

**PLANNING & ZONING COMMISSION
REGULAR MEETING MINUTES
WEDNESDAY, JULY 2, 2008**

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 scheduled regular meeting of the Town of Taos Planning and Zoning Commission.

1. ROLL CALL

Present:

Commission:

Jim Thompson, Chairman
Josepha Cruz
Jim Pollard
Michael Silva

Historic Commission:

Fred Robbins

Absent:

Cipriano Medina
Mark Gonzales
Luis Reyes
Merlinda James
Zeke Tapia

Staff Present:

Rudy Perea, Senior Planner
Matt Foster, Long Range Planner
Allen Vigil, Planning Director
Melinda Vasquez, Admin. Assistant

2. PLEDGE OF ALLEGIANCE

Pledge of allegiance was recited.

3. APPROVAL OF AGENDA

Chairman Thompson asked for any amendments to the agenda as presented.

Commissioner Cruz asked for clarification on 7.B A. Town of Taos/Kit Carson Electric Coop., property owners, asked if the Town was a property owner on this application.

Rudy Perea stated that the Town is not the property owner, the agenda should be corrected to read Kit Carson Electric Coop property owner, Town of Taos, fiscal agent.

Commissioner Pollard made motion to approve the agenda as amended.

Commissioner Cruz seconded the motion.

Commissioners voted UNANIMOUSLY on the motion.

4. APPROVAL OF MEETING MINUTES OF JUNE 7, 2008

Chairman Thompson asked for any corrections to the minutes as presented.

No corrections noted.

Commissioner Cruz made motion to approve the minutes as presented.

Commissioner Pollard seconded the motion.

Commissioners voted UNANIMOUSLY on the motion.

5. MATT FOSTER, LONG RANGE PLANNER

Allen Vigil stated that Matt was across the hall in another meeting and asked the Commission to postpone Matt's presentation to after the preliminary presentations.

Chairman Thompson agreed to postpone this item to after preliminary presentations.

Rudy Perea read the rules for public hearing.

6. PRELIMINARY PUBLIC HEARINGS

Chairman Thompson recused himself from the next two applications and appointed Commissioner Robbins to sit on the Planning Commission from the Historic Commission and appointed Commissioner Pollard to Chair the meeting.

- A. Case No. P&Z 2008-11**
Diamond Plaza, LLC, property owner, William F. Breashears, agent; requesting a *Conditional Use Permit*, to locate a single-family residence and two-family attached apartment buildings. The property is located at 1396 Weimer Road, in the C-1 (commercial) zone within the Town of Taos.

William Breashears is sworn in, explained the application to place two apartments above a commercial building in the C-1 zone.

Commissioner Pollard asked staff to point out where in the LUDC can the Commission grant a mixed use under the C-1 zone.

Rudy Perea stated that in the LUDC Section 4-13.4, the following uses are allowed with a conditional use permit, apartments, this is how this application is presented, on the basis of the definition of apartments and the intent of the mixed use.

Mr. Breashears stated that the property owner would like to use the location next to the hospital to have an interesting place for the hospital employees to lease an apartment and for someone to have a commercial use below. This is how the project came to a start.

Commissioner Cruz asked if these would be short or long term lease.

Mr. Breashears stated that he believes at this time they would be short-term rentals, there will be restrictions and covenants for the leases.

Commissioner Cruz asked what type of business are going to be and what is a studio workspace.

Mr. Breashears stated the intent is to have tenants that would need a small home office or medical office, with the employee living above the space.

Commissioner Cruz asked what the basement is to be used for.

Mr. Francisco Cordova is sworn in, explained the intent for the use of the building, would like to accommodate those employees who work at the hospital because of the close proximity, to allow apartment rentals and to make the most sufficient use of the building to have the commercial use below.

Commissioner Pollard asked to clarify the short-term rental.

Mr. Cordova explained that he would like to have the most efficient use of the building, the lease on the apartments would be for apartment rental terms.

Commissioner Silva asked what the space underneath the building would be used for or leased.

Mr. Cordova stated that what he has learned from other rentals is that the tenants are always in need of different uses and the access to electrical or mechanical for easier channeling to suit different needs. The basement will not be occupied it is only for building mechanical access.

Commissioner Robbins asked if the access is adequate for the different uses of the building.

Mr. Cordova stated that the access is sufficient enough to accommodate the uses of the building.

Commissioner Silva asked about the grading and drainage plan for the building.

Mr. Cordova stated that the engineers are working on the grading and drainage plan on the property, it is not complete at this time.

Commissioner Pollard opened the application for public comment.

No public comment noted.

Commissioner Pollard closed the public comment and entertained a motion from the Commission.

Commissioner Cruz made a motion to schedule the application for public hearing August 6.

Commissioner Silva seconded the motion.

Commissioners voting yes on the motion: Commissioner Silva, Commissioner Cruz, Commissioner Robbins.

Motion carried unanimously.

- B. Case No. P&Z 2008-12**
Ron Urban under contract to Doug Patterson, property owner, Douglas J. Patterson, agent; requesting a *Certificate of Appropriateness* to remodel an existing structure. The property is located at 122 Dona Luz Street, in the CBD (central business district) zone within the HOZ (historic overlay zone) of the Town of Taos.

Mr. Douglas Patterson is sworn in, explained the proposed renovations to the contributing building, walked the Commissioners through the submitted application packet.

Commissioner Pollard commended Mr. Patterson on such a complete application. Asked on sheet A3.5, how tall is the flat wall section.

Mr. Patterson stated the top of the parapet is 24 feet.

Commissioner Pollard asked staff to clarify, in balancing the deck on the second floor, is that on the property line, is that a zero line setback?

Mr. Patterson stated that is correct, on A0.0, existing site plan, to square off the proposed roofline.

Rudy Perea stated that is correct, technically that would be violating the setback requirement, you may have to revise the application for variance in order to square off that roof.

Commissioner Pollard asked the Commissioners if they would like to add this variance to the application this evening and consider this hearing the preliminary hearing for that setback variance.

Commissioners agreed with considering this the preliminary hearing for the setback variance, the applicant will prepare that Variance application for presentation at the next meeting.

Commissioner Cruz asked to explain the demolition of the wall.

Mr. Patterson stated there will be selective demolition on the interior walls.

