public since the Ordinance was made public.

Mr. Alvarado said a few people at the Governing Body meeting expressed a similar concern with the larger facilities. He said he has not received any others.

Commissioner Pava said related to the special use permits, Albuquerque uses a zoning hearing examiner to determine appropriate use and impact to nearby properties. He asked why would the City not want to do that.

Mr. Alvarado said he liked the idea but there is no provision in Code for that. That could be something to include in the Chapter 14 update.

Commissioner Pava said State regulations require for safety, that home childcare be occupied by a primary occupant. He asked if that would be validated.

Mr. Alvarado said it is validated, by the State.

Commissioner Hinojos-Fall asked how a home providing childcare for less than 6 children bumps up to 14 children.

Mr. Alvarado said the home has to be large enough to physically meet State regulations. The state requires a square footage per child, depending on age. This allows someone who did have the square footage to increase to a larger number of children without requiring a special use permit.

Commissioner Hinojos-Fall said that addresses her concern that a regulatory system is in place to ensure that accommodation can be met. She asked if they had addressed neighbors' concerns of seeing an increase in the number of children and the activity of drop offs and pickups.

Mr. Alvarado said the zoning standards are the same and they will have to meet the operational hours, noise, etc. There will be growing pains for some neighbors not used to this type of use. The hope is this will benefit everyone, and they can work on specific issues case by case.

Commissioner Hinojos-Fall asked if there will be an opportunity for the neighborhood to speak on that, or other issues.

Mr. Alvarado said there will not be an ENN meeting, but people are welcome to speak at meetings such as this. This will also go to a few other committees and is an opportunity for people to comment.

Councilor Cassutt added because this is an ordinance change there will be a public hearing before the final vote by the Governing Body.

## **PUBLIC HEARING**

Rachel Thompson, 330 Camino Cielo Vista, said she did a thesis in Maryland on density of family childcare facilities. The community was prominently a large Hispanic population and people of color. She discovered how intense the regulatory process is to open a childcare facility. It is expensive and extremely lengthy and is often undertaken by someone caring for their own child in their home. This is not a career for them but something they want to do for their own child and as a service to their neighborhood. They also offer care that is consistent with their culture in terms of food, languages, etc. Often it is for someone who is doing multiple tasks. She said they should do everything possible to make childcare as close to a child's home as possible, as they do for the schools.

Chair Gutierrez closed the public hearing.

## **COMMISSION DISCUSSION**

**MOTION:** Commissioner Faulkner moved to recommend approval of the bill. The motion was seconded by Commissioner Lawrence.

**VOTE:** The motion passed by unanimous roll call vote with Commissioners Clow, Faulkner, Hinojos-Fall, Lawrence, Pava, Sategna, Smith and Toya voting in favor and none voting against.

### **E. APPROVAL OF MINUTES (Revised Agenda Order)**

**February 17, 2022**

**MOTION:** Commissioner Faulkner moved, seconded by Commissioner Lawrence to approve the minutes of February 17, 2022, as presented.

**VOTE:** The motion passed by majority roll call vote with Commissioners Faulkner, Lawrence, Pava, Sategna and Chair Gutierrez voting in favor and none voting against. Commissioners Clow, Hinojos-Fall, Smith and Toya abstained.

### **F. APPROVAL OF FINDINGS/CONCLUSIONS**

None.

### **G. CONSENT**

1. **Case #2022-5006. 4149 Fairly Road Development Plan and Special Use Permit Time Extension.** Fredrick Lucas, Agent, for ZZYZX Corporation, Owner, requests a time extension for the Development Plan and Special Use Permit for an Urban Farm Ground Level, greater than one acre, on four

separate parcels that total approximately 9.8 acres of land. The properties are located at 4149 Fairly Road and are zoned R-5 (Residential – five dwelling units per acre) and R-1 (Residential – one dwelling unit per acre). (Lee Logston, Case Manager, [llogston@santafenm.gov](mailto:llogston@santafenm.gov), 795-5929).

Mr. Logston gave a brief overview of the case for the benefit of the new Commissioners.

**MOTION:** Commissioner Lawrence moved to approve Case #2022-5006, 4149 Fairly Road Development Plan and Special Use Permit Time Extension. The motion was seconded by Commissioner Sategna.

**VOTE:** The motion passed by unanimous roll call vote with Commissioners Clow, Faulkner, Hinojos-Fall, Lawrence, Pava, Sategna, Smith and Toya voting in favor and none voting against.

## H. OLD BUSINESS

1. **Case #2021-4648. 3600 and 3740 South Meadows General Plan Amendment.** JenkinsGavin, Inc., Agent, for Homewise, Inc, Applicant, request a General Plan Amendment from Park to Low Density Residential. The property is approximately 19.54 acres and zoned R-1 (Residential: one dwelling unit per acre). (Dan Esquibel, Case Manager,) **(POSTPONED FROM FEBRUARY 3, 2022 AND MARCH 3, 2022) ALL PUBLIC COMMENT FOR THIS ITEM WAS HEARD AT THE MARCH 3RD MEETING AND IS NOW CLOSED**
2. **Case #2021-4649. 3600 and 3740 South Meadows Rezoning.** JenkinsGavin, Inc., Agent, for Homewise, Inc, Applicant, rezoning from R-1 (Residential: one dwelling unit per acre), to R-6 (Residential: six dwelling units per acre). The property is approximately 19.54 acres and zoned R-1 (Residential: one dwelling unit per acre). (Dan Esquibel, Case Manager) **(POSTPONED FROM FEBRUARY 3, 2022 AND MARCH 3, 2022) ALL PUBLIC COMMENT FOR THIS ITEM WAS HEARD AT THE MARCH 3RD MEETING AND IS NOW CLOSED**
3. **Case #2021-4650. 3600 and 3740 South Meadows General Plan Amendment.** JenkinsGavin, Inc., Agent, for Homewise, Inc, Applicant, request a General Plan Amendment from Park to High Density Residential. The property is approximately 2.66 acres and zoned R-1 (Residential: one dwelling unit per acre). (Dan Esquibel, Case Manager) **(POSTPONED FROM FEBRUARY 3, 2022 AND MARCH 3, 2022) ALL PUBLIC COMMENT FOR THIS ITEM WAS HEARD AT THE MARCH 3RD MEETING AND IS NOW CLOSED**

4. **Case #2021-4651. 3600 and 3740 South Meadows Rezoning.** JenkinsGavin, Inc., Agent, for Homewise, Inc, Applicant, request rezoning of approximately 2.66 acres from R-1 (Residential: one dwelling unit per acre), to R-21 (Residential: twenty-one dwelling unit per acre). The property is approximately 2.66 acres and zoned R-1 (Residential: one dwelling unit per acre). (Dan Esquibel, Case Manager) **(POSTPONED FROM FEBRUARY 3, 2022 AND MARCH 3, 2022) ALL PUBLIC COMMENT FOR THIS ITEM WAS HEARD AT THE MARCH 3RD MEETING AND IS NOW CLOSED.**

### **COMMISSION DISCUSSION**

Chair Gutierrez explained this was heard by the Commission and a public hearing was held. He opened it up to Commission discussion.

