



Agenda

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SUMMARY COMMITTEE

Thursday, August 3, 2017 - 11:00am

City Council Chambers

City Hall 1st Floor – 200 Lincoln Avenue

- A. **ROLL CALL**
- B. **APPROVAL OF AGENDA**
- C. **APPROVAL OF MINUTES**

July 6, 2017

- D. **OLD BUSINESS**
- E. **NEW BUSINESS**

1. **Case #2017-17. Franco Agua Fria Street Lot Split.** Southwest Mountain Surveys, agent for Artemio Franco, requests approval of a lot split creating parcels of 0.571 acre and 0.963 acre. The property is located between and behind 1719 and 1725 Agua Fria Street. The property is zoned R-5 (Residential – Five dwelling units per acre). (Noah Berke, Case Manager)

2. **Case #2017-62. 2639 Agua Fria Lot Split.** Jeff Harbour agent for Prajna Foundation, requests approval of a lot split to divide approximately 7.011 acres to create two lots (+/-4.0 acres and +/-3.011 acres). The property is zoned C-1/PUD (Office and Related Commercial-Planned Unit Development Overlay District). (Margaret Ambrosino, Case Manager)

- F. **STAFF COMMUNICATIONS**
- G. **MATTERS FROM THE COMMITTEE**
- H. **ADJOURNMENT**

NOTES:

- 1) Procedures in front of the Summary Committee are governed by Roberts Rules of Order. Postponed cases are postponed 1) to a specific date, or 2) indefinitely until specific conditions have been resolved, or 3) to a specific date with the provisions that specific conditions be resolved prior to that date. Postponed cases can be removed from postponement by a motion and vote of the Summary Committee.
- 2) Due to time constraints not all issues may be heard and may be rescheduled to the next scheduled Summary Committee meeting. This agenda is subject to change at the discretion of the Summary Committee.
- 3) New Mexico law requires the following administrative procedures to be followed by zoning boards conducting “quasi-judicial” hearings. In “quasi-judicial” hearings before zoning boards, all witnesses must be sworn in, under oath, prior to testimony and be subject to cross examination. Witnesses have the right to have an attorney present at the hearing. The zoning board will, in its discretion, grant or deny requests to postpone hearings.

***Persons with disabilities in need of special accommodations or the hearing impaired needing an interpreter please contact the City Clerk’s Office (955-6520) 5 days prior to the hearing date.**

**SUMMARY INDEX
CITY OF SANTA FÉ
SUMMARY COMMITTEE
August 3, 2017**

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D. NEW BUSINESS		
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2. <u>Case #2017-62.</u> 2639 Agua Fria Lot Split	Postponed by the Applicant	5
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F. MATTERS FROM THE COMMITTEE	None	5
G. ADJOURNMENT	Adjourned at 11:30 a.m.	5

**MINUTES OF THE MEETING
OF THE CITY OF SANTA FÉ
SUMMARY COMMITTEE
August 3, 2017**

A regular meeting of the City of Santa Fé Summary Committee was called to order by Brian Gutierrez, Chair, on August 3, 2017 at approximately 11:00 a.m. in the City Council Chambers, City Hall, Santa Fé, New Mexico.

A. ROLL CALL

MEMBERS PRESENT:

Brian Gutierrez, Chair
Roman Abeyta, Commissioner
Sarah Cottrell Propst, Commissioner

MEMBERS EXCUSED:

OTHERS PRESENT:

Noah Berke, Land Use Case Manager
Margaret Ambrosino, Case Manager
Mr. Carl Boaz, Stenographer

There was a quorum of the membership in attendance for the conducting of official business.

B. APPROVAL OF AGENDA

MOTION: Commissioner Abeyta moved to approve the agenda with #2 postponed indefinitely.

Ms. Ambrosino reported that the postponement is at the applicant's request.

Commissioner Propst seconded the motion and it passed by unanimous voice vote.

C. APPROVAL OF MINUTES – July 6, 2017

Mr. Berke requested a change on page 4, second paragraph where August 1 should be August 3.

