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**PLANNING & ZONING COMMISSION
REGULAR MEETING
WEDNESDAY, FEBRUARY 1, 2006**

Chairman Jim Thompson called this meeting to order at 5:30 p.m. at the Coronado Council Chambers, located at 120 Civic Plaza Drive. This is the monthly Regular Meeting of the Town of Taos Planning and Zoning Commission.

1. ROLL CALL

The following were present:

Commissioners: Jim Thompson, Chairman
Patrick Nicholson, Vice-Chairman
Susan Benedetti
John Delmargo
Jim Pollard
Joseph Quintana

Historic Preservation: Sheila Grainger
Richard Montoya

Absent: William Himes

Planning Department Staff present:

*Rudy Perea, Planner
Lou Baker, Planning Director
Matt Foster, Long-Range Planner
Melinda Vasquez, Planning Assistant*

2. PLEDGE OF ALLEGIANCE

Pledge of allegiance was recited.

3. APPROVAL OF AGENDA

No amendments noted.

Commissioner Quintana made a motion to approve the agenda as presented.

Commissioner Montoya seconded the motion.

Commissioners voted aye verbally.

Motion carried unanimously.

1 **4. ADOPTION OF PLANNING & ZONING COMMISSION BY-LAWS 2006**

2
3 **Chairman Thompson** asked Rudy if he clarified the issue on the bylaws last month.
4

5 **Rudy Perea** stated he did, talked to Town Attorney -that in the case where the bylaws
6 and the LUDC conflict, the stricter applies, in this case the LUDC applies, which states
7 under section 3-2.5 that the historic commissioners are not allowed to vote on
8 conditional, special use permit issues, it is alright to approve the by-laws as written, the
9 stricter regulation applies.

10
11 **Commissioner Quintana** asked if there were any other changes from last years bylaws.

12
13 **Rudy Perea** stated there are no changes in the bylaws as presented in last years.

14
15 **Commissioner Nicholson** made a motion to approve the by-laws for 2006 as presented.

16
17 **Commissioner Benedetti** seconded the motion.

18
19 **Commissioners voted aye verbally.**

20
21 **Motion carried unanimously.**

22
23 **Commissioner Pollard** made motion, in regard to Section 1.1 of the by-laws, that
24 appear to be in conflict with the LUDC, that the question of the voting duties of the
25 Historic Preservation Commission members be referred to Town Council for
26 clarification.

27
28 **Commissioner Nicholson** seconded the motion.

29
30 **Commissioners voted aye verbally.**

31
32 **Motion carried unanimously.**

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35 **5. APPROVAL OF MEETING MINUTES OF JANUARY 4, 2006**

36
37 **Commissioner Nicholson** noted a correction, page 12, line 43, his statement intention
38 there was to point out that the project as designed creates an unsafe environment for
39 pedestrians, so it should read “would like to see the parking moved to the rear and to not
40 have two roads next to each other to create a better pedestrian environment.” So strike the
41 word create and put to not have.

42
43 **No other corrections noted.**

44
45 **Commissioner Quintana** made motion to approve the minutes as amended.

46
47 **Commissioner Delmargo** seconded the motion.

48
49 **Commissioners voted aye verbally.**

50
51 **Motion carried unanimously.**

1 **Update on projects from Long Range Planner – Matt Foster.**

2
3 **Matt Foster** presented a powerpoint presentation on “Green Building Program.”

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7 **6. SKETCH PLAN REVIEWS**

- 8
9 **A. Case No. P&Z2006-04**
10 **James & Consuelo Duran, property owners, Abeyta Engineering,**
11 **Inc. Agent; requesting *Sketch Plan* review, for a four lot family**
12 **transfer subdivision and lot size variance for a 4.868 acre property**
13 **located at 904 Camino del Medio, located in the R-A zone of the**
14 **Extra-Territorial Zone.**

15
16 **Mr. Alex Abeyta** explained the application to the Commission, explained that in the late
17 ‘70’s when the property was zoned R-A, with three acre minimum, the property owner
18 did not understand the zoning regulations placed, was informed that the zoning
19 designation would not restrict him from doing family transfers or family lots splits. So as
20 time evolved he understood he was allowed to transfer property to his family. In 1997 he
21 deeded the western most acre to his son James Jr.; in 2002 a storage unit project was
22 approved for a .6 acre and that was deeded; most recently Mr. Duran needs to transfer an
23 additional acre for his son James Jr. to build a home next to his parents home to take care
24 of his parents. As a result of this most recent need, it was determined that there are non-
25 conforming lots and the solution is to submit a family subdivision for the four lots, which
26 would require variance from the required 3 acre minimum.