Commissioner Faulkner said this case has been a struggle for her. She has some issues, most importantly, the Commission is asked to set a precedent that could be dangerous for the entire City. This would allow designated park land to be converted into residential in an area that already lacks park land. She asked staff to provide studies that state there is a housing crisis that makes this necessary. Her second concern is the applicant offered a condition of approval that does not satisfy her concerns or alleviate her belief that even with the condition it does not meet the standards. Third, an important part of being in a leadership position is providing thoughtful governance.

**MOTION:** Commissioner Faulkner moved to postpone the 3600 and 3740 South Meadows cases for no less than 60 days and no more than 90 days to provide time for staff to present to the Commission options the Commission could choose from, and data that confirms or does not confirm that the City housing crisis is so critical that potential amenities desperately needed by that community should be eliminated. Commissioner Hinojos-Fall seconded the motion.

Commissioner Pava said he agreed and believed others were also in agreement. In hindsight he thought there were issues of transparency, good governance and a balance of community needs. He said affordable housing is absolutely needed, in addition to access to parks and other quality-of-life issues, particularly in the south part of the City. He supported deferring the decision until this is better thought out.

Commissioner Lawrence said she supports the motion also because the Commission has placed initial conditions on this that are very rare. She said Commissioners received some information from staff recommending another condition, but she is not comfortable that is the best route. Given more time they might find a better solution than to condition a General Plan amendment and rezoning.

Chair Gutierrez said the Commission was instructed that conditions of approval without a development plan, while allowed in Chapter 14, are not best practices. It might have made a difference if they could have seen this with a development plan. The other unknown is the park and its maintenance and those issues need be discussed if this goes forward with a park.

Commissioner Smith said he wanted to be clear what staff is being asked to do and what Commissioner Faulkner wanted to see at the end of 60-90 days. This can only get better with time if they receive better data, not if they reopen, revisit the territory. They know there is a need and regarding precedent, this really becomes a choice. Data will not tell you to break precedent. He wanted clarity on what the Commissioners were asking staff to do in within the time period that makes the Commission confident about the vote they choose. He said time is a killer, and many things are killed in Santa Fe by the amount of time they take.

Commissioner Faulkner said she specifically is asking staff to present conditions that have been fully considered, not brought up on the fly. Different conditions may help them come closer to something more appropriate. They were given no evidence of a study saying the City is in crisis; most of it is anecdotal. She said she has worked for developers and knows what is at stake when a case is postponed, but there is more they can do. She said the timestamp is out of respect to both parties. It allows adequate time to do what is needed. She is also a lobbyist and understands what it takes for both sides to find a solution. This has to be done with thoughtfulness. The Commission's decision should not be based on anecdotal, but on data from a source that is neutral.

Commissioner Smith said that made sense. He asked when she talked about conditions, if she had in mind other conditions, not the current conditions.

Commissioner Faulkner said there is wiggle room to ensure the condition reflects this would be a public park. Adjusting the acreage might make it more palatable. The Southwest Master Plan and General Plan have this as a park. She thought it dangerous to cut a large piece of land in half when the decision was to develop this was based on the land becoming a park. Setting that precedent could affect every park in the City. She said she is not comfortable making the decision without having facts.

Commissioner Smith said Commissioner Faulkner has listed two or three specific issues. He said staff should have clarity on the specific issues the Commission wants addressed or it could lead to many other questions.

Commissioner Faulkner said she had made a request for specific information: when was the last study done; how does the census impact the study; who conducted the study; how serious is this crisis. She asked for a comparison of the current data to what was previously provided to see the level of crises.

Commissioner Smith said he wanted this to be tangible and discrete. Voting in favor of the motion is asking staff to respond to specific questions that Commissioner Faulkner has submitted.

Commissioner Faulkner said staff knows her questions. Most are where is the crisis level and what progress was made since the crisis was identified. They need the census material which will not come in until the end of April. It will take a while once received, to put the information together.

Commissioner Smith said that was helpful.

Chair Gutierrez added that in the past the Commissioners have emailed staff a question they would like answered.

Commissioner Hinojos-Fall said Commissioner Smith's concerns on the delay is well taken. She said she would urge the recently appointed new Commissioners like herself, to recuse themselves if a vote was required tonight. The recently appointed Commissioners need more information, time to review the documents in depth and to ask their own questions. They have only had a week, so it is not fair to the community. They should either move forward with Commissioner Faulkner's motion or move forward with a vote without the three new Commissioners' votes.

Vice Chair Clow asked Attorney Feghali if the three new Commissioners were allowed to vote since they did not hear the case.

Attorney Feghali said yes, they were sent instructions. If they reviewed the packet, watched the video on the hearing, and asked questions at today's hearing and had their concerns addressed, they can vote. They would have had access to everything.

Vice Chair Clow said she does not have a problem taking more time and this is an important case for both sides. But they should keep in mind, time is money, and it increases the cost of a project.

She said the condition was solidly worded by the City Attorney's Office and was recommended. She could understand why the development plan was not done. The expense is questionable with a highly controversial project. Conditions can be binding if the developer agrees to the condition. She said Commissioner Lawrence believes there are other ways this can be

done but she does not know of another way without a development plan. That might not be money well spent at this point in time. She said she was comfortable with what the City Attorney's office recommended.

Vice Chair Clow said they should also keep in mind this an unfortunate situation, and this was designated by the County as a park and the City accepted that. The land is still owned by the County. The City does not intend to build a park and barely has money to keep the current parks in good condition. SWAN Park is also being expanded and is not far from this open space. She said it is fine to get more information on how much the need is for affordable housing, but there is obviously a big need. It is important the Commission have a concise deadline on what they specifically want.

**MOTION:** Commissioner Sategna moved to call the vote. Commissioner Lawrence seconded.

Chair Gutierrez confirmed there were no other Commissioners who wished to comment.

Commissioner Faulkner said staff has a lot on their plate. She was comfortable with no less than 60 days and no more than 90 days.

Commissioner Sategna asked for a point of order. They should do an immediate roll call.

**VOTE:** The motion to call for the vote passed by unanimous roll call vote with Commissioners Clow, Faulkner, Hinojos-Fall, Lawrence, Pava, Sategna, Smith and Toya voting in favor and none voting against.

Commissioner Faulkner thanked the Commissioners for their discussion and said she appreciated the points made. She said this was the only solution she could think of, and it was not offered lightly.

**Chair Gutierrez left the meeting and Vice Chair Clow assumed as Chair.**

Commissioner Sategna indicated the original motion had to be voted on.

