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**PLANNING & ZONING COMMISSION
REGULAR MEETING
WEDNESDAY, SEPTEMBER 5, 2007**

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This meeting was called to order at 5:30 p.m. at Council Chambers, Coronado Hall located at 120 Civic Plaza Drive. This is the first scheduled regular meeting of this newly appointed Town of Taos Planning and Zoning Commission.

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1. ROLL CALL

The following were present:

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Commissioners: Josepha Cruz
 Mark Gonzales
 Cipriano Medina
 James J. Pollard
 Luis Reyes
 Michael Silva
 Jim Thompson

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Historic Commission: Merlinda James
 Fred Robbins
 Zeke Tapia

Planning Department Staff present:

Rudy Perea, Planner
Matthew Foster, Planner
Renee Barela-Gutierrez, Town Attorney
Melinda Vasquez, Admin. Asst.

2. PLEDGE OF ALLEGIANCE

Pledge of allegiance was recited.

3. ELECTION OF OFFICERS

A. CHAIRMAN

Nominations were opened for Chairman of the Commission.

Commissioner Cruz nominated Jim Thompson as Chairman.

Commissioner James seconded the nomination.

No other nominations received.

Commissioner James made motion to close nominations.

Commissioner Pollard seconded the motion.

1 **Commissioners voting yes on the nomination and motion: Cruz, Gonzales, Medina,**
2 **Pollard, Reyes, Silva, Thompson, James, Robbins, Tapia.**

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4 **Motion carried unanimously.**

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7 **B. VICE-CHAIRMAN**

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9 **Nominations were opened for Vice-Chairman of the Commission**

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11 **Commissioner Pollard** nominated Luis Reyes as Vice-Chairman of the Commission.

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13 **Commissioner James** seconded the nomination

14
15 **No other nominations received.**

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17 **Commissioner James** made motion to close nominations.

18
19 **Commissioner Pollard** seconded the motion.

20
21 **Commissioners voting yes on the nomination and motion: Cruz, Gonzales, Medina,**
22 **Pollard, Reyes, Silva, Thompson, James, Robbins, Tapia.**

23
24 **Motion carried unanimously.**

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28 **4. APPROVAL OF AGENDA**

29
30 **Chairman Thompson** called for any changes to the agenda as presented.

31
32 **Rudy Perea** noted a few amendments to the Agenda, would like the Commission to
33 consider his requests to continue item 9. A. case no.2007-12 and item 10. A. case no.
34 2007-15 and item 10. D. case no. P&Z207-13.

35
36 **Chairman Thompson** clarified to Rudy that those requests to continue will be
37 considered after item 7.

38
39 **Commissioner Pollard** made motion to move item 7. A. Construction Mitigation Plan
40 proposal to after the public hearings, would like to give this considerable discussion on
41 this code change.

42
43 **Commissioner Reyes** seconded the motion.

44
45 **Commissioners voted yes verbally on the motion.**

46
47 **Motion carried unanimously.**

48
49 **No other amendments noted.**

50
51 **Commissioner James** made motion to approve the agenda as amended.

1 **Commissioner Pollard** seconded the motion.

2
3 **Commissioner voted yes verbally on the motion**

4
5 **Motion carried unanimously.**

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9 **5. APPROVAL OF MEETING MINUTES OF AUGUST 1, 2007**

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12 **Chairman Thompson** stated that he was in the audience at that meeting, not part of the
13 Commission and the minutes look appropriate.

14
15 **Commissioner Cruz** stated that she was also in the audience, and would like to make a
16 motion to approve the minutes as presented.

17
18 **Commissioner Medina** stated that he was also in the audience, and will second the
19 motion.

20
21 **Commissioner Reyes** asked the Town Attorney if this Commission can approve the
22 minutes if they were not part of the Commission at that meeting.

23
24 **Renee Barela-Gutierrez** stated that this Commission can approve the minutes as
25 presented in the form, two members have stepped forward to state they were in the
26 audience at that meeting, and the minutes as presented are an accurate reflection of what
27 took place, and that is what is being approved, not actually the content.

28
29 **Commissioner Pollard** stated he was at the meeting as well, and stated that when the
30 Commission gets to item 7, the Commission may wish Council members Abeyta and
31 Cordova, could have read and approved the minutes, he sees some differences in the
32 discussion in item 7, and would feel more comfortable if it were possible to send these on
33 to them as members of the Council having sat as Commissioners to approve.

34
35 **Renee Barela-Gutierrez** stated that is an option as well, this Commission can send the
36 minutes to the Council to approve.

37
38 **Chairman Thompson** called for roll on the motion presented.

39
40 **Commissioners voting yes on the nomination and motion: Cruz, Gonzales, Medina,**
41 **Thompson, James, Robbins, Tapia.**

42
43 **Commissioner voting no on the motion: Pollard, Reyes, Silva**

44
45 **Motion carried.**

1 **6. UPDATE FROM MATTHEW FOSTER, Long Range Planner**

2
3 **Matt Foster** gave the new Commissioners a brief explanation of his job description; and
4 an update on the many projects he is working on; described the SmartCode project;
5 reminding everyone of September 17-21, five-day charette presented by PlaceMakers, the
6 contractor working on the Land Use Master Plan.
7

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9
10 **Chairman Thompson** stated he will now allow the Commission to take into
11 consideration the requests from Rudy to continue applications; entertained discussion or
12 motion to consider the request by Rudy to continue application P&Z2007-12.
13

14 **Commissioner James** asked Rudy why the application needs be continued again.
15

16 **Rudy Perea** stated that the applicants are working with the State Historic Preservation
17 Office, on additions to their building.
18

19 **Commissioner Pollard** made motion to continue the application to October 3.
20

21 **Commissioner Reyes** seconded the motion.
22

23 **Commissioners voted yes verbally on the motion.**
24

25 **Motion carried unanimously.**
26

27 **Chairman Thompson** asked for a motion to consider the request by Rudy to continue
28 application P&Z2007-15.
29