27
28 **Commissioner Nicholson** asked Mr. Abeyta to explain the previous ETZ application for
29 storage units.

30
31 **Mr. Abeyta** stated he was not involved in that previous application, all he knows is that
32 it was denied and appealed to the MCZA who overturned the decision and approved the
33 storage units.

34
35 **Commissioner Pollard** asked Rudy if the lots are existing and are ok, why do they need
36 a four lot split instead of one lot into two.

37
38 **Rudy Perea** stated that on the survey plat there are no signature lines for the Taos
39 County Planning nor the Town Planning to make this a legal document, so the lots were
40 never officially approved.

41
42 **Commissioner Pollard** asked if there will be problems for the Durans to comply with
43 other restrictions, as far as road widths, etc.

44
45 **Mr. Abeyta** stated that the property will remain within the family, the property is in the
46 ETZ and needs Town and County approval, the County does allow family transfer, the
47 County just needs survey of the acreage and signature lines for the Director to sign an
48 administrative claim of exemption family transfer split. The subdivision and variance is
49 required from the Town to make them legal non-conforming lots.

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51 **The Commission discussed the need for rezoning in the Extra-Territorial Zone.**

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Mr. James Duran made a statement to clarify his request, as stated, his wife is recovering from a massive stroke and has been recovering for over a year, and he has been the primary caretaker 24 days a week everyday. The violations were not intended, his understanding of the zoning regulations when they were being imposed, were that he was allowed to do the family transfers and was told not to worry, and when he transferred the acre to his son, he believed he was allowed to do that. Would now like for his son to build a home next to his so that his son can help care for his wife.

Commissioner Quintana made a motion to schedule this application for public hearing for lot size variance, omitting the family transfer subdivision request.

Commissioner Pollard seconded the motion.

Rudy Perea in discussion of the motion, the exemption from family transfer in the motion is not valid because the Town does not have any provisions for family transfer subdivisions.

Commissioner Quintana justified the motion he made in that he thinks the Town and County will seriously take look at rezoning in the ETZ; and would like to allow these lot sizes and lot splits without going through subdivision.

Rudy Perea stated that the property is non-conforming and the Town and State Subdivision Regulations apply, and the Variance requirements need to be met for the lot sizes requested. The Town and the County have had this topic of rezoning the ETZ for several years and nothing has been done to his knowledge to move forward very soon.

Commissioner Pollard withdrew his second.

Motion dies for lack of second.

Commissioner Pollard made motion to schedule the application for public hearing for preliminary plat for subdivision and lot size variance.

Commissioner Nicholson seconded the motion.

Commissioners voting aye verbally: Commissioner Delmargo, Commissioner Pollard, Commissioner Nicholson, Commissioner Quintana, Commissioner Benedetti.

Motion carried unanimously.

1 **B. Case No. P&Z2006-05**
2 **Plaza Canon LLC, Canonlands LLC, property owners, Mark**
3 **Yaravitz, agent; requesting Sketch Plan review, for *subdivision* for**
4 **an 11.8 acre property located at Paseo del Canon East, adjacent to**
5 **the Taos Youth and Family Center.**
6

7 **Mr. Mark Yaravitz** explained the application to the Commission, request is for
8 subdivision; the zoning is HCPD; the object is to create small business lots, with the
9 option for the individual business owner to buy a small property and place buildings
10 appropriate for that size; the average lot size is between .43 and .56 acre. Have been
11 working with the department of transportation on the improvements on the main road.
12 Every building will have to go through Town review for permitting; all the utilities are in
13 and around the property.
14

15 **Commissioner Delmargo** asked what the State Highway is asking for in regard to
16 improvements for this project.
17

18 **Mr. Yaravitz** stated that the State Highway Department is currently working on the
19 growth issues in regard to maximum growth as allowed with the current zoning, for the
20 entire area, this project falls within that growth plan.
21

22 **The Commission discussed a recommendation of the applicant look at a PUD**
23 **overlay to mix residential with commercial uses and discussed what had happened**
24 **in regard to the previous proposed project at this location.**
25