MOTION: Commissioner Abeyta moved to approve the minutes of July 6, 2017 as amended. Commissioner Propst seconded the motion and it passed by unanimous voice vote.

D. NEW BUSINESS

1. **Case #2017-17. Franco Agua Fria Street Lot Split.** Southwest Mountain Surveys, agent for Artemio Franco, requests approval of a lot split creating parcels of 0.571 acre and 0.963 acre. The property is located between and behind 1719 and 1725 Agua Fria Street. The property is zoned R-5 (Residential – Five dwelling units per acre). (Noah Berke, Case Manager)

Staff Report

Mr. Berke read the written staff report for this case which is also available on the City web site and in printed form in the Land Use Department at City Hall. He pointed out that there would be no vehicle access for lot 2a or Lot 2b or Lot 3 from the 30' platted easement running along the western side. Any additional development on that private road would trigger required improvements of that road. But there is no room to expand it to a 38' ROW as it already serves 8 lots.

Recommendation

Mr. Berke said Staff recommends approval of the application, subject to the staff recommendations of approval in the report and any other red-lines of staff.

Applicant's Presentation

Mr. James Muir, 1114 Hickox, was sworn. He thanked the Committee for hearing this case. He said he was with Southwest Mountain Surveys, representing the applicants and would stand for questions.

Public Comment

Ms. Janet Uria, 1000 Cordova Place in Valencia County, was sworn. She asked if the survey is available to the public showing the access and where the 20' easement is located. She understood it is public information.

Chair Gutierrez agreed.

Mr. Berke shared a copy of it and said it is also posted on line.

Ms. Uria reviewed it.

Mr. Ernie Rael, 1731 Agua Fria Street, was sworn. He wanted to know, since that lot is being split, if they plan to use Acequia de las Joyas for access. It is 25' wide and used a lot and the width is cut down to 20'. They have another road off Agua Fria. Mr. Franco told him that he intended to build a wall or fence to eliminate any unnecessary traffic to his property. He wanted to make sure they would not have the traffic coming through his private driveway.

Chair Gutierrez thanked him and said the Committee will address that.

Mr. Roy López, 1935 Agua Fria Street was sworn. He said the 30' easement has been mentioned on this plat. He said that easement belonged to him and his cousin and is a private road they are trying to use that easement.

Chair Gutierrez asked if he was talking about Acequia de las Joyas.

Mr. López said he was referring to the continuation of Las Joyas. When it takes a left and then goes straight, it is a private road that is private for him and his cousin and they don't want it used by Mr. Franco or others. Mr. López said he had a survey of the plat if the Committee wanted to see it. He wanted Mr. Franco to build a wall along there so no one could use it during construction. He said his cousin, Mr. Rael is here. We have to clear it in the winter. If they stay on the other side, it would work. He thought someone already told them they cannot use our road. Their surveyor put in their easement and the numbers. It is R-5 on that side. He said he would only build two houses. They are trying to sneak it into their survey.

Mr. López provided a copy for an exhibit to these minutes.

There were no other speakers from the public regarding this case and the public hearing portion was closed.

Committee Discussion

Commissioner Abeyta referred to the Staff Report Condition g, which says "Vehicular access is not permitted through the 30-foot wide Ingress, Egress and Utility easement that runs along the western border of Lot 2A" and Condition h, which says "Lot 3 is to use only the 20-foot wide Access and Utility easement that runs north to south on the eastern border of Lot 2B, for access to Agua Fria and is not granted access to Acequia de Las Joyas Road." He asked if the Applicant agrees to those conditions.

Mr. Muir said they agree to those conditions.

Commissioner Propst asked for clarification on the statement of the last witness if the easement was at the top two lots.

Mr. Berke said the easement mentioned is about a 30' easement on the western border. Through Staff research it was determined that all of that easement is for utilities and is an access easement. The hatch pattern is the only part that is private for the benefit of Mr. López. Staff put in conditions G and H to satisfy the neighbor's request and to remedy any uncertainty that might be confusing about the utilities. It is for the last 50' of that easement.

Commissioner Propst said it looks like the only driveway would be from Agua Fria. She asked if an owner could just go out the back way.