30 **Commissioner Reyes** made motion to continue the application to October 3.
31

32 **Commissioner Pollard** seconded the motion.
33

34 **Commissioners voted yes verbally on the motion.**
35

36 **Motion carried unanimously.**
37

38 **Chairman Thompson** asked for a motion to consider the request by Rudy to continue
39 application P&Z2007-13.
40

41 **Commissioner Pollard** made motion to continue the application to October 3.
42

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

45 **Commissioners voted yes verbally on the motion.**
46

47 **Motion carried unanimously.**
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1 **Rudy Perea read the rules for public hearings.**
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5 **8. PRELIMINARY PUBLIC HEARINGS**
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- 8 **A. Case No. P&Z 2007-18**
9 **Robert W. Sims, property owner, requesting a *Certificate of***
10 ***Appropriateness, for new construction, remodel and interior***
11 ***demolition, the property is located at 115 Valverde Street, within***
12 ***the R-14 Historic Overlay Zone of the Town of Taos.***
13

14 **Mr. Robert Sims** is sworn in, stating he is the property owner of a house located at 115
15 Valverde, in the historic overlay district, about half of the house is over 100 years old and
16 about half if frame construction, the request is to add a porch in front and back, patio
17 front and back, as well as double doors to replace the existing aluminum windows; it is
18 single-story construction, the interior work is to expose old vigas in the building, trying to
19 get it back to its original condition.
20

21 **Commissioner Pollard** stated that in his meeting packet he is missing the Application
22 for Certificate of Appropriateness, this is one of the things the Commission needs to
23 certify the application is complete and ready to proceed.
24

25 **Rudy Perea** stated that must be a clerical error, will submit that at the next meeting.
26

27 **Commissioner Pollard** asked Mr. Sims to clarify he is property owner.
28

29 **Mr. Sims** stated he is owner of record of the property; he did submit and application, he
30 also did prepare the copies for the meeting packet, he did not see that application as one
31 of the items to copy as part of the packet.
32

33 **Commissioner Pollard** asked Rudy if something has changed in the submittal process
34 from his absence on the Commission, at this stage drawings would normally be submitted
35 which would show the property on the site, both as it is existing and as it is proposed, and
36 there would also be drawings showing in some readable scale, the existing structure and
37 the proposed changes, is that still the same.
38

39 **Rudy Perea** stated that yes, that is one of the things that is in the code, but it also talks
40 about these types of submittals, where applicable, these things would be required; what
41 he determined based on the information the applicant submitted, because it was a small
42 project and based on the information submitted, as far as the details on the elevations,
43 floor plans and things of that nature, felt that what he had submitted and part of the
44 packet tonight was sufficient for review, but again, if you would like the applicant to
45 submit that information for the next public hearing, he can have him to that.
46

47 **Commissioner Pollard** stated that he is in favor of whatever is as minimal as possible,
48 to make the process as simple as possible, but would also prefer to make it simple for the
49 Commission to make it simple for the applicant. One of the difficulties he is having is on
50 the site plan, on the marked up survey can't tell from looking at it what the setbacks are
51 or where the proposed and existing properties sit on the setback, saw some confusing

1 information on some of the drawings so maybe a bigger drawing, maybe a 1 to 20 scale
2 so they are readable, is having some trouble with an indication somewhere of a 6'3' or
3 something proposed within the setback.
4

5 **Mr. Sims** stated that the existing house on the side from 117 Valverde the old adobe is
6 built within five or six feet of the property line, wanted to point out that this is an existing
7 structure with an existing setback.
8

9 **Commissioner Pollard** stated he just wanted to make sure, did not want to find out later
10 that a Variance is needed, if it could be clearly shown, the existing property and the
11 proposed changes and how they are affected by the setbacks.
12

13 **Mr. Sims** stated while he was doing the design he did understand the setbacks and the
14 proposed construction falls into that setback.
15

16 **Chairman Thompson** pointed out that the drawings do show existing setback in the
17 front is 5 feet and the proposed porch is to be 6'3" right above it.
18

19 **Commissioner Pollard** stated the setback is 7 feet so a variance is needed.
20

21 **Rudy Perea** asked Mr. Sims to clarify, in the submitted site plan, the proposal to build is
22 within the existing footprint of the adobe building, there is no proposal to build the
23 additions outside the existing footprint.
24

25 **Mr. Sims** stated that is correct, the porch is the 6'3" proposed, can show the 7 foot
26 setback on a scaled drawing.
27

28 **Rudy Perea** stated that he is building within the existing footprint, he is not making the
29 porch any wider.
30

31 **Commissioner Pollard** stated he does not understand, if the porch is existing how can it
32 be proposed.
33

34 **Mr. Sims** stated the porch is not built on the house now, the corner of the exiting house
35 is about 4 to 5 1/2 feet from the property line, the porch would sit another 18" in from that
36 existing corner of the building and then out 6 feet, so what Rudy is saying is the existing
37 wall of the building the porch would be 18" inside of the existing structure.
38

39 **Chairman Thompson** stated that if there is an existing non-conformance you cannot
40 continue that non-conformance, if the existing house is 5 feet setback when it requires 7
41 feet and the proposed is 6 feet 3 inches that is an additional non-conformance.
42

43 **Commissioner Pollard** asked to be referred to the photo of the corner of the building.
44

45 **Mr. Sims** pointed out the photo in the packet; stated what he is proposing, in the large
46 window on the left photograph the rod iron railing will be removed and there will be a
47 column even with that window and a porch will go entirely across the face of the
48 structure to within about 18 inches of the existing wall on the right hand side of the
49 photograph.
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51 **Commissioner Pollard** asked if that line then will fall within the 7 foot setback.

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Mr. Sims stated it would be close, couldn't say for sure.

Commissioner Pollard stated that without seeing a plan, the Commission would be approving an intention only, not a plan; the request is fine, and if a setback variance is needed, it should be applied for at once, it looks like he is building with the setback.