**VOTE:** The original motion to postpone the South Meadows Cases for 60 to 90 days was passed by unanimous roll call vote with Commissioners Clow, Faulkner, Hinojos-Fall, Lawrence, Pava, Sategna, Smith and Toya voting in favor and none voting against.

**I. NEW BUSINESS**

- 1. **CONSIDERATION OF BILL NO. 2022- .** (Councilor Cassutt)  
An Ordinance Amending Table 14-6.1-1 of the Land Development Code,

The Table of Permitted Uses, to Permit Small and Large Preschool and Daycare Facilities in all Zoning Districts Except Industrial Districts. (Daniel Alvarado, Planner Senior; Jesse Guillen, Legislative Liaison) **(POSTPONED FROM MARCH 17, 2022)**

**This item was heard at the beginning of the meeting.**

2. **Case #2022-4942. 2339 Botolph Road Rezoning.** Liaison Planning Services Inc., Agent, for Shelley Espinoza, Owner, requests rezoning per Chapter 14 SFCC 1987, 14-3.5 "Rezoning" from R-1 (Residential: one dwelling unit per acre) to R-2 (Residential: two dwelling units per acre) for a 1.41-acre lot. The property is located within the Suburban Archeological Review Districts. (Dan Esquibel, Case Manager) **(TO BE POSTPONED TO MAY 5, 2022)**
3. **Case #2021-4647. Zia Flats Final Development Plan (Zia Station, Phase 1A).** JenkinsGavin, Inc., Agent, for Zia Flats, LLC, Owner, requests Final Development Plan Approval for a 244-unit multi-family development at the northwest corner of St. Francis Drive and Zia Road. The property is zoned C-2 PUD (General Commercial, Planned Unit Development) and is approximately 10.16 acres. (Lee Logston, Case Manager) **(POSTPONED FROM FEBRUARY 17, 2022 AND MARCH 17, 2022)**
4. **Case # 2021-3662. Zia Station Right of Way Vacation and Dedication Plat.** JenkinsGavin, Inc., Agent, for Zia Station, LLC, Owner, requests approval of a Partial Vacation and Dedication Plat for Galisteo Road for properties located at the northwest and southwest corners of St. Francis Drive and Zia Road. The properties are zoned C-2 PUD (General Commercial- Planned Unit Development) and comprise a total of approximately 22.7 acres. (Lee Logston, Case Manager). **(POSTPONED FROM FEBRUARY 17, 2022 AND MARCH 17, 2022)**

## **STAFF REPORT**

For the benefit of the new Commissioners, Mr. Logston provided a summary of the Zia Station cases that were heard by the Planning Commission and Governing Body in February and April 2021, respectively. He also noted conditions established by the Governing Body related to short term rental limitations and Santa Fe Homes Program requirements.

## **EXECUTIVE SUMMARY**

Zia Station is a mixed-use Planned Unit Development designed as a pedestrian and transit-oriented community, utilizing the site's multi-modal transit options, including the

Rail Runner Station, Rail Trail, and Santa Fe Trails bus service. Two components make up the request before the Planning Commission:

1. A partial vacation of right of way (ROW) and dedication plat (Case #2020-3662).
2. A final development plan proposal for 244 multi-family residential units on 10.16 acres (Case #2021-4647 - Phase 1 of the Planning Commission approved preliminary development plan).

Approval of the ROW vacation and dedication plat is required in order to develop the land according to the preliminary development plan the Planning Commission recommended approval of in Case #2020-2901. Additionally, if the vacation and dedication plat is approved, administrative approval of the lot line adjustment (Case #2020-2902) by staff will follow.

As detailed in the preliminary development plan, the final development plan (Case # 2021-4647) is Phase 1A of the overall development. Phase 1A is comprised of 244 multi-family residential units.

Mr. Logston presented the conditions of approval and commented on an amendment to Condition #6, that was amenable to staff and the Applicant. The amended condition reads as follows:

*“The existing public sewer line shall be rehabilitated using trenchless technology or be excavated and replaced from the manhole (City MH# ZR853) immediately adjacent to building #5 downstream to the next existing manhole (City MH#ZR841) north of the developed site.”*

He said the Applicant could discuss that further.

### **STAFF RECOMMENDATION**

The Commission should approve the Vacation and Dedication Plat (Case #2021-3662).

The Commission should approve the Final Development Plan (Case #2021-4647).

A recommendation for denial of the vacation and dedication plat would render the proposed final development plan infeasible, in which case a recommendation for denial of the final development plan would be appropriate.

### **APPLICANT PRESENTATION**

Jennifer Jenkins, 130 Grant Avenue, was sworn. She introduced the team and presented a PowerPoint presentation. The Zia Station property and the vicinity was shown with an aerial on the Zia Station parcels. The Governing Body approved the

General Plan Amendments, the Rezones and Preliminary Development Plan almost a year ago. The property is a PUD (Planned Preliminary Development) and a Final Development Plan is required that aligns with the Preliminary Development Plan. Phase 1A is a 244 unit multi-family residential on 10.16 acres, north of Zia Road. Part of approval is the realignment of Galisteo Road. The applicant will dedicate a new right-of-way to the City. She described the process for realignment and explained Code requires approval be contingent upon approval by the Planning Commission.

The Zia Flats Final Development Plan was reviewed. In addition to re-aligning Galisteo, they will extend the northern part of Galisteo to end in a cul-de-sac. That will serve Phase 1 ingress and egress, the emergency only access, the dog park, and connection to the Rail Trail and train. Two and three story buildings were described. The proposed improvements were reviewed. There will be a triple turn lane and a signalized pedestrian crossing at the new intersection of Galisteo and Zia. Open space far exceeds the minimum with 126,00 square feet, and the minimum parking that is required. Garage and covered carports are offered in addition to traditional spaces. She described the amenities. Affordable housing was described as a hybrid with 10% set-aside units, 24 affordable units based on HUD fair market, and 5% paid in lieu. The applicant agreed to go above pricing limitations to make the set aside units accessible to those with federal vouchers. A comparison of pricing and discounted units was shown.

Ms. Jenkins said the applicant agrees with all the conditions of approval except one on the existing sewer line. She explained Wastewater's concerns. She said the applicant has agreed to resolve issues of access by putting in a new manhole which provides additional easement to the City and adding a wider sewer line for ease of access. In addition, they will make adjustments to accommodate concerns about future access. They find the condition for the applicant to rehabilitate, reline or replace the line between the two manholes inappropriate. This is a City sewer line, and the maintenance is the City's obligation. The applicant asked that the condition be stricken.

Commissioner Sategna asked staff how attached they were to Condition #6.

Mr. Logston said the applicant and the Wastewater Department were amenable to the amended language. He did not think the condition should be thrown out and they should go with the amended language he presented.

Commissioner Lawrence asked Ms. Jenkins about the condition that was objected to by the applicant.