Commissioner Robbins asked if he has consulted with the adjacent west side condominium owners about the proposed new windows that may or may not look down into the condos.

Mr. Patterson stated that he offered to meet with them, but they responded that it was not necessary, but on tab B, you will see that along that entire property line those windows are looking onto a roof and will not invade any one's privacy.

Commissioner Robbins asked if it was explained to Cecilia Griffin about any drainage on that side of the proposed pitched roofline.

Mr. Patterson stated that he did and she was concerned about removing the elm trees and she was fine with the drainage onto that landscape.

Commissioner Robbins asked if he could prepare a construction mitigation plan for the Commission to review.

Mr. Patterson agreed and will present that construction mitigation plan.

Rudy Perea stated that in the historic district, whenever any large trees are removed the owner must specifically state where those new trees will be replaced and in the elevations A3.4 it looks like pueblo and territorial style are mixed and would like that clarified they are not allowed to be mixed.

Commissioner Pollard asked if that is prohibited.

Rudy Perea stated that there is no mention in the code, thereby, it is prohibited, but that is up to the Commission to determine.

Mr. Patterson stated that on A3.0, the building as it exists has been a combination of territorial and pueblo style, the intent is to mask the mechanical equipment currently seen from the streetscape on the roof.

Commissioner Pollard opened the application for public comment.

Matt Foster asked if the parking requirements have been calculated.

Mr. Patterson stated on sheet A0.0 the parking spaces are specified for current use and proposed use, actually there is a reduction of one parking space.

Rudy Perea stated that in the historic district, if the use is not going to change the parking can remain the same, but in this case if the second floor is changing the use, the applicant must come up with additional parking spaces or must show proof of leased parking spaces for the new proposed use.

Commissioner Pollard can perhaps look at discussing that for the next meeting and the Commission can take into consideration that the Town center is over parked can look at that parking lot being used, that lot is vacant most of the time.

Mr. Patterson asked if he could propose that since there is no increase in parking and a minor reduction in parking, can he apply for a parking variance to that standard.

Commissioner Pollard stated that is a matter for discussion with staff, to follow the letter of the law, the Town will be over parked, the parking regulations have been revised to prevent more asphalt parking, the parking for the different peak times for the uses of the buildings can be discussed.

Rudy Perea stated that he will work with the applicant on the parking.

Commissioner Pollard opened the application for public hearing.

Mr. John Verheyden is sworn in, stated that he understood how hard this new property owner has worked, but what about the lady next door who wants to get rid of the elm trees does she have to have trees replanted is she doesn't want them.

No further public comment.

Commissioner Pollard closed the public hearing and returned to the Commission for motion.

Commissioner Silva made a motion to schedule the application for public hearing on August 6.

Commissioner Cruz seconded the motion and recommended amending the motion to include all that the Commission discussed, setback and parking.

Rudy Perea asked if the Commission can include in the motion, that the Commission officially recommend SHPO review on this contributing building.

Commissioner Pollard asked Rudy to point out what section in the LUDC that makes it a requirement.

Rudy Perea stated that in the LUDC Section 4-20.10, it talks about following the standards for reconstruction and restoration, so staff consults with SHPO because they are the body to refer reviews on contributing buildings, in order to keep the designation of a certified local government.

Commissioner Pollard stated he understood, but asked why, because it is not required in the code, and understands that SHPO has made themselves available for advice, but believes this review can be done by this Commission, this building just went to SHPO for review a few years ago and the issue was referred back, there is a letter in the current application to that effect.

Allen Vigil stated that to set the record straight he will be asking a representative from SHPO to make a presentation on what this local Commission is empowered to review and what she will make herself available to review.

Commissioner Pollard stated that would be a good presentation from SHPO and the Commission can officially recognize what this Commission can review.

Matt Foster stated that he would recommend a review from SHPO to verify that the building is on the stated and federal historic registry, because this is noted as a contributing building.

Commissioner Silva stated that he did not want to include that recommendation from Rudy on SHPO review in the motion.

Commissioners voting yes on the motion: Commissioner Silva, Commissioner Cruz, Commissioner Robbins.

Motion carried unanimously.

- C. **Case No. P&Z 2008-13**
408 Kit Carson Road, LLC, property owner, Ken Sandoval, agent; requesting a *Variance*, on the front yard setback. The property is located at 408 Kit Carson Road, in the R-14 (multi-family) zone within the Town of Taos.

Mr. Ken Sandoval is sworn in, explaining the application for the setback variance. The request is to construct a one car covered parking for one of the residential units currently under construction, it will not impact the clear sight and not take too much of the setback and as shown in the exhibits.

Commissioner Pollard asked staff to clarify, in the parking code under design standards 5-4.4. D. “parking lots abutting the front property line are specifically prohibited from multi-family, commercial and special uses where parking shall be located to the sides and rears of lots, buildings excluding parking structures and accessory uses shall be located as close to the front of lot lines while complying with setback standards” would this be read to prohibit the location of this parking, does the Commission have the ability to grant the variance.

Rudy Perea stated that the Commission has the authority to review and grant this variance.

Commissioner Pollard asked how the Commission can grant a variance if it is “specifically prohibited” how can the Commission have the ability to grant the variance, should this be an issue for the Council and not the Commission, believes the Commission doesn’t have that authority.

Rudy Perea stated he did not understand the words, but will ask the interim Town Attorney present in the audience, she stated that she will take it under advisement and will inform the Commission at the next hearing.

Commissioner Cruz asked if there is a requirement from the State Highway for a specific setback.

Commissioner Pollard asked if the property is for sale with a covered parking.

Mr. Sandoval stated that they would prefer to have the covered parking next to the unit.

Chairman Thompson stated that he lives on Liebert Street and cannot see the oncoming traffic from the east at that intersection, there are just too many obstructions at that intersection, thinks it is very dangerous and a covered parking should not be allowed at that intersection.

Mr. Sandoval referred the Commission to exhibit I, the parking would be located more than 30 feet away from the state highway and there will be a garden wall.

Commissioner Robbins stated he has a concern with what the State Highway department might do in the future, they may want to add a left turn lane and they may want to add sidewalks, or may require a decal lane, it would be wise to consult with them.

Commissioner Pollard asked how many parking spaces are on the development.

Mr. Sandoval stated that each of the nine units will have their own garage and to the rear of the property there are 9 parking spaces for a total of 20 parking spaces.