Rudy Perea asked Mr. Sims if he could revise his site plan to comply with the setback requirements.

Mr. Sims stated that he can revise to show the setbacks in that area.

Commissioner Pollard asked if he was changing any windows.

Mr. Sims stated yes, referred to the front elevation the small window on the right hand side and similar window in front and back, those smaller windows will be replaced with double divided light doors.

Commissioner Pollard stated that usually at this stage the applicants bring in a drawing in a matter that we are able to look at existing and proposed, to make a quick comparison, its difficult to go through the individual drawings to see what is being done, usually in the window changes the window details are shown to see how they will conform to the historic guidelines in regards to bull nosing and setbacks on the windows. Would like to see as much detail as possible to remain consistent with all applicants.

Commissioner Robbins asked how far the patio on the back is from the edge that drops 24 feet, and if there were any utilities in the setback or if he proposes a cantilever.

Mr. Sims stated that it is 6 feet and there is currently 20 feet from the existing house to the fence and then another 4 feet before it beings to drop off; there is a utility line just beyond the patio, the porch will cover 6 feet of the 16 feet patio; it will not have a cantilever.

Commissioner Pollard also questioned the proposed porch he was discussing, is now finding more and more sketches, which could all be pasted together, asked on the patio wall, if that is a wall or fence that could also be a problem in the setback, doesn't know if that's a fence or structure, but wants to see it in detail, looks on the drawing that its attached to the house.

Commissioner Cruz asked if the fireplace is permissible.

Rudy Perea stated a fire place in the interior is permissible in that area.

Chairman Thompson opened the application for public comment.

No public comment noted.

Chairman Thompson closed the public hearing and returned to the Commission for motion or further discussion.

1 **Commissioner Pollard** made a motion to schedule the application forward to final
2 public hearing on October 3, with the following conditions, the necessary application, site
3 drawings showing all of the proposed structures and their relationships to the setbacks;
4 showing elevations, showing existing as well as proposed changes, window and door
5 details as well as color selections.

6
7 **Commissioner Robbins** seconded the motion.

8
9 **Commissioners voting yes on the motion: Robbins, Cruz, Silva, Pollard, James,**
10 **Gonzales, Tapia, Reyes, Medina.**

11
12 **Motion carried unanimously.**

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16 **9. PUBLIC HEARINGS**

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19 **B. Case No. P&Z 2007-16**
20 **Wade Elston, property owner, Todd Wynward, agent; requesting a**
21 ***Special Use Permit, to locate the Vista Grande High School, property***
22 **is located at 111 A Paseo del Canon West, within the M-1 (light**
23 **manufacturing) zone of the Town of Taos.**

24
25 **Mr. Todd Wynward** is sworn in, they are all working on the proposed Vista Grande
26 High School facility. Mr. Wynward handed to the Commission information for the
27 Commission regarding the traffic study. Mr. Wynward explained he developed and
28 helped found the Charter School in Questa, it is founded on an expeditionary learning
29 model, theme based, semester based, projects based learning where children go on an
30 adventure of the mind, body and spirit, so math, science, english, social studies and art
31 are all integrated, and culminates with a presentation to the community, it is a different
32 kind of learning. Two years ago the Taos District affirmed the charter schools existence
33 and school has started two weeks ago, it is at a temporary site, and this will be the
34 permanent home requested. Last month there was a unanimous vote by the
35 Commissioners and they requested more information that Mr. Henry will speak about.
36 This is a free public school, it will have a capacity for 120 students, 60 in the 9TH grade
37 and 60 in the 10th grade, it will have demographics that match closely the Taos
38 Community. This building was found to be the best commercial building available to
39 become a public school, phase I will occupy the present building and no expansions are
40 requested at his time, only minor modifications, two interior offices, ceiling sprinkler
41 system, fire suppression, bathroom and increase parking spaces. The Construction
42 Industries Division will issue necessary building permits, and traffic analysis shown last
43 month determined that traffic impact will be reduced.

44
45 **Mr. Wade Elston** is sworn in, stating he is the property owner, and totally supports the
46 proposed Charter High School, knows from personal experience the needed alternative to
47 Taos High, as a community we have a duty to offer alternatives. It is a good location for
48 accessibility, traffic flows better in this area and the traffic will not be a detriment.

49
50 **Mr. David Henry** is sworn in, welcomed the new Commissioners, stating he is the
51 architect on this project, as an architect and planner this is a good model to look at to

1 promote infill growth and use an existing building for a new use, the request is for
2 approval to occupy the commercial building and change it into a school, the footprint will
3 not change, simply requesting a special use permit to relocate to this M-1 zone. The
4 submitted aerial site plan shows the location, phase I is for 120 students, plus 10 staff
5 members, forty parking spaces are required; paving and exterior lighting. Submitted
6 information to the Commission in regard to the traffic and more information and
7 explained what is presented. The initial study was for 120 students and the Commission
8 requested that be conducted at full capacity; the information should have been submitted
9 earlier, but had trouble with getting information to NMDOT; the traffic study indicates a
10 decel lane is warranted but not required unless the Commission requires it. This is an
11 infill project using an existing building.

12
13 **Commissioner Pollard** asked Mr. Henry in regard to the recommendations in the traffic
14 study it refers to “the new development should be implemented utilizing two full access
15 driveways for driveway A and driveway B” in this study as depicted in the site
16 development plan, is looking at the site plan and asked where are driveways A and B.

17
18 **Mr. Henry** stated that is a typo and has been addressed by the traffic study engineer, his
19 email confirms the typo, there never was a driveway B and they never did submit a
20 scheme with two driveways it has always been the intent to use the existing driveway.

21
22 **Mr. Wynward** stated that the information submitted this evening is not for the
23 Commission to digest in one meeting, the typo was caught and needed to be confirmed by
24 Mr. Brown and Rudy did receive the same information.

25
26 **Rudy Perea** stated he did receive the email from NMDOT today and the updated
27 correction from the traffic engineer today.