26 **Rudy Perea** stated that he will work with the Town Attorney to determine if the open
27 space requirement has already been met.
28

29 **Mr. Yaravitz** explained briefly, that the entire acreage was 44 acres, a donation was
30 made of over 5 acres to the youth and family center, the second donation was for 5 acres
31 for the drainage channel, so approximately 10 acres of the 44 acres has been donated to
32 the Town, most of this was donated and created prior to the open space requirement
33 policy.
34

35 **Commissioner Pollard** made a motion to schedule the application for preliminary plat
36 review at the March 1, public hearing.
37

38 **Commissioner Quintana** seconded the motion.
39

40 **Commissioners voting aye verbally: Commissioner Delmargo, Commissioner**
41 **Pollard, Commissioner Nicholson, Commissioner Quintana, Commissioner**
42 **Benedetti.**
43

44 **Motion carried unanimously.**
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1 **Rudy Perea read the rules for public hearing.**
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5 **8. PUBLIC HEARINGS**
6

- 7 **A. Case No. P&Z2006-01**
8 **Patricia Ann Baker, property owner; requesting a *Zone Change,***
9 **from R-14 (multi-family residential) to R-4 (residential). The 0.3171**
10 **acre property is located at 110 Cervantes Drive, in the R-14 Zone**
11 **within the Town of Taos.**
12
13

14 **Ms. Patricia Baker** is sworn in, explained that she owns property on Cervantes Drive
15 and would like to request a zone change from R-14 to R-4, would like to preserve the
16 distinct character of the neighborhood and protect the historical value and integrity of her
17 property. The property has a house and two car garage, workshop and well house, on lots
18 A&B of the Vista de Taos Subdivision dated May 1929. Would like to place as many
19 restrictions on her property as possible, and would not like to see it built out to maximum,
20 has acted upon last months Commissions recommendation to update the deed restrictions
21 to not allow any further division of lots A and B and to have a density of one single
22 family and pertinent out buildings. Would like the zone change to supplement these deed
23 restrictions. Ms. Baker described the historical nature of the small size lots she owns and
24 the surrounding acreage and zoning. Ms. Baker read a letter from her neighbor Gloria
25 Gartner in support of the zone change request.
26

27 **Commissioner Pollard** stated that the deed restrictions placed on this property provide
28 much more protection than the requested zone change. Believes the zone change is an
29 improper tool for what the applicant is trying to obtain, the deed restrictions will cover
30 the property forever. The issue is zoning itself, in that zoning tries to split up the
31 community into zones whereby in each zone things are allowed and in some prohibited. It
32 would be difficult if everyone was allowed to pick a zone for their property, it would be
33 difficult to administer. Because this is an old 1929 subdivision, this whole neighborhood
34 was zoned improperly because of the lot sizes, obviously they were meant to be very
35 small lots, their physical size limits to a one single family home, this was done in the
36 days prior to restrictions and covenants. Believes it is wrong for the Commission to start
37 to allow people to pick their own zone for their home, would like to suggest that this
38 whole block be revisited and the zoning changed to another zoning designation and
39 protect the whole neighborhood.
40

41 **Rudy Perea** stated that he agrees with Mr. Pollard and will consider re-evaluating the
42 designated zoning now that the land use plan will be adopted.
43

44 **Chairman Thompson** opened the application for public hearing.
45

46 **Mr. Peter Mackaness** is sworn in, stating he is in support of Ms. Bakers request,
47 explained how he believes she has a very historic home in an historic neighborhood. His
48 historical investigation indicates that this subdivision is the second oldest subdivision in
49 the Town of Taos. Recommended the Town seriously consider rezoning and for creating
50 more historical districts for protection.
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No further public comment noted.

Chairman Thompson closed the public hearing and returned to the Commission.

Commissioner Nicholson made motion to deny the zone change request, the proposed zone change amendment is not justified by the fact that the original zoning was in error, by change in condition in the vicinity, or by change in the Town of Taos's overall development policy.

Commissioner Pollard seconded the motion.

Commissioners voting aye verbally: Commissioner Pollard, Commissioner Nicholson, Commissioner Quintana, Commissioner Benedetti.

Commissioner Delmargo voted no on the motion.

Motion carried.