Commissioner Silva stated that he has a concern with the state highway also, would see this as a safety concern.

Commissioner Pollard asked how this car would pull into the proposed carport.

Mr. Sandoval stated that this car will access parallel to the property line, there wouldn't be any backing onto the highway.

Allen Vigil stated that he cannot find that the hardship was not created by the applicant, did not see the original survey with the previous building on it and the criteria for variance asks to justify the hardship was not created by the applicant.

Mr. Sandoval stated that there is a survey in the packet, the intent is to provide for units that that are accessible.

Chairman Thompson stated that he understood that statement, for a variance there are five criteria that the applicant must meet and ultimately would affect the granting of a variance.

Chairman Thompson opened the application for public comment.

No public comment noted.

Chairman Thompson closed the public comment and entertained a motion from the Commission.

Commissioner Cruz asked staff if when this renovation project began was this brought up at that time.

Rudy Perea stated that this issue was not brought up at the time they began the renovation project, the applicants presented a survey plat with the old building right on the lot line, but when they demolished the building the grandfathered building setbacks were removed so they had to comply with the current setback requirements, because of this they had to move the buildings to comply, this is one of the reasons they are asking for the variance.

Commissioner Pollard made a motion to schedule application for public hearing on August 6.

Commissioner Cruz seconded the motion, and recommended to include in the motion that the applicant present information on meeting the criteria for variance.

Commissioner Pollard agreed to add that applicant show in great detail how they fit the five criteria for variance to the motion.

Commissioner Cruz seconded the amended motion.

Commissioner Robbins recommended to amend the motion to include, that he would like to see more information from the highway, the width of that highway and the potential to expand, address the safety issue discussed, if the state highway intends to do sidewalks and would like to see how that carport would fit into all of that, for the future because of the increased density on that highway, eventually they will need an a turn lane.

Commissioner Pollard stated that he would prefer not to amend the motion to include that, the applicant knows what the Commission wants to review.

Commissioners voting yes on the motion: Commissioner Silva, Commissioner Cruz, Commissioner Pollard.

Motion carried unanimously.

- D. Case No. P&Z 2008-14
Focus Retail, LLC, property owner, Abeyta Engineering, Inc., agent;
requesting a *Variance*, on the location of parking for a proposed new
commercial building. The property is located at 813 Paseo del
Pueblo Sur, in the C-2 (Commercial) zone within the Town of Taos.**

Mr. Alex Abeyta is sworn in, explained the application to the Commission, the request is for variance on the parking location for the proposed Walgreen's project on the south east corner of Paseo del Pueblo Sur and Cruz Alta Road. As the project has evolved there is a site plan requesting 12 parking spaces to be located between highway 68 and the front of the building, that has been reduced to 10 parking spaces. ADA requires all ADA spaces as close to the front door as possible. Mr. Abeyta handed out an updated site plan.

Commissioner Pollard asked again for clarification, this is the same issue, this is an item that is “specifically prohibited” in the code, there must be some request for an exemption or to do something that is prohibited in the code.

Mr. Abeyta stated the code does allow relaxation from the code by the variance process from the performance standards.

Commissioner Pollard stated again that the code does not allow it states “specifically prohibited” in the revision of the parking standards the Town Council did not want parking in the front, under design standards 5-4.4. D. “parking lots abutting the front property line are specifically prohibited from multi-family, commercial and special uses where parking shall be located to the sides and rears of lots, buildings excluding parking structures and accessory uses shall be located as close to the front of lot lines while complying with setback standards” we can look up the definition of a variance.

Rudy Perea stated the variance is allowed under section 2-4.204 under definitions it addresses the five criteria to be granted a variance.

Chairman Thompson allowed the agent to continue, this section of the code will be addressed by the attorney before the next meeting.

Mr. Abeyta continued, in the updated site plan, the front of the building will be facing highway 68, the building is 16,284 sq. ft.; asking for a variance to allow the 10 parking spaces in the front of the building, of which 3 spaces are handicap parking spaces; on the north side of the building there is a plains electric high voltage power line that runs over that side, so the location of the building had to be placed where it is now shown on the site plan. There are approximately 10 and 9 and 7 and 7 spaces on the north side, the other change on the site plan, the area has some raised landscaped medians, on the back side are 23 spaces, on the south side there is a common easement access for the new building and the current furniture store. Based on the parking requirements the number required is 65 spaces are providing 66. At the east end is a required retention pond, there is also a pond in the northwest corner and on the northeast corner so there is no other area on this site for parking.

Commissioner Pollard asked to explain again why the need for parking in the front.

Mr. Abeyta explained that in order to meet the parking requirement some parking has to be in the front, in the back of the building is the retention pond and along the back side is the drop off for supplies and the trash bins are in an enclosed area, based on the size of the building the request is for variance for the ten parking spaces. Mr. Abeyta read the five criteria for variance and explained how the application has met each one those criteria. In addition included in the application is a submitted traffic impact study and on page 13 gives a list of recommendations which can all be met. Also included is a preliminary landscape plan. Included are preliminary elevations that need modification. The application in summary meets all the requirements for a preliminary public hearing.

Commissioner Robbins asked how much the site will be elevated when the building is demolished or will it remain the same.

Mr. Abeyta stated that the site will be raised with pit run about five feet to the elevation level of Cruz Alta Road, this will require a retaining wall between the new and existing buildings.

Commissioner Robbins asked why there is not a decal lane going east on Cruz Alta

Mr. Abeyta stated that the traffic study prepared by Terry Brown did not warrant a decal lane on Cruz Alta Road.

Commissioner Robbins stated that Cruz Alta will be very busy and may be something to think about, also asked on Paseo del Pueblo Sur, will there be an acceleration lane.

Mr. Abeyta stated that the traffic study did not warrant a northbound acceleration lane.

Commissioner Robbins stated that he should take that traffic into consideration. Also, feels that parking should be in the back as much as possible, maybe you should only be allowed three ADA parking for the front. Will there be a drive up for prescriptions.

Mr. Abeyta stated there will be a drive through for prescription pickups.

Commissioner Robbins asked why the southside could not accommodate parking and asked if there are updated elevations.

Mr. Perea stated that he talked to the architect and they are under revision and will try to have them for the next meeting.