28
29 **Commissioner Reyes** asked in regard to the email that states, “no serious impact” does
30 that mean there is no safety issue, or does that refer only to traffic.

31
32 **Mr. Henry** stated the traffic study addresses the safety of traffic flow off the site, the
33 architect assures safety on the site, the traffic study addresses road impact, pedestrian,
34 and bicycle off the site, the State is already expanding the intersection of Canon East and
35 Paseo Sur, the recommendation from the State is to consider a decel lane, that is a
36 question for the Commission or the DRC.

37
38 **Mr. Wynward** clarified the Public School Facilities Authority will have to review the
39 site and they will need to approve the safety for the students.

40
41 **Commissioner Robbins** stated that under full capacity, that area will become very dense
42 with people and thinks there should be sufficient parking for full capacity; also in that
43 stretch of Paseo del Canon West and East area, there should be sidewalks and if room for
44 the bicycles; also asked if there are enough restroom facilities and adequate conversion to
45 handle that load of people.

46
47 **Mr. Henry** stated those issues have all been addressed, the site is currently curb, gutter
48 and sidewalk; it is the intent to encourage kids to a walk and bike to school; this is not a
49 typical school, the initial phase I is for 120 students for 9th and 10th grade and these
50 students will not be allowed to drive a car, the campus is served by the Taos Municipal
51 Bus line, there is an adequate bus drop off zone, no parking will be allowed on Canon

1 West or decel lane, all parking is contained on site and will be complying with the
2 plumbing fixture counts.

3
4 **Mr. Wynward** stated that the 9th and 10th graders will not drive to school, 11th and 12th
5 graders will gain rights and responsibility to drive, will encourage parents to car pool and
6 encourage busing from Taos Municipal Schools, encourage biking for students and
7 encourage students to use the proposed Taos Trails for walking to school.

8
9 **Commissioner Reyes** commended the intent of the proposed new school, in reading the
10 minutes from the last meeting, there was an issue on the slope of the access and the issue
11 of the lighting on the grounds.

12
13 **Mr. Henry** stated the driveway and parking lot will be regraded and paved; the only
14 additional lighting proposed is two pole mounted downward facing exterior landscape
15 lights to comply with the dark skies ordinance. The Public Schools Facilities Authority
16 will be reviewing and govern the proposed lighting requirements and safety.

17
18 **Commissioner Silva** asked if the grounds have complied with ADA regulations; and
19 will there be a walking path in the nearby arroyo.

20
21 **Mr. Henry** stated the building will comply with ADA as the Construction Industries
22 Division and PSFA will regulate; the existing bathrooms are ADA compliant will have to
23 modify some door hardware and configurations. The School will encourage any walking
24 paths the Town may have around the school, there will be fencing around the school and
25 the students will have access to the arroyo for school projects.

26
27 **Commissioner Silva** stated that arroyo by the school is privately owned; asked on phase
28 I there are ADA parking in the gravel area, how will that work.

29
30 **Mr. Henry** stated that in phase I all the parking will be paved.

31
32 **Commissioner Cruz** thanked the applicants for their interest and concern for all the
33 students in the area; is concerned with the traffic, asked if a bus can easily make a left or
34 a right turn onto the Canon West.

35
36 **Mr. Elston** stated that he had a cabinet business located there and they bring in 54' long
37 semi's there safely and if they can make the turn a bus will be easily access, understands
38 the State Highway will make a left turn lane on Canon West; the traffic engineers have
39 the expertise to navigate buses and fire trucks on the site.

40
41 **Mr. Wynward** stated that there is an agreement in busing that the bus will go to Taos
42 High then bus to the Charter School, the intent is to probably only have one bus; there is
43 a decision to be made by the State on widening the intersection.

44
45 **Commissioner Gonzales** reiterated the safety issue, stated that a decal lane is needed;
46 the outrigger staging area is a concern, it seems too tight, there is an ADA parking and 3-
47 4 parking spaces, backing up to where the bus stops and unloads, that is an issue if there
48 are two buses.

49
50 **Mr. Henry** stated that can be addressed with a staggered bus schedule.

51

1 **Commissioner Silva** asked to explain the difference in elevations of at least 3 feet of
2 vertical fall from the staging area to the property line and the road.

3
4 **Mr. Henry** stated what is in the packet is a preliminary drainage plan, it is a schematic it
5 has not gone through formal engineering, the driveway will be regraded.

6
7 **Mr. Elston** stated that the Public School Facilities Authority will have final authority to
8 approve the safety of the building.

9
10 **Rudy Perea** stated that the State will not issue building permit until the zoning has been
11 approved the Commission is correct in asking questions of concern.

12
13 **Commissioner Pollard** asked Rudy about his recommendations in the staff report, that a
14 final review needs to be conducted by the Development Review Committee, and asked if
15 the DRC Committee can raise all the Commissions concerns and have them addressed.

16
17 **Rudy Perea** stated that the DRC needs to do final review and the Public School
18 Facilities Authority has to do their review.

19
20 **Commissioner James** asked if the parking requirements are the same for commercial
21 and for the school, the spaces are too tight as they exist.

22
23 **Mr. Henry** stated that the parking spaces now are undersized and will be regarded and
24 paved and parking aisles will be placed in compliance.

25
26 **Commissioner Cruz** asked about the emergency exit, if there will be a signal light on
27 Paseo del Pueblo Sur.

28
29 **Mr. Henry** stated that there will be no light, the emergency access shown on the
30 northeast onto Paseo del Pueblo Sur will not be used by the public, it is gated for
31 emergency access only.

32 **Commissioner Tapia** asked if all these concerns and issues on safety, aren't they all
33 governed by the State, those State agencies will need to review all these issues.

34
35 **Mr. Henry** stated that the school does need review and approval by the Public Schools
36 Facilities Authority and approval for building permit by the New Mexico Construction
37 Industries Division.

38
39 **Commissioner Medina** asked to explain that he heard the fencing is to be minimized,
40 the arroyo is prone to flooding.