Ms. Jenkins said the amended condition was an improvement from what was originally proposed by the Wastewater Division. They worked with the Division to try to get the condition changed, but Wastewater only modified the condition. The applicant was never in agreement.

Commissioner Lawrence said she asked because of the reference to the maintenance obligation.

Ms. Jenkins explained although not long term it is regular maintenance to rehabilitate older lines, relining them or replace the lines. That is the City's maintenance, and this is not an insignificant expense to the project.

Commissioner Lawrence read Condition #6 that stated the existing public sewer lines and manholes shall be replaced and relocated... She confirmed that the applicant objected to the sentence, "...and *alternatively they shall be rehabilitated utilizing trenchless technology or be excavated and replaced.*"

Ms. Jenkins said that was correct.

Commissioner Pava confirmed the apartments are dog friendly and asked how residents and their dogs in Phase 1A would get to the dog park. There is an arroyo and a trestle.

Ms. Jenkins displayed the plan. She pointed out at the intersection they are building a six foot sidewalk along Zia. The formal path is the pedestrians will come down to the Rail Trail at Zia and St. Francis to the dog park. Alternatively, there are many people who walk their dogs in the arroyos to get to the Rail Trail.

Commissioner Hinojos-Fall asked the objection by the developer on Condition #6 and if Ms. Jenkins had a projection of the developer's "significant cost".

Ms. Jenkins said the figure is about \$65,000 currently.

Commissioner Hinojos-Fall asked to confirm that to the developer, \$65,000 is a *significant cost*.

Ms. Jenkins said yes. Construction costs have gone up dramatically and \$65,000 makes a difference for this project. She added especially when the obligation should not be the developers.

Commissioner Hinojos-Fall asked if there is a traffic light at Zia and the restructured Galisteo crossing.

Ms. Jenkins said there is only a pedestrian signal. There is not a traffic signal for vehicles going straight across from the south part of Galisteo to the north.

Commissioner Hinojos-Fall said she drives the corridor often and it is a high traffic area and there are accidents every week at the intersection of Zia and St. Francis. She asked if the project proposes to increase traffic density without a traffic light and presumes drivers will respect the pedestrian signal lights and allow them to cross. She asked if a traffic study had been done.

Ms. Jenkins said yes, the project was thoroughly analyzed and over the years there

have been multiple traffic studies. A study was conducted last year and reviewed and approved by the City of Santa Fe and the Department of Transportation. The proposed roadway improvements of the project actually improve the function of St. Francis and Zia dramatically. A traffic study determines levels of service and currently the turning levels fail. With the improvements there are no failures. And even with the additional traffic from the project there would be adequate levels of service at all intersections.

Commissioner Hinojos-Fall said speaking from a user's perspective, it does not work now. She asked if Ms. Jenkins was stating that the 3-lane left turn is an improvement that will prevent speeding, traffic accidents, and accommodate additional traffic.

Ms. Jenkins asked for a moment to locate the document.

Mr. Logston in the interim, apologized, because he had understood there was an agreement between Wastewater and the applicant on the amended language. He was working with another staff member because Ms. Jenkins was out of the country.

Vice Chair Clow said more clarification was needed on Condition #6 because Ms. Jenkins is adamant it is not the developer's responsibility.

Mr. Logston indicated staff from Wastewater was also present.

Ms. Jenkins showed data from the traffic study she thought helpful. She said the big issue with Zia is that cars line up in a queue heading toward St. Francis. Someone in peak morning and evening rush hours could possibly wait through two signal lights. The existing morning peak conditions queue is 2600 feet long at maximum. After improvements, with the project 100% occupied, queue will be reduced 91% or 235 feet. The evening peak hours the queue now is 550 feet and will be reduced to 65% or 191 feet.

Commissioner Hinojos-Fall asked what causes the reduction.

Ms. Jenkins explained it is a combination of the triple left lane and realignment of Galisteo. That provides for better storage of cars and improved, longer turn lanes and more cars moving through the intersections with each signal cycle.

Commissioner Hinojos-Fall said her experience has been in Santa Fe that everyone wants to use the farthest left turn lane. That prevents the people who want to use the next lane over from turning left and everything backs up. She could not understand how the three lanes will fix the problem.

Ms. Jenkins asked if one of the traffic engineers was available.

Vice Chair Clow suggested moving on. She noted that Cerrillos and St. Michael's Drive is an example with three left hand turns and that made a gigantic difference.

Commissioner Hinojos-Fall asked if the architectural façade of the development is consistent with the Santa Fe brand.

Ms. Jenkins said it is a modified Territorial style. She displayed the two and three story buildings with brick coping and metal standing seam shed roofs.

Vice Chair Clow suggested addressing Condition #6 now.

Mr. Logston asked Stan Holland from the Wastewater Division to speak.

Vice Chair Clow asked Mr. Holland about the issue raised on the Condition #6 requirement to replace and relocate the manhole with trenchless technology or for excavation and replacement. She explained the applicant's position that the maintenance is the City's obligation. She asked Mr. Holland for clarification.

Mr. Holland said he is an engineer with Wastewater Division. He said there are three things they look at on sewer lines. One is the capacity; another is the condition. This is a 12 inch concrete sewer line and capacity is not an issue now. But the concrete is starting to erode and will need to be replaced or rehabilitated, etc. Another thing they look at is the environment. Currently the line is easier to access. He knows what it takes to dig the line and there is inconvenience in a development like this. He said all things considered with a precedent already set, they tried to work out an alternative for taking care of lines that are in bad shape. They discussed with the engineer getting more line and the applicant was given two options. Either dig it up and replace it or use trenchless technology that allows the line to be repaired in place. The City will still have a part to deal with later, but the Division determined replacing the line now was best. That was part of a compromise.

Vice Chair Clow asked why appropriate for the developer to incur those costs.

Mr. Holland said typically the City does it on streets and rights-of-way. A line going through private property is different. He said it is not that the City could not do it, but the costs go up. When having to go through apartment complexes, shopping centers, etc. the City encounters a lot of resistance and anger, and traffic becomes difficult. In the City's interest, this is the time to take care of the line.

Vice Chair Clow asked if the position of the City is the developer should address the issue during construction because it is on private property.

Mr. Holland said the Division's position is that no one could see years ago where this property and the sewer line would be now. This is a small investment to protect their project compared to the City coming in later. The City does do rehabilitation projects, but one is not scheduled for a couple of years.

Commissioner Pava asked if both sides could compromise and divide the costs on this condition. It would be a mutual benefit and divides the cost and averts future costs.

Ms. Jenkins said they do want to move forward. She said she has the utmost respect for Mr. Holland, but Wastewater has at their disposal the Utility Expansion Charges (UEC). The applicant will be paying \$125,000 to connect to the City sewer system. She asked if there was an opportunity for a credit toward that.

Mr. Holland said he would have to bring that up to his director. He said if he did not think it was in the City's best interest, he would not have asked for the condition. This should be taken care of immediately.