Commissioner Pollard stated that he has observed Walgreen's in other big cities and how they have positioned themselves at intersections, it is quite common to see some that do not have parking in the front of the building, advised the architects revisit their proposed plans for Taos because Taos does have a Code on parking in the front, asked that they all review and talk about this.

Commissioner Pollard wanted to walk through the responses to the five criteria for variance. 1) state how the variance is the minimum action necessary to afford relief to the applicant, can't the applicant shift the parking.

Mr. Abeyta stated that the parking cannot be shifted toward Cruz Alta because of the overhead power lines in addition there is also a smaller Kit Carson power line so the building is already as far north as possible, on the west side is the driving aisle and the ten parking spaces proposed under the variance, on the back side is the dumpster and unloading of supplies.

Commissioner Pollard suggested that this is not the minimum action necessary, there are options that can be done to adjust this, the business examples given are already those that have a non-conforming use, this is being done for their convenience this is not a hardship.

Mr. Abeyta stated that the application has answered the criteria for variance, and trying to do it in a proper manner.

Commissioner Silva stated that he understood the intent of the parking requirements to the side and back and not in front, but there has to be room to accommodate some projects.

Chairman Thompson stated that he has a concern with the culvert, but it looks like it has been addressed in the new site plan, also in the traffic study on page 9, it addresses

that intersection as an unsignalized intersection, that might want to be updated, also, the traffic study really needs to address the intersection of Gusdorf and Cruz Alta, he should go back and relook at those trip counts and the level of service.

Mr. Abeyta stated that intersection should be addressed by the Town in their traffic issues, but will have that intersection reviewed.

Commissioner Pollard stated that he understood the applicants point, but this issue needs to be addressed by the political body, if need, they need to relook at the Town Parking requirements and address this issue with them to change the code.

Chairman Thompson opened the application for public comment.

Mr. William Valaika is sworn in, is the owner of the northeast corner of Cruz Alta, would like to state his opinion about the parking code, understands the Towns desire to move parking to the back or sides, but there are times and sites that should have some flexibility in that parking code.

No further public comment.

Chairman Thompson closed the public comment and returned to the Commission for a motion.

Commissioner Silva made a motion to schedule the application for public hearing on August 6.

Commissioner Cruz seconded the motion.

Commissioner Robbins asked if the motion could be amended to add all that was discussed about the decal lanes and revise parking.

Commissioner Silva did not amend the motion.

**Commissioners voting yes on the motion: Commissioner Silva,
Commissioner Cruz.**

Commissioner voting no on the motion: Commissioner Pollard.

Motion carried.

E. Case No. P&Z 2008-15

Glenn and Jill Sanger, applicants, filing an *APPEAL* application to the decision of the Code Administrator of the Town of Taos. The decision of the Code Administrator in regards to an amendment to the Certificate of Appropriateness granted to the property at 619 Camino de la Placita.

Mr. Scott Sanger is sworn in, who is acting as agent on this application, informed the Commission that the Sanger's are filing an appeal to a decision they came to learn about,

the former Town Manager who was acting as Code Administrator when there was no Planning Director, had made a decision to allow an application to change without coming back to the Planning Commission. This was in regards to the property formerly owned by Cody West which went through extensive public hearings a couple of years ago. The problem here is that the Code Administrator allowed an extension of time to the Cody West project and there were changes to the development plan that were not brought back to the Planning Commission for consideration. Up until recently the Town's Development Review Committee had not reviewed this new project. When his brother and sister-in-law started asking questions on the Cody West property, that's when they found a different plan for this property and the plan has changed from what they were first shown by the Planning Department. There were many questions on the proposed new project, there is a letter from Glenn and Jill and their concerns for this new proposal.

Chairman Thompson stated that the Commission does not have any information on what decision was made nor does the Commission know what concessions were made for this property and whether in fact there were substantial changes.

Mr. Sanger stated that is the problem there was no information made available to the surrounding property owners on the new changes for this property proposed. The Code Administrator didn't have legal authority to make unilateral decisions on a proposed project, nor was there any contact from the new developer.

Chairman Thompson stated that the Town needs to address the Commission with more information, to present information in writing the plan approved and the proposed new changes, the Commission will need to review that information before making a ruling on the appeal.

Commissioner Pollard asked staff if the project has moved forward with building project.

Rudy Perea stated that the project is now stopped pending this appeal, and stated to the Commission that he could explain the history on this project.

Chairman Thompson stated that the Commission needs the information in writing to identify all the changes and to hear testimony from all those involved.

Commissioner Pollard asked Rudy if he supports the applicant or the Code Administrators decision.

Rudy Perea stated that he had advised the new property owner to propose a project that remained within the limits of what the Commission had approved with the Cody West project, the new property owner is proposing a larger road width and only 16 units, the new site plan was shown to the DRC committee and was reviewed for sufficient access and there were additional issues that the property owner is willing to work on with the department.

Commissioner Pollard asked Rudy if he is then approving he new proposed plan.

Rudy Perea stated that he did not approve the new changes, would prefer the Commission review all the information and make that determination.

Chairman Thompson stated that he is confused, if this application is to be heard as an appeal or a public hearing on the new project.

Allen Vigil stated that the Commission has the option lay out some ground rules as to how they would like to address this issue, to hear this as a preliminary public hearing on the new proposed changes on this property.

Commissioner Pollard stated that he understands the request, but it would be unfair to allow the new property owner to make a presentation without having any information for the Commission to review, it is already late in the evening and it would take a very long time to hear all this at this time.

Chairman Thompson stated that he would prefer the new property owner make a presentation at the next meeting and that would allow the neighbors to make a presentation on the information to be made available.

Rudy Perea asked if the Commission would allow the property owner to make a brief presentation this evening.

Chairman Thompson stated that he would prefer to have all information in writing before consideration.

Chairman Thompson allowed Ms. Sue McDowell to speak.

Ms. Sue McDowell is sworn in, stating she is representing the new property owners, Dulcinea LLC, the change they proposed was approved by the Code Administrator in 2007 and so the owners began to move forward and have incurred tremendous expenses to begin. Asks the Commission to deny the Appeal and allow the property owner to continue with their project as approved in 2007 by the Code Administrator.

Commissioner Pollard stated that he sees no evidence presented by anyone here, this was more than just a certificate of appropriateness, there was a zone change, there were variance issues, there were some restrictions placed upon that project, to say that nothing has changed needs to be presented as such and presented to Commission to make that determination.