41
42 **Mr. Henry** stated that there will be fencing around the school, a "U" shaped fence, no
43 barbed wire fencing, the arroyo may or may not flow, the intent is to prevent students
44 from actively engaging the arroyo, there will be a gate to have access to future Town bike
45 trails.

46
47 **Chairman Thompson** commented on the decel lane, at the time this building was
48 constructed the Town did not have the Traffic Access Manual adopted, it does have a set
49 of criteria for when a right turn decel is required, the school is a good project, it is
50 needed, noted that in the traffic comparison analysis in the packet that says the turning
51 rate would be less for the school than for the businesses that are there now; with 120

1 students a right turn lane is recommended in the Traffic Manual, but there are some
2 mitigating issues that need to be resolved by the State at the intersection of the State
3 Highway and Canon West and East. If an analysis is done at the intersections there will
4 be some traffic control needed for future growth on Salazar and Canon West and even at
5 Camino del Medio and Canon West, there will need to be more traffic control, not that
6 this project will cause all this, but future growth.

7
8 **Rudy Perea** stated that at the DRC meeting conducted for the project, the Police Chief
9 did recommend a decel lane at phase one.

10
11 **Chairman Thompson** opened the application for public comment.

12
13 **No public comment noted.**

14
15 **Chairman Thompson** closed the public comment and returned to the Commission for
16 further discussion or motion.

17
18 **Commissioner Pollard** made a motion to approve the special use permit, based upon the
19 four findings of fact in the staff report, and approved based on the following conditions:
20 1) the implementation of the TIA traffic level study be approved by the Town Staff; 2)
21 final review of the proposed special use permit be completed by the Town of Taos
22 Development Review Committee to ensure that all the concerns stated by the Town's
23 Departments at the July 19, 2007 meeting are addressed; 3) the applicants construct a
24 deceleration lane adjacent to the subject property at the direction of the Town of Taos
25 Development Review Committee; 4) the applicant submit written documentation from
26 the State of New Mexico Public Schools Facilities Authority indicating their approval of
27 the proposed charter high school.

28
29 **Commissioner Reyes** seconded the motion.

30
31 **Commissioners voting yes on the motion: Cruz, Gonzales, Medina, Pollard, Reyes,**
32 **Silva.**

33
34 **Motion carried unanimously.**

35
36 **Chairman Thompson called for a ten minute break.**

37
38 **Chairman Thompson re-convened the meeting at 8:00pm**

1 **C. Case No. P&Z 2007-17**
2 **Albert O. Cantu, property owner, Greta Brown, agent for Noah’s**
3 **Ark Preschool; requesting an expansion of a current *Conditional***
4 ***Use Permit*, to accommodate a maximum of 12 infants/toddlers.**
5 **The existing preschool property is located at 1329 Paseo del Pueblo**
6 **Sur, within the C-2 (commercial) zone of the Town of Taos.**
7
8

9 **Ms. Greta Brown** is sworn in, explained her request to expand her conditional use
10 permit to accommodate up to a maximum of 12 younger children 6 weeks to 2½ years
11 old. The building adjacent became available to rent to expand the pre-school to include
12 infants and toddlers. The proposed site would be licensed by the NM Childcare Licensing
13 for children from 6 weeks on up; infant-toddler centers are only allowed to have 12
14 children, so this is not a big expansion, the pre-school has licensing for 24. The
15 Commission at the last meeting asked to see a Fire Marshall inspection and that was
16 completed today; the other requirement was to get final approval from Childcare
17 Licensing and they are scheduled to come next week; it will take another month to get
18 that final approval. The preschool participates in an initiative called Aim High it is a
19 quality assurance program and the school has worked its way up to the fourth level, the
20 fifth level is accreditation.
21

22 **Chairman Thompson** allowed for questions from the Commission.
23

24 **Commissioner Silva** commended the applicants on the need for such services in the
25 community.
26

27 **Chairman Thompson** opened the application for public comment.
28

29 **No public comment noted.**
30

31 **Chairman Thompson** closed the public hearing and returned to the Commission for
32 discussion or motion.
33

34 **Commissioner Cruz** made motion to approve case no. P&Z2007-17, with the conditions
35 stated in the staff report.
36

37 **Commissioner Silva** seconded the motion.
38

39 **Commissioners voting yes verbally on the motion: Cruz, Silva, Pollard, Gonzales,**
40 **Reyes, Medina.**
41

42 **Motion carried unanimously.**
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1 **7. Update from the Land Use Development Code Revision Committee**
2 **A. Construction Mitigation Plan**
3
4

5 **Chairman Thompson** introduced the revision on behalf of the LUDC Revision
6 Committee; a copy of the Construction Mitigation Plan is in the meeting packet; at the
7 last presentation, the Commission at that time the Town Council gave instruction to
8 revise the document. It is presented for further feedback and comment if needed by the
9 Commission, referred to Rudy to present the intent of the mitigation plan.

10
11 **Rudy Perea** stated he would like the Commission give feedback on what has been
12 presented, there is nothing in the Land Use code now that refers to such a plan, especially
13 for large commercial projects and the impact on the surrounding neighborhood, there is
14 nothing that the staff can require large construction projects to comply. The Land Use
15 Code needs to require projects to show their construction staging, such as where the
16 construction workers are to park, hours of construction, hours of large deliveries, this
17 would help staff and contractors so that they are aware of the minimal impact to a
18 neighborhood.

19
20 **Commissioner Pollard** asked why this needs to apply to all construction in the Town.

21
22 **Rudy Perea** stated that currently large construction projects are required to submit such
23 information per conditions of approval from the Commission, staff cannot require such
24 information on other projects because it is not specified in the Code.

25
26 **Commissioner Pollard** asked why this needs to be applied for something other than the
27 big projects, were there problems.