Ms. Jenkins suggested it would be helpful if Mr. Logston reiterated Condition #6 into the record with an added caveat: the Wastewater Division will explore and work with the applicant to determine if they could receive UEC credits to offset the cost of the line.

Mr. Holland said the line needs to be done now and it is in both their interests. After the fact is too late. He thought personally this is not something the City should do.

Ms. Jenkins said she understood. She read the amended condition into the record:

CONDITION 6 AMENDMENT: *“The existing public sewer line shall be rehabilitated using trenchless technology or be excavated and replaced from the manhole (City MH# ZR853) immediately adjacent to building #5 downstream to the next existing manhole (City MH#ZR841) north of the developed site.”*

Ms. Jenkins asked to add for consideration that the Wastewater Division would agree to explore the possibility of cost-sharing through UEC Fee credits/waivers, etc.

Commissioner Hinojos-Fall said point of order on the language recited into the record. Condition #6 is an amendment. The follow-up language should be in the record as a request by the developer that the city consider the request. The way it was read into record it appears it is part of the amendment. It is not.

Vice Chair Clow said she was under the impression that staff, the developer and applicant had agreed to that language.

Mr. Logston explained he had been mistaken. When that issue came up Ms. Jenkins was out of town, and he was dealing with another staff member. He misunderstood and thought the applicant had agreed. He mischaracterized that.

Vice Chair Clow asked to confirm the language of Condition #6 as read into the record was staff's language, without the cost-sharing request that was added.

Ms. Jenkins said the amended condition she read into the record was the modified condition worked out by her civil engineer and Mr. Holland. It reduced to some degree the scope of the line replacement. She said they appreciate that, and the applicant agrees with the condition as read into record, with an additional request. They would like the

opportunity for the Wastewater Division to explore the applicant receiving UEC credits.

Vice Chair Clow said she understands. She wants to know if staff has agreed to the rewording of Condition #6, which limits the extent of the project.

Mr. Holland said the original requirement requested was an additional segment of sewer line crossing underneath the railroad track into the site. The compromise was that a portion of this the City would not have to deal with. He said if they are re-negotiating, he wants everything done. The compromise made was the manholes listed. He said if the City is putting funds in, there is a segment of line on the periphery of the property that would be in the best interest of the City and the developer to take care of now.

Vice Chair Clow clarified that City's position is if the applicant is willing to assume the cost, the City will accept the new language that limits the amount of line that needs to be replaced. But if the applicant wants cost-sharing through waivers, the City's position is the entire line should be addressed.

Mr. Holland said if the City will have an additional part of this line they will have to address as a team.

Vice Chair Clow asked if correct that the City agrees with the new language if the applicant covers the costs and is not asking for cost-sharing through a waiver.

Ms. Jenkins said they are in agreement with that. There is an amended condition that Mr. Holland and the applicant worked out. She suggested they move forward and if there is an opportunity to do a joint venture, they can work that out.

Mr. Logston said he agreed.

Mr. Esquibel indicated that Chair Gutierrez and Aku Oppenheimer had arranged a 30-minute presentation by Mr. Oppenheimer. The names of 16 people who gave up their time to comment to Mr. Oppenheimer were submitted.

Vice Chair Clow said she had a list of 16 people who gave up their two minutes.

## **PUBLIC HEARING**

Aku Oppenheimer, was sworn in. He is the president of the Candlelight Association representing a large number of people in the neighborhood. He said the Planning Commission has given the developer everything he wanted. The Association is asking the Commission to do what they can to make the best of a bad situation. He said he will show what that situation is and what can be done about it. The Association is requesting before the project is approved for the following conditions of approval for Zia Flats:

1. Require a new traffic analysis with a more realistic scope. He showed a film of

the typical morning traffic for Candlelight neighborhood's part of Zia Road. Cars were backed up and waited about 3 ½ cycles of the light before getting through the intersection. The current intersection needs to be changed now at minimum. He reviewed the reasons there should be a new traffic study; the failure to include apartments, Votech Road, General Services administrative area, nearby streets such as Camino Lumbre, or Sawmill Road at Rodeo Road. The current study ignores traffic going to area businesses such as the grocery or post office. The study is based on theoretical “standardized” data from other states and does not consider Post Covid increases as people went back to work and school. The impact of the Hawk crossing in the densest area of U-turns was not considered. The nearby development and new development are not considered. The Zia Station alone will increase daily vehicle trips 46% without further development.

2. Require the developers to build the promised traffic control infrastructure prior to the construction of the apartments and parking lot. He compared Turquesa Apartments that has the same density as Zia Station to Zia Flats, Phase 1A to show the possible impact to traffic. Zia Flats is 50% denser with 24 residences per acre, the most in south Santa Fe. This becomes, with Zia Station, part of the densest development in northern New Mexico. There is nothing comparable except Capital Flats, also built by the same builder at 59.2 residences per acre. The PUD rezoning adds to the unknown size of Phase 1B and 2, and what could be in 10 years. He showed impact to the traffic caused by density. The traffic study from Bohannon Houston clearly indicates on page 6, *the anticipation that a follow-up traffic study will be prepared when the south parcel is developed to determine if the mitigation presented here continues to result in an acceptable level of service.* As with the sewer, the traffic issues should be fixed first.
3. Require a firm timeline established for all stages of Zia Station, or at least Phase 1A and 1B. The project should not go on for 10 years.
4. The Planning Commission should require the developer to deliver the appearance promised when the developer was selling the project. Also, the developer promised if the Commission approved Zia Station Preliminary Plan the traffic problems at this intersection would go away. The developer should be held to that promise. The latest version of the plan has been changed and is far from the original. There are no setbacks but a lot of room and balcony space. Page 45 of the Final Development Plan shows signage and a roof that is familiar, and a three-story building with its height carefully concealed. The buildings are longer than any of the drawings shown originally. The roof looks a lot like the elevations of Capital Flats, another preliminary plan that morphed in the final plan. The "mediocre motel look" can be seen in the Rail Yard Flats and Capital Flats, again the same builder as this.

Mr. Oppenheimer thanked the Commission for their tolerance. He was trying to

make a coherent argument based on Findings of Fact and Conclusions of Law. The Candlelight Neighborhood asked that the Commission accept these conditions of approval. He reviewed the four conditions requested and thanked the Commission and asked that they have them do this before approval of the final development. He asked them to set a new precedent.