Mr. Berke acknowledged there is no way to prohibit that. If an owner of Lot 2A used it, it might become a civil case.

Commissioner Abeyta asked if the Committee could require that conditions G and H be recorded on the plat so that years from now, they could read that restriction of vehicular access.

Mr. Berke said it will be added on the face of the plat.

Commissioner Propst asked if they are not changing the zoning at all. It is R-5.

Mr. Berke agreed.

Chair Gutierrez asked the Applicant about the block wall or fence that was mentioned.

Mr. Muir said it won't be done right away but there is absolutely no intention of using that access on Acequia de las Joyas. There were other expenses for utilities and cutting in the road and that will come first as they meet the conditions.

Chair Gutierrez asked if, at the time of building permit, the Applicant would be okay to include the wall or fence, once construction begins. That will prevent any incident with the neighbor.

Mr. Muir said his client said he would agree to do that, if the neighbor would agree to provide half of the cost, they would be agreeable to put up the wall.

Chair Gutierrez asked Mr. Berke about it.

Mr. Berke said in the hatched area, when developed, was to have a wall for that 50'. For the rest of it, it is unclear whether it was to benefit Lot 2. In his opinion, nothing prevents putting a fence or wall on that property line. It is just a property line. He didn't think it should be a condition of approval. It is secure as it stands and didn't think we should impose that condition.

Chair Gutierrez said, knowing there is the opportunity for that easement to be used and jumping it, it could become a battle. He asked if he was overstepping his bounds.

Mr. Shandler said it sounded like he was not overstepping - just trying to find a solution.

Chair Gutierrez wanted to add a wall or fence to the approval.

Action of the Committee

Chair Gutierrez said the grade has to meet certain requirements for fire access and asked Staff to make sure that access is provided at the correct incline.

MOTION: Commissioner Abeyta moved in Case #2017-17, Franco Agua Fria Street Lot Split, to

approve the application with staff conditions and that conditions G and H be on the face of the plat. It is on the record he agreed to pay for half of it. And if someone starts using it, City Staff could stop them from doing that. Commissioner Propst seconded the motion and it passed by unanimous roll call vote with Commissioners Abeyta, Gutierrez and Propst voting in the affirmative and none voting against.

2. **Case #2017-62. 2639 Agua Fria Lot Split.** Jeff Harbour, agent for Prajna Foundation, requests approval of a lot split to divide approximately 7.011 acres to create two lots (± 4.0 acres and ± 3.011 acres). The property is zoned C-1/PUD (Office and Related Commercial-Planned Unit Development. Overlay District). (Margaret Ambrosino, Case Manager)

As requested by the Applicant, Case #2017-62 was postponed.

F. STAFF COMMUNICATIONS

Mr. Berke said for the Summary Committee on September 7, the agenda has two cases so far.

G. MATTERS FROM THE COMMITTEE

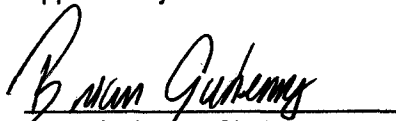
There were no matters from the Committee.

H. ADJOURNMENT


MOTION: Commissioner Abeyta moved to adjourn the meeting. Commissioner Propst seconded the motion and it passed by unanimous voice vote.

The meeting was adjourned at 11:30 a.m.

Approved by:


Brian Gutierrez, Chair

Submitted by:


Carl Boaz for Carl G. Boaz, Inc.