28
29 **Rudy Perea** stated that was a big discussion with the LUDC Committee, there are issues
30 with the public in regard to traffic, contractors parking on the road, on rights of way
31 impeding traffic; contractors beginning work at odd hours of the day; and this proposal is
32 designed to address those kinds of issues. Also, the main issue is that if it is asked of
33 contractors to provide this information they are responding that they don't have to tell
34 because is isn't in the code.

35
36 **Commissioner Pollard** stated that this a purely legislative matter, meaning that this is
37 not related to many land use issues, in a sense, it has to do with construction, and it has to
38 do with an Ordinance, whereby the Town, whether it is Planning, LUDC or Town
39 Council, that someone feels there's a need to establish some sort of protocol to prevent
40 what they feel are abuses. When he attended the Commission last month, he thought he
41 heard the Town Council say, and is not reading it in the minutes, that as opposed to
42 having everyone who applies for a building permit be it remodel or window change or
43 Plaza de Retiro, instead of asking everyone to conform to make a plan to show how they
44 are going to do these things, instead there be a law or a checklist in place that they have
45 to conform to.

46
47 **Rudy Perea** stated the mitigation plan does have a checklist.

48
49 **Commissioner Pollard** stated that he sees the checklist, but the proposal starts out with
50 "everyone shall provide", he heard the Council members say last month that if there was
51 an ordinance in place, that said construction shall only occur in certain hours, and you

1 will provide onsite parking and you will do all of these things as a matter of getting your
2 building permit from the Town, that this was sufficient, that everyone didn't have to
3 supply a long elaborate plan that says this is how I plan to comply, that it would be
4 expected as part of your building permit, that there are certain standards you have to
5 meet, that you can't disturb the neighborhood, you have to keep the toilets in a certain
6 place, that you got to get permits to cut the street, you have to get permits to block traffic,
7 in other words there would be an ordinance that would already be in existence, you
8 wouldn't have to go through a long or short plan and drawings on how you're going to do
9 it. But this starts off as you shall do it, it states no building permit shall be issued unless a
10 mitigation plan has been submitted and approved by the building official, then it goes on
11 to describe what the plan should consist of and it looks like four separate plans that need
12 to be put in place, one a grading plan which seems to be redundant its basically talking
13 about complying with the EPA storm water pollution prevention plan which the builder
14 has to file anyway, there is additional grading, there's a parking plan, there's a fencing
15 plan and then there's a traffic control plan, some get approved by the DRC some get
16 approved by the building official, some approved by public works, sees where these
17 should get different approvals by those who administer them, sees all these things are
18 reasonable things to request, just wondered what reasoning he would use to say that he is
19 going to decrease the cost of building a house, this will increase the cost, why isn't there
20 a law, protocol an ordinance that says he has to do all of these things if not you go to
21 municipal court.

22
23 **Rudy Perea** stated that the Council when they appointed the LUDC revisions
24 committee, the Council insisted something like this should be written and submitted by
25 the Committee, then submitted to the Commission and then Town Council. Under
26 section two under approvals and waivers, it states the Code Administrator is authorized to
27 submit waivers.

28
29 **Commissioner Pollard** stated that what he reads, is it says a plan is required, then you
30 review the plan then there are waivers issued, so in a sense you are asking everybody to
31 develop a plan to prove they don't need a plan, if they do get a waiver they would have
32 had to have shown that they don't need a plan, if you know what you have to do by
33 ordinance, it seems like we're adding unnecessary layers not only of expense but of
34 bureaucracy to make people go through all kinds of these hoops to prove that they don't
35 need to do something. What is the need for this thing, it seems like this is a solution in
36 search of a problem, it's a really well thought out plan and covers a lot of bases but other
37 than asking Plaza de Retiro and El Monte to do a construction plan, is not aware of other
38 big problems.

39
40 **Rudy Perea** stated that he is working with some developers at this time, they plan to do
41 large projects in Taos, and would like to be proactive based on what he's seen done in the
42 past.

43
44 **Commissioner Pollard** asked why on small projects like a home, why do you care
45 where loading and unloading is to occur.

46
47 **Rudy Perea** stated that if the project is simple a waiver will be issued and that could be
48 determined at time of building permit submittal, at that time it will be determined what
49 needs to be submitted on the mitigation plan, the wording can be revised to take out that
50 all building permit applications need a mitigation plan.

51

1 **Commissioner Pollard** asked to look at a different approach, if all of these things were
2 taken care of, and the ordinance just said for all multiple family building permits, for all
3 commercial building permits and for all subdivisions more than four lots, no building
4 permit shall be issued unless a construction mitigation plan is done. Meaning, if defined
5 specifically, those areas where we think there might be concern or opposite that it is
6 possible to say, No building permit shall be issued unless the plan is submitted, the
7 following types of permits are exempt single family, remodels, where it is really clear to
8 what you are aiming at.
9

10 **Rudy Perea** stated that was discussed, each construction project is different, in the sense
11 that yes you might have a single family residence or remodel, but you might have
12 different subcontractors going to the site, creating problems with parking and equipment
13 in the area.
14

15 **Commissioner Pollard** asked if those problems occur now and who answers those calls
16 and do you know if it occurs.
17

18 **Rudy Perea** stated that they call the Police Department on cars blocking traffic.
19

20 **Commissioner Cruz** stated it does occur and if the infrastructure is being worked on
21 and the road is blocked what are the neighbors to do, this would protect the neighbors and
22 those using the street.
23

24 **Commissioner Pollard** agrees that should be taken care of, but what he heard the
25 Council say that there should be rules for how all construction should take place and
26 everybody knowing that the ordinance exists should have to comply with all of these
27 laws, you just have to comply as part of contractor license and part of the building permit,
28 you have to comply with the ordinance and if you are in violation someone will come by
29 and take care of the problem, for those times when there are no problems is just adds
30 unnecessary expense.
31

32 **Commissioner Cruz** stated that staff will review a building plan and determine if it
33 needs a plan to protect the neighbors that they are not being held back on anything.
34