Robin G. Wakeland, 2305 Calle Luminoso was sworn. She opposed this case. She did a recent exhaustive search in Santa Fe County Deeds and Plat records in Santa Fe County Probate Court. She found no deed or other conveyance, nor any death certificate. That indicates a defect in Zia Station, LLC claim to the title and owning this property. A minimal description and the deeds are required for a lot line adjustment, or plat, or plan amendments and final and preliminary development plans. In addition, this hearing violates her due process rights to present evidence. Her opposition will be prejudiced by this lack, because two minutes is not enough time for an expert witness to provide factual foundation and opinion about the deeds, the developer's claim to Galisteo Road, and the lot line adjustment and plat amendment. Which will not convey title and ownership of Galisteo Road. In addition, we need to present our expert witnesses with their own traffic studies. Galisteo Road is now owned by the State Department of Transportation as willed at statehood in 1912 as a Territorial road. It is not owned by the City. It came under State ownership under 1866 federal law and the award of Galisteo right-of-way to the County in a 1970 title suit. She cited California code with laws that are like New Mexico.

Barb Teague was recognized but unable to unmute.

Alexandra Mayo-Cullen, 2099 Placita de Vida, was sworn. She and her husband moved to Santa Fe a year and half ago. She learned about the Zia Station development. They are very interested in density and multi-use and served on their community council in Minnesota. She is in favor of the development and the density and affordable housing. She is surprised there was not a comprehensive traffic study of scope. She is interested in the impact of traffic to her area, Vista del Sol. She thought there is more traffic. She said when development was presented to the community council, Public Works would have conducted a traffic study with multiple models showing within a five mile radius. Projections of traffic went out five or 10 years for commuter traffic, roads and traffic mitigation and they worked with developers to find what works. She asked there be a comprehensive traffic study. She said traffic flows like water and when blocked flows onto something else. All of the road arteries will be affected.

Catherine Martinez, 2203 Brillante Street, was sworn. She has been a resident of Candlelight for over 30 years. The presentations of the Zia Station development were presented to the public and the renderings depicted the buildings, etc. as attractive, Santa Fe-compatible structures. She thought approval was in part based on that appearance provided by the developer. Some officials and residents felt the Zia Station Development would serve as an attractive gateway to Santa Fe. The Zia Station, now Zia Flats, discarded those renderings. They now have new renderings in the Final Development Plan. The new renderings show unattractive buildings that do not represent the initial

plans shown. She requested the developer be required to construct structures that represent the initial renderings used as a condition of approval.

Antoinette Shook, 2120 Candelero St., was sworn. She was not sure if the Commission knew the development plan is in the appeals court. As a taxpayer, she does not consent to the use of public resources of this time. She agreed with the CNA presentation and the former speaker to hold the developer accountable to what was promised. The density of this project will endanger a lot of people. Crossing over Zia and St. Francis is dangerous. The Commission should consider an overhead bridge at the expense of Merritt Brown, not the taxpayers. Otherwise, they will be asking taxpayers to pay for the bridge. The Planning Commission was under duress at 2:00 a.m. when they agreed to the Development Plan. The guilt was put on the Commission. She wanted due diligence and checks and balances and necessary safeguards for the public. She said she hopes the Commission is hearing those who spoke.

Margaret Marshall, 2172 Ojo Court, was sworn. She is a board member of CNA. She supports 100% the conditions for approval for Zia Flats as Mr. Oppenheimer presented. She repeated the conditions that were stated by Mr. Oppenheimer and previous speakers. She said the comments about modified territorial is "ridiculous". Capitol Flats or Railyard Flats from any angle is not commensurate with Santa Fe. Capitol Flats is thought by many in Santa Fe to be a sore point. She thought that housing including affordable, can be provided for residents, but they are not required to provide whatever a developer would like to build. She wanted the Commission to ensure those conditions are required by the developer before final approval.

Nancy Scheer, 1894 Esplendor Street, was sworn. She commented on the three lanes left turn alleviating traffic. She thought it would help but one lane is left for anyone going straight or making right turns. Traffic will back up in those lanes instead, so there is still a problem. Also, there is only one pedestrian traffic crossing proposed. High school and elementary students and other pedestrians will have a difficult time crossing Zia, particularly the west end with the blind curves. She supports the plans Mr. Oppenheimer presented.

Helen Tomlin, 2323 Calle Tables, was sworn. She asked with all of the looping around and turns if anyone had considered the mental and physical health and safety of that. People are nervous these days and shooting each other. She thought that could happen and will flow into her neighborhood. She said everyone is for affordable housing and has struggled finding a reasonably priced, decent place to live. She said they should use common sense and not jam everyone together.

Vice Chair Clow closed the public hearing portion of the meeting.

Ms. Jenkins said it is important to remember that one year ago the City Council approved the Preliminary Development Plan. The primary purpose of a Final Development Plan application and review by the City is to determine if it comports with the preliminary approval. It is uncontested that it does, that is why they are here. She

said regarding the traffic study, the developer does not decide the scope and which intersections are studied. The State Department of Transportation decides that, never the developer. The traffic study was reviewed and approved by the City and the Department of Transportation. There is no lack of transparency in the review, the revisions and communication back and forth on the study. The staff report does state a condition of approval that all of the road improvements must be completed before anyone moves in. She said there was a lot of commentary on the plans that everything will change. It is important to remember what a planned development unit is because zoning is tied to the Preliminary Development Plan. The developer must return not only to the Commission but before City Council for a significant change. They were given set design standards, and permissible uses. The development plan is an ordinance that the developer is bound by. The phases must comport with the law established for the property.

Ms. Jenkins said lastly she wanted to address the commentary of the elevations for this phase. She showed the renderings presented last year in modified territorial style. The neighborhood feedback was they prefer a more traditional territorial style. The renderings shown by Mr. Oppenheimer were for the mixed use project in Phase 2 on the south side of Zia. That is a different product with residential and commercial uses, and those are the designs they intend to move forward with. But tonight, is about Phase 1. She showed elevations of the current proposals with a more traditional vernacular. She noted that it is not dramatically altered from what was previously proposed. She said these were modified at the request of the neighborhood. She indicated her traffic engineer was present and could answer questions on the traffic study.

## **COMMISSION DISCUSSION**

Commissioner Hinojos-Fall said Mr. Oppenheimer has given the opportunity to all of us to do the right thing. She said he is right; we need to do the right thing. His conditions of approval are on point. It does not matter whether it is the City or developer who is required to pay. The fact is it must be done. The Commission needs to preserve the Santa Fe brand. She asked to include the definition of Territorial Style on the record from Wikipedia: "Territorial Style was developed in response to an increasing popularity in the Spanish Pueblo Revival Style with which it shares many features and materials. Architect John Gaw Meem designed Territorial Style in response to requests from clients, some of whom wanted residences with cleaner, more conventional lines and symmetrical masses customary of his Pueblo Revival buildings. Meem's client, Mrs. Robert Tilney specifically requested he eschew many customary Pueblo Revival elements for her 1929 house. Ms. Tinley said she wanted, "Nothing heavy or Indian. As little Mexican as possible".