Ms. McDowell stated that on behalf of Dulcinea, they were moving forward in good faith and were dependent upon a decision that was made in 2007 that there were no substantial changes, there was no intent to hide anything.

Commissioner Pollard stated that he recalls the previous application and how it was the most worst case he has ever heard, but it was all an open process and urges the Commission to continue with that open fashion.

Ms. McDowell stated that those issues that were addressed by the Court cannot be brought up again.

Commissioner Pollard then asked that the new owners should then demonstrate how those previous issues were addressed in the new project and included in a complete packet.

Commissioner Silva asked staff if in their opinion are there substantial changes are they completely different.

Rudy Perea stated that in the development review committee meeting, there were issues raised and the new owners made their presentation to address some issues, overall he believes this new proposed project is a better project.

Allen Vigil stated that the question here is has the project changed, and it has changed, it might be better or not, as the Code Administrator it has changed and he will not belittle the 23 months the Commission took to review the first project. The project has changed and needs to return to the Commission for review on the new proposed changes.

Ms. McDowell stated that the decision from the Code Administrator, then the Town Manager, was never submitted in writing, he made the decision in 2007, but did not put that in writing.

Commissioner Pollard stated that the Commission needs to make a determination on the appeal on the decision made by the acting Code Administrator, whether to move forward or not.

Chairman Thompson stated that he would like to proceed with public comment and limit the time to speak to three minutes, since they are present this evening.

Ms. Tish Demmin is sworn in, stated that she is a neighbor to this property, was at every one of those meetings from the first project, is concerned that the building permit issued to Cody West was extended and that extension expired, this was brought up at another public hearing for a neighboring project. When these people purchased the property, suddenly found out they submitted a new project, there were health issues, safety issue, the proposed changes are significant. Objects strongly to Rudy's contention that this was not significantly changes.

Mr. William Burden is sworn in, handed a letter to the Commission called attention to item 16 taken from the LUDC, that says final approval given shall be automatically withdrawn if development has not begun within one year; the next part states that shall and must are mandatory the word may and should are permissive; item B is section 1.9.2 if any provision of this code conflicts, the more restrictive is applicable and shall prevail. These are legal questions, if the one year doesn't apply to this property what does it apply to and if you can come in five years after approval of a project is there ever a project that is dead.

Allen Vigil in response, the one year rule does apply, but there were extensions given on the project.

Commissioner Cruz stated that she would like to see a chronology on that project.

Mr. Ernest Santistevan is sworn in, stating he is contractor on the project, explained that Mr. David Reinikanen is the other partner and yielded his time to him to speak who can explain in better detail of when this process was extended.

Mr. David Reinikanen is sworn in, one critical point here on August 10, 2007 Rudy Perea had given a one year extension on this project to comply, and all indications from the Town were that if we were engaged and working with the Town we were in

compliance. Respects the Planning process but this appeal filed is untimely, the decision was made in 2007. Has a good working relationship with the Town and have worked in cooperation with them and sees that the appeal is moot at this point. Has question tonight, can he appeal the appeal application. Read a letter he received from Allen Vigil in regard to the project and explained how he has worked to accommodate the concerns raised.

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

Commissioner Pollard made a statement for discussion, would like to approve the appeal and recommend the applicant bring the project forward at a special meeting on August 13 and in that meeting the applicant should demonstrate why as drawn now the project does not differ and complies with what was approved in 2004.

Allen Vigil stated that the Commission this evening must make a motion on the Appeal Application filed and reminded the Commission about the hearing processes.

Commissioner Pollard made a motion to uphold the appeal.

Commissioner Cruz seconded the motion.

Ms. McDowell had a procedural question, based upon the fact that the extension given expires August 10, asks that extension be extended.

Chairman Thompson explained that there is a motion on the floor to uphold the appeal if that motion carries then the property owners can appeal this decision to Town Council.

Allen Vigil stated that the extension of time should be addressed to Staff.

Ms. McDowell stated that she would like some sort of relief rather than leaving that up to the discretion of the Code Administrator, requests that extension part of the motion.

Chairman Thompson asked if the motion wants to be amended.

Commissioner Pollard amended the motion to uphold the appeal and that the Commission deems this project be stayed until such time that this matters reaches final resolution by whatever party may rule.

Commissioner Cruz seconded the amended motion.

Commissioners voting yes on the motion: Commissioner Silva, Commissioner Cruz. Commissioner Pollard.

Motion carried unanimously.

F. Case No. P&Z 2008-16
**JB & Sherry Campbell, property owners, requesting a *Variance*,
from the side yard setback. The property is located at 514 Paseo del
Pueblo Norte, in the C-2 (commercial) zone within the HOZ (historic
overlay zone) of the Town of Taos.**

Mr. JB Campbell is sworn in, stating he is here for a shed on his property, stated he called the Town of Taos, asked what the rules were, complied with the rules, built it then was told he needed to meet setback requirements, if he had to move the shed it would take away his parking area, was advised to apply for a variance. Has submitted photos and all details, has a neighbor that is 3 feet away, the shed is not tied to the ground, it's under 200 sq. ft. it will match the existing building.

Chairman Thompson asked if the shed is already in place.

Mr. Campbell stated that it is already there, was told to meet setback requirements and has covered it with blue tarps. Everything that is in the shed was just sitting outside on the driveway for five years.

Commissioner Pollard asked to explain when he said if he were to move the shed he would lose parking.

Mr. Campbell stated that he has three different areas of parking, off of Sierra Vista entrance there are 8 spaces there if the shed were to be moved it would take away 4 parking spaces.

Commissioner Pollard asked if he could move it two feet would he lose 2 parking spaces.

Mr. Campbell stated that he could move it two feet and it wouldn't hurt anything.

Commissioner Pollard stated then he would be in compliance if he could move it two feet.

Mr. Campbell stated that he was advised to apply for variance.

Allen Vigil explained that on the site visit he advised of the setback requirements and was advised that he can apply for a variance but was not required to, he could have moved the shed or apply for a variance.

Mr. Campbell stated that he understood he was to apply for a variance. Stated there was some confusion on which is the front, rear and side. Mr. Campbell pointed out his house on the plan he submitted.