35 **Commissioner Pollard** stated that to apply for a single family building permit, to get all
36 the drawings together, fill out the checklists, making sure everything is required per the
37 Code, he probably invoices a customer \$800 to \$850 dollars for that work, trips back and
38 forth to Town hall and nearly breaks even to do that, for a EPA storm water prevention
39 plan which you want if bought on the outside is probably \$1500 most contractors don't
40 do their own, they have someone do that for them, to add the other three levels of plans
41 he would have to assume and going back and forth to find out its not needed who will pay
42 for that time, so all of that just goes onto the construction cost of the home, if there are
43 ways to avoid that for certain building permits by being clear in a law, recommends that
44 route be taken and not add the expense for the homeowner.
45

46 **Rudy Perea** stated the intent of the mitigation plan is not to require any professional to
47 submit the information.
48

49 **Commissioner Pollard** stated that a contractor is a professional, if he needs to do a plan
50 it will take him time and he will charge the homeowner.
51

1 **Chairman Thompson** stated that this is a way to inform the contractor of what issues he
2 is supposed to deal with before construction, it may be a list to the contractor indicating
3 all needed information, he may already know what is needed but it can be listed in one
4 building permit application.

5
6 **Commissioner Pollard** stated that this is not correct, if you are trying to summarize what
7 the EPA storm water pollution prevention plan requires that is complicated document,
8 you cannot summarize it in five paragraphs.

9
10 **Chairman Thompson** stated that the wording can change, the intent is to help the
11 contractor knowing what has to be done in order to prepare for getting his job going.

12
13 **Commissioner Pollard** stated that one of the Council members agreed, that what is
14 needed is a checklist, a summary of the ordinance to make sure they do comply, they
15 were very against having people submit a plan to do that, they saw the need for an
16 ordinance but would like to see a criteria list that the developer must meet instead of
17 having the developer submit a plan.

18
19 **Chairman Thompson** stated that the Committee is trying to get input and what has been
20 stated is important and would like to present something that would work for the
21 Commission, Council and community, we were just asking for input.

22
23 **Commissioner Pollard** stated the Council gave permission last month, he was just
24 trying to give direction now, what he thought he heard was that they supported the
25 ordinance with modifications, recommend a checklist instead of a plan, would like to see
26 it self-explanatory and easy to use, he heard them say they don't want people to make
27 plans unless they were bigger projects and were leaving it to staff discretion as to which
28 those projects were.

29
30 **Chairman Thompson** stated he got mixed messages, it could be changed how do you
31 say what's required, there could be a checklist, maybe it could be bigger, maybe we could
32 tell them what we don't want to see, maybe that is the direction we should go, because
33 we don't want contractors to do things one way and then being stopped and told that was
34 the wrong way, if input was given in the beginning it would work better.

35
36 **Commissioner Tapia** asked if these requirements were under different code that could
37 be condensed to this.

38
39 **Rudy Perea** stated the municipal code addresses nuisances and there is a noise
40 ordinance, but those ordinances are in place to protect individual property owners, but it
41 is not a good fit of the intent here, the intent is to identify at one point what is required of
42 a developer at time of construction.

43
44 **Commissioner Tapia** also questioned the amount of the permit of \$5,000 people will
45 not do that at that amount.

46
47 **Rudy Perea** stated that the valuation of a building project could determine if a
48 mitigation plan is required, he showed a listing of all building permits issued and their
49 valuations.

50

1 **Commissioner Pollard** stated that putting a monetary value on whatever it is you are
2 looking for is the wrong approach, costs go up, inflation occurs and will happen again
3 and the law will immediately become outdated, you should address the function to be
4 done, the way it is presented today is like a nuclear solution to a pretty small problem.
5 Agrees everyone should be educated but this seems like a big hammer on a small
6 problem, there has to be another way.
7

8 **Commissioner Silva** stated he agreed, on the EPA information needed it asks for 1 acre
9 or more and if you read down it begins to conflict and gets stricter.
10

11 **Rudy Perea** stated there is a reference to applicability, it may not be needed depending
12 on the size of the project, and each one is different.
13

14 **Commissioner Pollard** stated that there must be another way to not have to prepare a
15 plan to show that a plan is not needed.
16

17 **Rudy Perea** stated that he agrees the language can be revised, when the applicant
18 submits a site plan with the building plans a site visit is conducted as part of zoning
19 review, at that time a determination can be made if a mitigation plan is needed.
20

21 **Commissioner Pollard** stated that he will explain where there is cost involved, to add
22 time and lateness to a homeowner, if he does everything to apply for a building permit
23 and submit all the documents, then two weeks later or whenever its determined another
24 plan is required, this will literally mean starting over, so he would rather do the plan at
25 the beginning, homeowners want to know on the onset how much it will cost and try to
26 get things done because of the seasons.
27

28 **Rudy Perea** stated he understood that point on the time and cost.
29

30 **Mark Gonzales** stated that a mitigation plan is a good move in the right direction, and
31 the reason it is here tonight is to help it move forward, the way it is presented obviously
32 needs some tweaking and that's when the notes need to be taken and tweaked, it doesn't
33 fit every single building permit, obviously there are larger projects coming into Taos and
34 those items talked about need to be in place in the realm of a checklist and would like to
35 see that but agrees this is too stringent for one or two homes.
36

37 **Commissioner Pollard** stated this is a legislative matter, it will be an ordinance in one
38 form or another, it will go to the Council for final approval and they wanted to see the
39 modifications, so we and the Committee are putting in good time, they don't want to see
40 people making plans, they would like to see any other form you can come up with in
41 terms of checklists and protecting the public, but they did say they didn't want to see a
42 plan.
43

44 **Rudy Perea** stated that an attempt has been done through this checklist presented, one of
45 the Committee members, Jim Fambro when he worked for the Town stated that an
46 attempt was made like this in the 90's, to come up with such a checklist, however they
47 determined based on all the factors that you can't really reduce to a checklist, they
48 couldn't come up with a checklist that would apply to all situations, it was just not
49 possible. The LUDC Committee did try to take all the modifications the Council
50 recommended but to come up with one checklist is not feasible.
51