**B. Case No. P&Z2006-02
Susan & John Medina, property owners; Leticia Manzanares, agent; requesting a *Special Use Permit*, to operate a Child Day Care Center. The property is located at 1128 D Paseo del Pueblo Sur, within the C-2 Zone of the Town of Taos.**

Ms. Leticia Manzanares is sworn in, stating she is requesting approval to operate a child day care center, has completed all the state requirements, including child care licensing, needs this approval from the Planning Commission and a Fire inspection. The building needs a door, and the Architect has submitted a letter that the door can be placed without doing any damage to the existing facility. Indicated the State requires 35 sq. ft. per child, and outdoor is 75 sq. ft. per child, will start out with 10 children and have 1 adult to 5 children. The floor plan indicates the existing building, will obtain a permit to change out the window to a door, the plan also indicates the exits and outdoor play area, with fencing all around.

Commissioner Thompson opened the application for public comment.

No public comment noted.

Commissioner Thompson closed the public hearing and returned to the Commission.

Commissioner Delmargo made a motion to approve the day care center, based on the findings of fact and following conditions, than an architect licensed in the State of New Mexico be required to inspect the subject structure; all modifications to the subject structure mandated by the applicants architect will be inspected by the Town of Taos Building Officials; prior to Certificate of Occupancy the Fire Department shall do an inspection of the structure to comply with fire codes; the State of New Mexico approve the facility prior to certificate of occupancy; the applicant submit State of New Mexico license for day care, and the project becomes null and void in 90 days if the conditions are not met.

1 **Commissioner Pollard** seconded the motion.

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3 **Commissioners voting aye verbally: Commissioner Delmargo, Commissioner**
4 **Pollard, Commissioner Nicholson, Commissioner Quintana, Commissioner**
5 **Benedetti.**

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7 **Motion carried unanimously.**

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12 **C. Case No. P&Z2006-03**
13 **Dharma Properties Inc., property owners, Living Designs Group,**
14 **Agent; requesting a *Conditional Use Permit, Zone Change from R-4 to***
15 ***C-1, and a Planned Unit Development. The property is located at 331***
16 ***Kit Carson Road, in the R-4 zone.***

17
18 **Chairman Thompson** stated that he agrees with Rudy who has submitted a Memo,
19 indicating that the applicant still needs to submit some documents and would like to see
20 this continued until those have been received and would like to know if the Commission
21 agrees.

22
23 **Lou Baker** stated that the Planning office has received the documents, however, not in a
24 timely manner and Rudy has not had sufficient time to review and write a staff report,
25 and recommends the applicant make their presentation this evening or set a special
26 meeting next Wednesday to present all the new information to the Commission.

27
28 **Commissioners and staff discussed the possibility of a special meeting.**

29
30 **Commissioner Pollard** made a motion to continue this public hearing to a special
31 meeting on February 15, 2006 at 6:30 pm. here at the Council Chambers, and to open the
32 public hearing on this application to the public present this evening.

33
34 **Commissioner Benedetti** seconded the motion.

35
36 **Commissioners voting aye verbally: Commissioner Delmargo, Commissioner**
37 **Pollard, Commissioner Nicholson, Commissioner Quintana, Commissioner**
38 **Benedetti.**

39
40 **Motion carried unanimously.**

41
42 **Commissioner Quintana** made a motion to allow the applicant to make a 10 minute
43 rebuttal on the public comment to be made this evening.

44
45 **Commissioner Nicholson** seconded the motion.

46
47 **Commissioners voting aye verbally: Commissioner Delmargo, Commissioner**
48 **Pollard, Commissioner Nicholson, Commissioner Quintana, Commissioner**
49 **Benedetti.**

50
51 **Motion carried unanimously.**

1 **Chairman Thompson** opened the hearing for public comment, if those present in the
2 audience would like to make a statement.

3
4 **Mr. Ruben Vigil** is sworn in, stating he lives directly across from El Monte Sagrado,
5 stated that during the previous construction he put up with noise, traffic and road blocks
6 at all hours, for about two years; is concerned this will happen all over again and would
7 like to see the construction monitored this time.

8
9 **Mr. Andrew Crawford** is sworn in, stating he recently purchased a condominium
10 adjacent to the development, would like to say it is a wonderful project, but is concerned
11 with their flexibility to change things, and has not seen any documentation with the
12 concerns the neighborhood association has submitted.