Commissioner Pollard stated that he understands the front of the property is facing Paseo del Pueblo Norte.

Mr. Campbell tried to explain that his front yard is off Sierra Vista.

Commissioner Pollard asked if the variance is for 2 feet.

Allen Vigil stated that he interprets the front yard setback of 20 feet, the confusion is his interpretation of the side yard setback.

Commissioner Silva asked if a building permit was needed for this shed.

Rudy Perea stated that this shed did not require a building permit, but he still needed to comply with setbacks.

Commissioner Silva asked to explain the clean out generated by the neighbor Shirley Butts located on the property.

Mr. Campbell stated that at one time his property was all one, then it was split into two around 1997, and there was one sewer connection, which he agreed to. Then the neighbor behind him was allowed to put in an 800 sq ft. kitchen and he thought she needed her own sewer connection, but was told it would burden her.

Commissioner Silva asked why he couldn't cover the clean out and move the shed.

Mr. Campbell stated that to move the shed that way would cover his windows and would like to have access to the cleanout.

Chairman Thompson opened the application for public comment.

Ms. Shirley Butts is sworn in, stating she lives at 105 Sierra Vista, has a letter from Tim and Janet Martinez they own four properties in the neighborhood for the Commission, they were not able to attend. When she bought her home she knew she wanted a larger kitchen, when the neighbor heard he offered to build her kitchen, but she declined. Worked with the Planning on the kitchen addition and addressed the concern of water drainage. Mr. Campbell put concrete on most of his backyard within about 22 inches of her land the fence is on her land, concerned with the drainage from his property eroding her adobe foundation. Stated that she is concerned with his intentions, he states that it is a shed but is concerned that it is not a shed, he has laid down concrete and electrical service. He has also brought in a stack of firewood six to seven feet tall and is concerned this is right next to this shed. The shed is nine feet from her home. Thinks this property owner is a great liability to her home.

Chairman Thompson asked Allen for some guidance on the issue.

Allen Vigil stated that when a site inspection was conducted he found the shed out of compliance, he was advised to move the shed, but if he didn't want to move it he needs to apply for a variance from the Commission. The Commission can review the application with the documentation submitted for a rear setback variance, if they want to move forward they must take into consideration the hardship for the variance.

Commissioner Pollard asked Allen as code administrator, to confirm that this a rear setback variance.

Allen Vigil stated that is correct, the application can be modified for a rear setback variance.

Chairman Thompson asked Mr. Campbell if he would like to modify his application at this time.

Mr. Campbell agreed to modify the application for a variance of 15 feet.

Commissioner Silva made a motion to deny the variance, based on the fact of the problem created by the shed runoff onto the neighbors property.

Commissioner Pollard seconded the motion.

Commissioners voting yes on the motion: Commissioner Silva, Commissioner Cruz. Commissioner Pollard.

Motion carried unanimously.

- G. Case No. P&Z 2008-17
Charles M. Simmons, property owner, Mark Danemann, agent; requesting a *Certificate of Appropriateness*, to remodel an existing structure. The property is located at 302 Camino de la Placita, in the C-1 (commercial) zone within the HOZ (historic overlay zone) of the Town of Taos.

Mr. Mark Danemann is sworn in, explaining the application, owns a software company looking for a headquarters for the company and found this location in the center of Town. The building available requires a certificate of appropriateness to enclose an existing carport for additional office space. Explained the submitted application packet.

Commissioner Cruz asked if he know how old the house is.

Mr. Danemann stated he understands parts of the home is more than 200 years old, the previous owners took good care to remodel and he will not remodel the interior.

Commissioner Robbins asked how many employees.

Mr. Danemann stated he will have 14 employees, and they will use the public parking for them will be around the building.

Chairman Thompson opened the application for public comment.

No public comment noted.

Chairman Thompson closed the application for public comment and returned to the Commission for motion.

Commissioner Cruz made a motion to schedule the application for public hearing on August 6.

Commissioner Pollard seconded the motion.

Commissioners voting yes on the motion: Commissioner Silva, Commissioner Cruz. Commissioner Pollard, Commissioner Robbins.

Motion carried unanimously.

7. **PUBLIC HEARINGS**

A. **Case No. P&Z 2008-10**

Loren D. Suazo, property owner, Annette Harmon Suazo, agent; requesting a *Conditional Use Permit*, to provide daycare service at her residence. The property is located at 1304 Delicado Lane, in the R-4 (residential) zone within the Town of Taos.

Chairman Thompson asked staff if he had information on the legal issue last month, regarding the covenants.

Rudy Perea stated that he did research and found that the Town approved the subdivision but the Town did not set CC&R's, they only ensured there were CC&R's on the development. The applicant does have the right to proceed with the public hearing for a conditional use permit as stated in the staff report.

Mr. Loren Suazo is sworn in, stated that the CC&R's are not the issue for the Commission as discussed last month, the issue brought up as stated in the staff report now is the nuisance based on safety and the amount of traffic, and the traffic implied by the neighbors with the care giving service by his wife. He read a letter he and his wife Annette prepared in defense of the care giving service his wife does at the residence. Explained how his wife is a registered care giver with the state of New Mexico through Los Ninos Program, compensated for her service time, she provides a loving caring service to those children who are not so fortunate to have, she provides this service for those foster parents who are trying to give care for those unfortunate children.

No questions for the applicant at this time noted.

Chairman Thompson opened the application for public comment.

Ms. Judy Suazo is sworn in, stated that she understands the covenants are not governed by the Commission, understands the amount of traffic into the subdivision because she lives at 309 La Luz Drive and witnesses a lot of traffic and children playing in the streets, her main concern is for the children that Annette provides care giving service. Annette provides a service for the state to care for children from dysfunctional families, she is not a sole proprietor, she is an employee for the State, she does not sell merchandise. The only traffic eliminated if she were to stop, are two cars, the children stay within the residence and there are no cars parked on the street. Recommends the Commission remember the children and mothers and approve the conditional use permit.

Commissioner Pollard asked Ms. Suazo who Annette is an employed by.

Ms. Suazo stated that she is not self-employed, she does this service for the State.

Ms. Mary Bailon is sworn in, is here to support Annette, stated that portraying her as a business in wrong, she is a mother providing care for children. Feels Annette and Loren have just been targeted as shown at the last meeting. Asks the Commission to take into consideration that this is a loving, caring service.