E A S E M E N T

THIS INDENTURE made this 24 day of March, 1980, by and between VICTOR MONTANO and VIOLA MONTANO, his wife, hereinafter called "parties of the first part," and ERNIE RAEL, DONALD RAEL, ROY LOPEZ and GILBERT LOPEZ, hereinafter called "parties of the second part;"

WITNESSETH:

For valuable consideration, receipt of which is hereby acknowledged, the parties of the first part have this date bargained and sold, and by these presents do bargain, sell, convey, transfer, and deliver unto ERNIE RAEL, DONALD RAEL, ROY LOPEZ and GILBERT LOPEZ a permanent easement and right of way, including the perpetual right to enter upon the real estate hereinafter described at any time that they may see fit for the purpose of ingress and egress over and across the hereinafter described real estate, on vehicles of all types and on foot or otherwise, and to construct, have constructed, maintain, and repair underground pipelines for the purpose of conveying water, gas, sewage or any other type of utility service, or for overhead transmission, electric or telephone lines over and across, through, and under the lands hereinafter described, together with the right to excavate and refill ditches and/or trenches for the location of said pipelines, and to do all things necessary for the installation, construction and maintenance of said pipelines and overhead transmission lines, provided, however, that VICTOR MONTANO and VIOLA MONTANO, his wife, reserve the right to joint and common use of the hereinafter described real estate for the same purposes, and they shall have the right to install and connect to any underground pipelines or overhead transmission lines as may be necessary, except that as to the northerly 50' of said easement, VICTOR and VIOLA MONTANO agree the said use will be limited to access to MONTANO'S gate, and maintenance of underground utility lines.

399815

The land affected by the grant of this easement and right of way is located within the City and County of Santa Fe, New Mexico, more particularly described as follows, to-wit:

That certain parcel of land as shown on the plat of survey of the real estate subject of this action and more particularly described as follows, to-wit:

Beginning at the northeast corner of this easement, from whence the center of sanitary sewer manhole No. K1-19 bears S. 3° 12' 47" W., 367.42 feet distant; thence from said point of beginning S. 19° 18' 49" E., 272.06 feet to the southeast corner of this easement; thence S. 53° 43' W., 31.34 feet to the southwest corner of this easement; thence N. 19° 18' 49" W., 282.08 feet to the northwest corner of this easement; thence N. 72° 20' E., 30.0 feet to the point and place of beginning.

All as shown on plat of survey prepared by Salvador E. Vigil, Licensed Surveyor No. 4405 on June 27, 1973, February 7, 1975, and August 9, 1979, entitled "Plat Of Survey Requested Victor Montano," and bearing said Vigil's Project Number D1-038.

The parties hereto agree that they shall construct or have constructed a chain-link fence on the east side of the hereinabove-described easement for a distance of Fifty Feet (50') from the northeast corner of said easement and running along the easterly boundary of said easement in a southerly direction, and that they shall bear the cost of construction of said chain-link fence on a 50/50 basis, which chain-link fence is constructed for the purpose of preventing the crossing of traffic between the adjoining tracts of land on the east and west side of the easement along the said Fifty Feet (50').

TO HAVE AND TO HOLD the said easement and right of way unto ERNIE RAEL, DONALD RAEL, ROY LOPEZ and GILBERT LOPEZ, their successors and assigns forever.

IN WITNESS WHEREOF, we have hereunto affixed our hands and seals the day and year hereinabove first written.

399816

Victor Montano
VICTOR MONTANO

Viola Montano
VIOLA MONTANO

Ernie Rael
ERNIE RAEAL

Donald Rael
DONALD RAEAL

Roy C Lopez
ROY LOPEZ

Gilbert Lopez
GILBERT LOPEZ

STATE OF NEW MEXICO)
COUNTY OF SANTA FE)
The foregoing instrument was acknowledged before me this
day of March, 1980, by Victor Montano and
Viola Montano, his wife.

SS.

[Signature]
NOTARY PUBLIC

MY COMMISSION EXPIRES:

for record on the 14 day of March,
1980 at 1:31 o'clock
and the copy recorded in book 399
814-816 of the records of Santa Fe County,
New Mexico.
[Signature]

STATE OF NEW MEXICO)
COUNTY OF SANTA FE)

SS.

The foregoing instrument was acknowledged before me
day of May, 1980, by Ernie Rael, Donald Rael,
Roy Lopez and Gilbert Lopez.

[Signature]
NOTARY PUBLIC

MY COMMISSION EXPIRES:

458131
NEW MEXICO)
COUNTY OF SANTA FE)
Notary and Seal of Office
R. GONZALEZ
Santa Fe County, N.M.

January 20, 1984