1 **Chairman Thompson** stated that Mr. Pollard has given some new input, new ways of
2 looking at it, would like to take it and move it around, understands a checklist is preferred
3 that would work and have it more oriented to type of project rather than valuation, would
4 like to see as much subjectivity taken out as possible, all those are good comments and
5 the Committee should take all those comments and deal with them. Would like to get
6 public input before closing.
7

8 **Mr. Doug Patterson** stated the is a member of the LUDC Revisions Committee and is a
9 local architect, thinks Commissioner Pollard has a lot of good points, one of the
10 difficulties of being on the Committee is seeing the issues before them through large
11 glasses so everyone has their own perspective on this; Commissioner Pollards input is
12 very important in that his perspective is coming from someone who does build single
13 family residences. One of the issues he has had a hard time dealing with in drafting this
14 is the dollar valuation, the valuation may not fit at all it may be the wrong approach.
15 From the perspective he has in doing large projects in Taos from doing the first El Monte
16 and second El Monte, probably two of the biggest construction projects come to Town in
17 the decade, as architects for the last cases he has done he has submitted a construction
18 mitigation plan, and were happy to do that because to them it is a small step, what it has
19 been is a very proactive step in starting to consider the implications of a major
20 construction project on a neighborhood or on the public streets, projects that come
21 through the Planning Commission are appropriate for submitting a construction
22 mitigation plan. The construction mitigation plan has been a proactive step to engage the
23 neighbors on their issues, to engage all the departments of the Town, to engage the
24 contractor in the zoning process which doesn't always happen, to engage them and let
25 them know there's issues that affect the neighbors privacy. The construction mitigation
26 plan is been a simple step to take, but to take it and refine it into an ordinance is difficult.
27 Is in favor of a construction mitigation plan, it has its place, there's work to define its
28 place, it may be a simple checklist for small residential and large for commercial.
29 Encourages the Commission to give precise direction and wordings to the Revisions
30 Committee.
31

32 **Commissioner Pollard** asked if somewhere in the LUDC a construction mitigation plan
33 were defined, nothing more than a definition of this is the plan, and during either the
34 Planning Commission meetings in considering a large project or in the DRC process in
35 looking at large projects, someone decided that a construction mitigation plan is required
36 for the project, then a definition is in place. Seems part of what we're trying to do here is
37 how to apply this thing and to apply it in a manner that is fair, if it were just defined,
38 staff could make a determination if one is needed.
39

40 **Rudy Perea** stated that he could recommend three different checklists, for single-family,
41 multi-family and commercial, that may be a better route to address what is needed for
42 each project.
43

44 **Commissioner Cruz** stated that the location of the project is one to consider.
45

46 **Rudy Perea** stated that the location could be reviewed on a simple site plan. .
47

48 **Mr. Patterson** stated that the types of projects and the location of the project are factors
49 to consider and if they need Commission approval at that time a construction mitigation
50 plan could be required at the preliminary presentation.
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Chairman Thompson stated that if something can be done to make it a checklist most of the time, an education process, then on other kind of projects where it's obvious you need more information, that is where we need criteria.

Ms. Fabbie Romero stated she was on the LUDC Revisions Committee, and believes the Committee has worked on this one topic for too long and has since resigned, was the sole member of the Committee that opposed this mitigation plan, it is unnecessary, the Town does have a code to address nuisances, noise and this was discussed, but they determined they only apply on an individual basis. This is a big hammer for a non-existent problem. The Town and the Planning Department do have the tools to make large projects comply, thinks that based on errors of one large project not complying results in making small homeowners painting their small stucco house having to submit a mitigation plan it is too costly they can't afford a professional to do that for them.

Mr. Bill Whaley stated he is a local observer, sees a lot of problems in the Historic District, remembers when Ed Baca was redoing the portals on the Plaza and of course Gus was here to make all the decisions that they didn't have to pay for the parking meters and stuff, doesn't know what the plan is for remodeling in the historic district; has heard the neighbors of walls being done in La Loma and that might be a five or ten thousand dollar project; the Town itself is very bad about notifying the public about detours, sees that problem a lot; remembers when Councilwoman Gonzales had a lot of problems with the Dharma company doing the walls around her place and traffic was being blocked; believes these mitigation problems are very real and Jim is downplaying them; knows that Leibert Street is very narrow and there could be problems there remodeling an old home; its not a question of a single family dwelling; its how you address the construction phase, what do you do about traffic, about construction material, hours of construction, this sort of thing is done in other places, would like to hear the Commission discuss some of these issues because we've all seen them.

Commissioner Reyes stated that he likes the idea of different checklists, there should be some sensitivity to the residential to the single family home; we want to educate the contractor, but when you start to legislate the times a person can work is delving into their livelihood; if you are going to do work, you should get along with all the neighbors and they should be notified; asks to be sensitive to the local small homeowner.

Commissioner Pollard stated that he agrees with Mr. Whaley that construction done in the dense or historic district certainly demand attention as a large multi-family project, he is working now on a small lot, but he has planned to begin construction, people who need a plan should be required to submit a mitigation plan.

Commissioner Thompson thanked everyone for their comments and will inform the Committee of the comments and recommendations.

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11. MATTERS FROM STAFF/COMMISSIONERS/PUBLIC

Rudy Perea stated he just wanted to welcome and thank the newly appointed Commissioners and reminded everyone to attend the Smart Code charette.

Commissioner Cruz asked if information could not be submitted at the last minute.

Rudy Perea stated he will do his best to control that, the Chairman has the authority to refuse such submittals and may demand a continuance on their case.

No further comments noted.

11. ADJOURNMENT

Commissioner Cruz made motion to adjourn.

Commissioner Silva seconded motion.

**Commissioners voted yes on the motion verbally.
Motion carried unanimously.**

**Meeting minutes of September 5, 2007 prepared by: _____
Melinda Vasquez, Planning Assistant**