Commissioner Hinojos-Fall said that is the problem with this Territorial style that is being pushed on Santa Fe by developers who cannot bother to make the modifications because they are buying architectural plans suited for Albuquerque or Memphis, Tennessee. She said, "We have to stop that." She asked Ms. Jenkins for the renderings. They do not conform to the original plans presented previously. And it is offensive, and

it is eroding the Santa Fe brand. If the Santa Fe brand is eroded, the money coming into Santa Fe is eroded. That means many more people will not be able to work or live in Santa Fe, much less rent or buy.

She said the developers are not doing the City of Santa Fe a favor, the City is doing the developers a favor. The developers will make money in Santa Fe. The question is if the developers can adjust their expectations of profit to make adjustments to the building, so it conforms with the Santa Fe brand. She said anyone would hate the Capital Flats project and the related projects. She said, "We don't want that for our City." The developer finds that \$65,000 to take care of the sewer line is an outrageous amount. A homeowner would pay \$30,000 to reroof or restucco their home. She said she would urge that the Commission consider that and not give concessions.

Commissioner Hinojos-Fall said her last point is that the Commission should adopt verbatim, the conditions of approval presented by Mr. Oppenheimer. It is the only responsible and ethical thing to do because they represent the people of the city. She said it was telling that no one spoke in support of the development. She said the Commission cannot rubber stamp, they have to place conditions. She said the conditions suggested by Mr. Oppenheimer were on point.

Attorney Feghali pointed out the hearing is just to approve a Final Development Plan and the vacation and dedication of plat. It is not to revisit the traffic study or address other issues. Those were already addressed in the initial development plan and when it went to the Governing Body. She urged Commissioners to keep that in mind.

Vice Chair Clow said the Commission is aware of that but there are constraints of the project. This is to determine whether the Final Development Plan conforms to the Preliminary Development Plan and addresses the roadway.

Commissioner Pava said there has been a lot of testimony and passion, but the project has a long history. This is essentially land on a state highway, and a major arterial in Santa Fe and a heavy rail station. He said if they cannot approve dense development in this location we might as well spread all the way to Albuquerque. There are no other options for high density in an area as appropriate as this. He said the devil is always in the design and they have had heard examples that are good, bad and ugly. Given the site constraints in the location and the history of the design and zoning, and master plan changes, and lack of a master plan newer than 25 years old, the Commission has done their best under the circumstances. The Commission has to consider all of that as well as what the future holds for an update of the City's General Plan. They are today looking at a proposed development for a parcel of land on a major urban highway and a heavy rail station. He asked that his fellow Commissioners consider all of that in context to Mr. Oppenheimer's eloquent presentation.

Commissioner Faulkner said this piece of land was dedicated for development. They know they need housing, and every district should take a bit of the infill, so some areas don't take the lion share of build out. She likes the project. She is aware of the

community's concerns and agrees the developer could come back and request changes. This development is good for this piece of land. She said we have to start infilling throughout the City. She said she supports the project.

Commissioner Smith said he understood that style questions are not the purview of the Planning Commission. He thought what Ms. Jenkins said that the façade shown to the Commission, was for the second phase. He asked to confirm that. He also thought that he heard that traffic improvements will be paid by the developer and completed before anyone moves in. He said he agrees with Commissioner Hinojos-Fall that the \$65,000 is peanuts. His understanding was if the City would forego some of the revenue they would receive from future developments, the developer would cover this, and the City would agree to forgive some of that.

Vice Chair Clow said her understanding is the applicant gave up the request for \$65,000. The applicant agreed to cover the entire costs of Condition #6, as read into the record and amended. The applicant also agreed to Condition #1 that the highway improvements will be completed before anyone moves in. She asked staff to address the design question raised.

Mr. Logston said people are upset about some developments in town. He reminded the Commission and the public that the City has an architectural point system. The point system is inadequate and needs to be revised. It was written by someone who understands Santa Fe style for builders who understand Santa Fe style. It is overly simplified and inadequate. The renderings shown by the Applicant at preliminary and shown now do meet Code. That has to be addressed at a higher level and not on a case level. The Commission has to decide if the Final Development Plan substantially complies with the Preliminary Development Plan. And it does architecturally. The Commission has the authority to ask for more. He thought if the Final Development Plan were a rendering of the same quality as the first plan, everyone would feel more at ease.

Vice Chair Clow said the Commission can ask, but not require.

Mr. Logston agreed. If it comes down to an issue and it meets the point system, therefore, it meets Code.

Attorney Feghali added she would be wary of requiring too much more than Code requires. The decision may not hold up and could be appealed.

Commissioner Sategna said he did not catch where the applicant stated that they are no longer proposing an amendment to Condition #6.

Ms. Jenkins explained there was an amendment to the original condition agreed by Mr. Holland that limited the distance required for reconstruction. The applicant has agreed, and they are no longer proposing a cost share.

Commissioner Sategna said this is an example why the City needs to address the General Plan and update its Code. The Commission is at the mercy of the Code and going too far outside the Code, the applicant will appeal. The Commission can continue to push the General Plan update. He said he originally voted no because of how the project was presented and City Council approved it. This addresses the traffic with a three-lane turn lane and consistent with the charts presented to alleviate current traffic. With the connectivity created between developments, the train, and the services in phase 3, he supports the project.

Vice Chair Clow said the City Council included a condition on approval to prohibit short term rentals of all of the PUD. She understood the applicant was happy and she requested that be added to the development plan. Also, there was an amendment for any issue to the Santa Fe Homes Program Agreement to go back to the Governing Body for review and approval. The applicant is willing to include that in the Final Development Plan. She asked that the Commission consider that in their vote, those two issues that should be in the development plan.

Commissioner Hinojos-Fall thanked Commissioner Sategna for raising the issue of what the applicant agreed to in Condition #6. She said she is not comfortable that Ms. Jenkins passed information to the Chair. She should have stated on the behalf of the developer which concessions they agree or do not agree to. That would make a more clear and impartial record. She said she is not opposed to a development on Zia but is opposed to the particulars of how the development came to fruition. She was not suggesting the Code be changed with respect to the façade and architecture of the building. She said it would take very little to make the adjustments. She simply wants the architectural appearance to be more consistent with the Santa Fe brand, and she does not appreciate a touting of the Territorial style. She said it is offensive and should be offensive to everyone.

Vice Chair Clow clarified for the record that she and Ms. Jenkins had not communicated or passed on information. She explained Mr. Logston, the case manager sent a memo of staff communication with Ms. Jenkins, and he forwarded that to Chair Gutierrez. Chair Gutierrez sent the memo to her. She said it would be inappropriate for she and Ms. Jenkins to have conversations about the project. She said, "*We did not.*" Ms. Jenkins did discuss with Mr. Logston per City Council, that any amendments to the Santa Fe Home Program Agreement would be on the final development plan. Chair Gutierrez sent the memo to her to ensure she would address those will be on the development plan.

Commissioner Hinojos-Fall said she apologized if she misunderstood. She said for the record, she was referring to the Vice Chair's comments that the developer was withdrawing their objection to Amendment 6.