Johnny Martinez is sworn in, stated that he does not question Ms. Suazo's care giving, his concern is with the traffic, if you allow this one business with as they say two cars,

then it will open up to more businesses adding more traffic, then the services will become more and more. Stated that the covenants in the subdivision do state no non-residential uses.

Donna Martinez is sworn in, the comment from Mr. Suazo that the kids play on the street, they do, but she watches her children when they are outside, is concerned with all the kids this is their home this is where they reside. Does not question Ms. Suazo's care giving, is only concerned to keep the kids safe, if you allow this one home occupation then you would have to allow others, this is the concern now and for the future. Has feelings for the kids at this service, but she needs to think about her own kids. This is a residential subdivision, does not want to see this know as a small business commercial area. Asks the Commission to take this into consideration.

Chairman Thompson closed the application for public comment.

Commissioner Robbins commented on at statement about the description of work that has changed from last meeting to this meeting, that she is employed by the State, can the Commission deny her the right to be employed by the State, maybe she can do this in a limited fashion to help the State.

Chairman Thompson allowed Ms. Martinez to comment.

Ms. Donna Martinez stated that she may receive funds as an employee from the State to care for those kids under who are in foster care, but not all the children she cares for are under that service. Recommends only that the child care not be provided in this subdivision, recommends she move to an area where it is properly zoned.

Commissioner Pollard commented that if this is a serious question it should be asked of the applicant not the public, asked the applicant if she is employed by the State.

Ms. Harmon-Suazo stated that yes, she is employed by the State.

Commissioner Pollard asked if she also gets paid from other people other than the state.

Ms. Harmon-Suazo stated that she does receive payment from other than the state.

Commissioner Silva asked if she was assigned to care for children from the State.

Ms. Suazo stated that she is assigned to care for kids under foster care during the time the foster parents work, not every child comes to her in that manner.

Commissioner Pollard stated that this is very difficult, the CC&R's are not enforceable by the Commission, but this is a situation the applicant is asking for forgiveness not for permission, the Commission needs to review the neighborhood and it has been shown this subdivision was not created to allow for this type of services, the streets are too narrow, the houses are too small the neighborhood is just not built for this and because of this he cannot support the applicant.

Commissioner Silva stated that it is admirable of Ms. Suazo to step up and care for this type of children and believes she is not in a position to rent an appropriate location and supports her for this effort.

Commissioner Silva made a motion in P&Z2008-10, motion to approve the conditional use permit.

Motion dies for lack of a second.

Commissioner Pollard made a motion in P&Z2008-10, motion to deny, based on the findings of fact listed in the staff report, but mainly the applicant does not comply with “Section 2-4.46 the conditional use will not create a danger to the public health, safety or welfare; nor cause an extraordinary public expense, nor create a nuisance.” The conditions relating to the road width design and the overall design of the subdivision itself preclude safely operating a business within this area.

Commissioner Cruz seconded the motion.

**Commissioners voting yes on the motion: Commissioner Cruz.
Commissioner Pollard.**

Commissioners voting no on the motion: Commissioner Silva.

Motion carried.

Chairman Thompson called for a 5 minute break.

Commissioner Pollard as is stated in the by-laws the Commission must vote to continue or adjourn if the meeting extends past 10 pm, made motion to continue with the meeting to its conclusion of the last case.

Commissioner Cruz seconded the motion.

Commissioners voted unanimously on the motion.

- B. Case No. P&Z2008-04**
Town of Taos/Kit Carson Electric Coop, property owners, Don H. May, AIA Rhode May Keller McNamara Architecture, agents; requesting a *Special Use Permit, and Variances on Section 5-4.4 (D) parking location, yard wall height and architectural style to locate the Taos Regional Command Dispatch Center and Homeland Security Center, the property is located at 1146 Gusdorf Road; within the C-1 (neighborhood commercial) Zone of the Town of Taos.*

Rudy Perea corrected the description of the request for the record, the only request is for a special use permit and the parking lot location variance.

Mr. Luis Reyes is sworn in, stated that he has prepared more brochures that were presented last month to the Commission and has given more copies for the Town to disburse to the public, is prepared to answer questions of the Commission.

Commissioner Cruz stated that in reading the document, titled “Intergovernmental Council of the Enchanted Circle serving Taos County and the Moreno Valley of Colfax County” homeland security is not noted on there.

Mr. Reyes stated the Intergovernmental Council the IGC is comprised of the municipalities and entities within the enchanted circle, that includes the Town of Taos, Village of Questa, Village of Taos Ski Valley, Village of Angel Fire, Eagle Nest, Taos County, Schools, this command center presentation was made to the IGC for their support and that resolution indicates that. As far as the words “homeland security” it is a tag of what the command center can do for homeland security. It looks at the local infrastructure, major through fares, anything that had to do with homeland security was the catchword for funding. This isn’t a move to downplay terrorism or homeland security as displayed by the media.

Commissioner Cruz stated that there are funds to be used but then they will come back and ask for things bought by the funds.

Mr. Reyes stated that the funds received under homeland security have no strings tied to them, only that it is used for the public.

Commissioner Cruz asked if he has received funds from homeland security.

Mr. Reyes stated that he has received funding from USDA, rural development program, these funds will be used for the public for the dispatch center.

Commissioner Cruz stated that she did see all the resolutions, but didn’t see is there any money commitment from the Town or the County.

Mr. Reyes stated that he has the Cooperative has funds in the bank for a command center, the Town and County decide to locate dispatch there will be a joint powers agreement drawn.

Commissioner Cruz asked if the funds from the State is that available.

Mr. Reyes stated the Town has expended those funds from the State on architectural design.

Commissioner Cruz asked about a countywide gross receipts tax.

Mr. Reyes stated that if the funding exceeded the County’s budget they would have to consider a countywide tax, again that is for future discussions with the County.

Commissioner Pollard asked for the record, all requests for fence variance and variance on the architecture have been withdrawn, so the request is only for variance on the parking lot location and for the special use.

Mr. Reyes stated that is correct.

Commissioner Pollard thanked Mr. Reyes for compliance with the Taos architecture and design.

Chairman Thompson asked if he could explain the benefit for the community.