13
14 **Mr. Peter Fay** is sworn in, distributed a letter of concerns to the Commission and hopes
15 it will be read and taken into consideration and addressed by the developer.

16
17 **No further public comment noted.**

18
19 **Chairman Thompson** closed the public comment on the application and allowed Mr.
20 Szerdi to make a statement.

21
22 **Mr. Szerdi** stated that in regard to what Mr. Vigil has stated, they will lay down a
23 construction worker parking area and vehicle delivery area; have been in contact with Mr.
24 Fay and have heard their concerns; and will present traffic impact, landscape plan,
25 lighting plan and on site traffic parking areas, and will address the sidewalks, noise and
26 lights onto the adjacent property. Mr. Szerdi handed out the packet of information to the
27 Commission for next weeks special meeting.

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31 **D. Case No. P&Z2005-18**
32 **Robert Knudson Trust (option to purchase by Denis Grosvenor,**
33 **assigns or nominees), property owner, Abeyta Engineering Inc.,**
34 **Agent; requesting a Zone Change, from R-2 (single-family**
35 **residential) to R-14 (multi-family residential) the 3.72 acre property**
36 **is located at 701 Salazar Street, in the R-2 zone of the Town of Taos.**

37
38 **Mr. Alex Abeyta** is sworn in, stating he has no new information from the previous
39 hearings, has read the staff report prepared by Mr. Perea and are comfortable with the
40 findings and recommendations. Have submitted in the meeting packet a metes and
41 bounds survey for the property, it is 3.07 acres, there is an encroachment of the Town
42 asphalt onto the property and the applicant has agreed under the lot line adjustment to
43 deed that to the Town. In regard to the acequia, have contacted Mr. Charles Chacon and
44 he verbally indicated no problem realigning the ditch with a liner and will provide a
45 formal letter stating that agreement. There is no further new information, at this time will
46 stand for questions.

47
48 **Commissioner Nicholson** stated that he has previously made recommendations in
49 regard to pedestrian traffic, for sidewalks around the perimeter, would like to know if the
50 applicant is willing to place sidewalks on Salazar and La Posta Roads.

51

1 **Mr. Abeyta** stated the sidewalk issue was discussed, it was agreed to build a right turn
2 decel lane which includes stand up curb and gutter along the reach of Salazar Road, the
3 applicant did not commit to place the sidewalk, would prefer to do the right turn lane,
4 however, in the future the applicant is willing to provide easement to the Town to place
5 sidewalks.

6
7 **Chairman Thompson** opened the application for public comment.

8
9 **No public comment noted.**

10
11 **Chairman Thompson** closed the public hearing and returned to the Commission.

12
13 **Commissioner Pollard** made a motion to approve the zone change, with the findings of
14 fact in the staff report and with the following conditions; the applicant submit a written
15 confirmation to the Planning and Zoning Department that the existing acequia on the
16 subject property has been addressed by the pertinent Acequia Association prior to the
17 issuance of any building permits; prior to the issuance of any building permits, the
18 applicant shall do a lot line adjustment on his property to donate the small piece of land
19 where Zia Road intrudes onto the property; the applicant submit a letter of credit or
20 another form of financial guarantee acceptable to the Town of Taos to ensure that the
21 proposed turn lane will be constructed; the applicant complete the construction of the
22 proposed turn lane prior to the issuance of Certificate of Occupancy for the proposed
23 condominium units; the applicant provide sufficient sidewalk easement on both Salazar
24 and La Posta Roads.

25
26 **Commissioner Delmargo** seconded the motion.

27
28 **Commissioners voting aye verbally: Commissioner Delmargo, Commissioner**
29 **Pollard, Commissioner Nicholson, Commissioner Quintana, Commissioner**
30 **Benedetti.**

31
32 **Motion carried unanimously.**

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35 **9. OLD/NEW BUSINESS**

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39 **10. ADJOURNMENT**

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42 **Commissioner Delmargo** made motion to adjourn.

43
44 **Commissioner Benedetti** seconded the motion.

45
46 **Members voted aye verbally.**

47
48 **Motion carried unanimously.**

49
50 **Meeting minutes of February 1, 2006 prepared by: _____**
51 **Melinda Vasquez, Planning Assistant**