Vice Chair Clow said Ms. Jenkins made that withdrawal at this meeting when she and Ms. Jenkins were having a conversation and she was trying to clarify. And, for the record there was no side conversation, that was stated at this hearing.

Commissioner Hinojos-Fall said Ms. Jenkins should have said on-screen and state for the record she was withdrawing that amendment. It is not appropriate for anyone, any side party, to have that conversation and then on the record represent what the developer said.

Vice Chair Clow said again, there was no side conversation about that issue. That occurred at this public meeting when she and Ms. Jenkins were discussing the issue. She said Ms. Jenkins said, never mind we will not make this an issue if the compromise was reached between she and Mr. Holland. If that were agreed to the developer would not push for the \$65,000 compromise. That was done at the hearing on the record.

**MOTION:** Commissioner Lawrence moved to approve the Vacation and Dedication plat for Case #2021-3662, and approve the Final Development Plan for Case #2021-4647, subject to the conditions of approval and technical corrections recommended by staff and with the amendment as presented by staff to Condition #6, with the conditions of the Development Plan noted for short term rentals limitation and the Santa Fe Homes Program requirements as approved by the Governing Body and discussed at this meeting. The motion was seconded by Commissioner Sategna.

Director Kluck asked for clarification of the Commission's authority regarding architectural styles. He read from Chapter 14, Development Plans, Section (C) to approve the plans the Commission must make findings that the use must be compatible to nearby buildings, structures and uses of the abutting property and properties under consideration. The Commission does not have a lot of authority to modify the architecture as long as it complies with the point system.

**VOTE:** The motion passed by majority roll call vote with Commissioners Faulkner, Lawrence, Pava, Sategna, Smith and Toya voting in favor and Commissioner Hinojos-Fall voting against.

**MOTION:** Commissioner Lawrence moved to Approve the Findings of Fact and Conclusions of Law for Case #2021-3662 and the Findings of Fact and Conclusions of Law for Case #2021-4647 with the amendments as proposed tonight. Commissioner Sategna seconded the motion.

Commissioner Sategna asked a friendly amendment to include changes to Condition #6 and notations on the Final Development Plan regarding short term rentals and the Santa Fe Homes Program.

Commissioner Lawrence accepted the friendly amendment.

Vice Chair asked if the changes need to be redrafted.

Attorney Feghali said they do not have to be redrafted, but Commissioner

Lawrence should state the three changes.

Commissioner Lawrence stated that included in the motion is the addition to the conditions with the staff amendment to Condition 6 as presented today, and the condition noting the short term rental limitation and the Santa Fe Homes Program as required by the Governing Body.

**VOTE:** The motion passed by majority roll call vote with Commissioners Faulkner, Lawrence, Pava, Sategna, Smith and Toya voting in favor and Commissioner Hinojos-Fall voting against.

## **J. STAFF COMMUNICATIONS**

Director Kluck said they are close to hiring a Planning Manager and a Planning Assistant Director.

Attorney Feghali said at the next meeting they will have training and review some of Chapter 14, the Planning Commission responsibilities, procedural items like the Open Meeting Act, etc.

Mr. Logston said the architectural standards always seem to be relegated to the overhaul of Chapter 14. He said the Commission does not have to wait until the overhaul if they could get a Councilor on board. The City needs to do this, and it will provide more specificity. He strongly urged that someone initiate that staff explore this with the City Council in a public process to find out what they want.

Director Kluck said they want to include the architectural standards in the Code update. He is planning to do that comprehensively taking on all aspects of the Code. He disagreed with Mr. Logston.

## **K. MATTERS FROM THE COMMISSION**

Commissioner Faulkner said the Commission could play a key role and help staff. She said staff is doing a lot of work with a small amount of resources. She would urge the Commissioners to talk to their Councilors. Right now, the City is going through the budget. The Commissioners need to make it clear to Councilors, the Mayor's office, that the Land Use Department needs more staff and funding. She said Land Use is one of the most critical departments in the entire City. The decisions made at the Land Use Department impact people on a personal and economic level of our community. Land Use needs to be bolstered and Director Kluck and his team need support. There is too much work and too little resources. Staff is dedicated and doing a phenomenal job and needs the Commission's support.

Commissioner Sategna said he agreed but would point out that the start of the meeting, an Ordinance on daycare facilities came to them, and is directly impacted by Land Use and is directly correlate to their work and Code of how the City is built. He is

a huge advocate for updating the General Plan and Chapter 14, and ideally doing that comprehensively. He said he is getting frustrated as a resident of this great City, and being on the Commission, they have been hearing for years there will be an update and revised Chapter 14. He said it is still not happening.

Director Kluck apologized for interrupting and said to correct the record, it is happening, right now.

Commissioner Sategna said the Commission has not been provided details of what that plan is, and what a growth management study is versus a comprehensive plan. There are a lot of questions, and a fair criticism. What is going to be included has not been presented or defined to the Commission. He thought the City still has a lot of work to do and at some point might be appropriate to address some things head on to get things moving.

Commissioner Pava said it is great having a diversity of opinions. He noted he will be gone on April 21. He wished Mr. Logston success and thanked him for his service. He said he echoes Commissioner Sategna that it would be helpful, particularly in long-range planning to counter and support the information needed day to day in planning. He agreed with Commissioner Faulkner, Commissioners should talk with their Councilors, and he plans to move forward with that.

Director Kluck said he would be happy to send them the RFP for the Code update, and it is available online. He said that none of this is falling on deaf ears, it takes time. Staff is doing a tremendous job, and this is being done as quickly as possible.

Vice Chair Clow said the Commission is aware of that but, there have been so many cases, and complicated cases, and so much going on. They know they are short on staff. They do a great job and give thorough presentations and that makes the Commission's job easier.

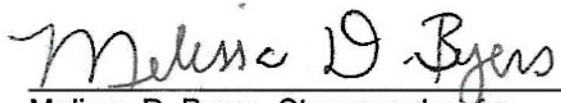
Mr. Esquibel said he has taken notes tonight on some development and Code questions asked tonight. He will try to include as much as possible in Chapter 14 to help the Commission understand the parameters they can operate under as well as the limits. His hope is Commissioners will be more comfortable with their questions and decisions and have a better understanding of the role between staff and Commissioners, as well as that of the Commission, the applicant and the public.

## **L. ADJOURNMENT**

Vice Chair Clow adjourned the meeting at approximately 10:40 p.m.

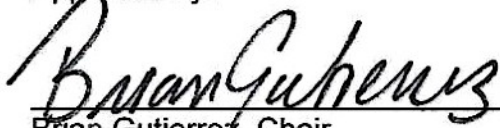
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Submitted by:



Melissa D. Byers, Stenographer for  
Byers Organizational Support Services

Approved by:



Brian Gutierrez, Chair