Mr. Reyes stated that when he began working on this project in 2002, something like this was the cutting edge, the latest has been in Las Cruces where they have multi-agencies under one roof, the one big difference here is bringing in the private sector, Kit Carson, PNM to utilize the dispatch services, it is a benefit because you are not duplicating service for dispatch, another reality is that budgets are shrinking and this would help mitigate raises fees.

Chairman Thompson stated he was more concerned with the culture of how people work, police dispatch differs from electrical calls.

Mr. Reyes stated that there would be no changes in protocol, the emergency 911 will still be under the Town of Taos, Kit Carson dispatch will be under the Coop there would be different offices only using the same databases and technology and power supplies.

Commissioner Cruz asked how many vehicles would be driving onto the property.

Mr. Reyes stated that the Coop has two dispatchers at two shifts and the Town has maybe two or three dispatchers per shift.

Commissioner Cruz asked that she read that the Town of Taos has notified their people that there would be no layoffs.

Mr. Reyes stated that is correct, the Town of Taos would need to staff their dispatch area, vehicle traffic would be very light.

Commissioner Cruz asked to explain the concept of homeland security.

Mr. Reyes stated that there is no security issue, the intent for this dispatch center is to allow dispatch entities at one central location, right now all Police, Kit Carson, PNM, all provide dispatch service, this one central located facility would just allow them one building. There is no concern for homeland security as the media depicts. Should there be a local emergency a large fire for instance, the fire chief, police and emergency could all leaders could congregate at one location.

Commissioner Pollard asked to explain the use for the parking in the front of the building.

Mr. Reyes stated the parking in the front is for the public, the employees would park in the back behind a secure gate, only because for data security.

Commissioner Pollard asked when the public will use the building.

Mr. Reyes stated there will be no public access, the public parking in front is for those people who need to review the center, for example the Mayor or police officers or other people not employed at the center.

Commissioner Pollard asked if theoretically, if the Commission were advised that they could not grant the variance based on that it is "specifically prohibited" would you go to the Town Council.

Mr. Reyes stated that if this were to stop the project, he would not need the parking in the front.

Commissioner Pollard asked how he would modify the plan.

Mr. Reyes stated that he would need to make sure there is some screening some prior notification from whomever would like to enter the building. The intent is to allow the leaders to congregate at one location, police, fire, council, commissioners, the press you would like them all at one office not to interrupt the dispatchers.

Chairman Thompson opened the application for public comment.

Mr. Jean Verheyden is sworn in, stated that as a member of Kit Carson Electric Coop is concerned he would have to pay more fees, is concerned with the location, if a person were smart to understand what is in the building, wouldn't it be make more sense place it underground to make it less visible to terrorists.

Ms. Cheryl Nixon is sworn in, stated that at she received copies of the brochures and they all emphasize homeland security, initially she saw the funding from FEMA now it's USDA , were told this is just a disguise to get the money, if you aren't going to get involved in homeland security you need to find another funding source, finds this an inappropriate location, thinks the redundancy of power isn't the greatest you can run direct lines, feels that this story has continually changed and is not very trusting of what is going here and lives across the street and will keep a close eye on this facility.

Mr. William Balsam is sworn, stated everyone has their own concern, his concern is practical that has not been addressed, he can see this building from his kitchen window, is concerned with the bright lights, the darkness will be destroyed, he had a run in with the church and hopes whatever happens the lights will be directed away from the community. Has a question, at the beginning this was presented as if this has to be designed to FEMA standards with twelve foot wall, razor wire and blast proof buildings, why has it changed to something that is touchy, feely and friendly what happened, why has it changed.

Chairman Thompson closed the application for public comment.

Mr. Reyes stated the lighting of the building will comply with the dark skies ordinance, in regard to the design of the building there was some disconnect with the architects, the direction they were given was this was going to be a government building and was to comply with FEMA, when the architects were informed this was for a private sector for Kit Carson only, the criteria may have caused some confusion, with the Cooperative in the lead the design will follow the Coop's standards.

Commissioner Cruz stated that the code states, special use may be granted if it will not create a danger or public expense, feels this will cause a danger for the middle school students and yes there will be a public expense for the Coop and the members and should the people vote for a tax at the County, that will be an expense, is concerned most with the danger to the school.

Commissioner Silva stated that he felt this would have the opposite affect, feels the students would be safer and the response of emergency personnel would be more efficient.

Rudy Perea stated that he would like to modify the conditions he stated in the staff report, to delete number seven and add one more conditions that if there is any expansion or anyone else wants to locate in that building that they comply with conditions one to six.

Commissioner Pollard asked what he meant by expansion.

Rudy Perea stated expansion to mean that if any other entity wants to locate at that facility they will need to comply with the same conditions.

Allen Vigil stated that he would like to add that we don't know where homeland security is going, all we need is some form of review before expanding the building or expanding the use of the building.

Commissioner Pollard for the special use permit, made motion to approve the special use with the seven conditions listed in the staff report, number 6 is revised to read "the applicant comply with all recommendations made by the Town of Taos Development Review Committee, with full appeal rights granted any applicant." And seven, should the use of the building increase by more than ten percent, that they be required to fulfill the seven conditions granted under this special use."

Commissioner Silva seconded the motion.

Commissioners voting yes on the motion: Commissioner Silva, Commissioner Pollard.

Commissioners voting no on the motion: Commissioner Cruz

Motion carried.

Commissioner Pollard in regard to the parking variance, made motion to deny the parking variance request, based on the fact that the Commission does not have the authority to grant it as written in the law Section 5-4.4 D.

Commissioner Silva seconded the motion.

Commissioners voting yes on the motion: Commissioner Silva, Commissioner Pollard.

Commissioners abstained from voting on the motion: Commissioner Cruz.

Motion carried.

8. MATTERS FROM STAFF / COMMISSIONERS / PUBLIC

Rudy Perea stated briefly what Matt Foster wanted to present to the Commission this evening, to inform the Commission that on the next Commission meeting on August 6, he will be presenting an amendment to the LUDC with the Traditional Neighborhood Development and a zone change to the TND on the property the Town of Taos owns and also to vacate part of the Chamisa Verde Subdivision.

9. ADJOURNMENT

Commissioner Cruz made motion to adjourn.

Commissioner Pollard seconded the motion.

Members voted unanimously on the motion.

Meeting minutes of July 2, 2008 prepared by: Melinda Vasquez, Planning Assistant