



Nor Este Neighborhood Association

July 31, 2018

Called to Order: 6:05 PM

NENA SPECIAL BOARD MEETING

- Quorum check- Bob Smith, Jim Griffee, Mildred Griffee, Bob Franklin, John Crowley, Jason Young, Gina Pioquinto. Quorum present.
- Approval of Agenda- Motion by Jason. Carried.
- Treasurer's Report-
 - \$4,901.32 balance
 - \$25 Deposit, two memberships, 25 total members to date
 - \$4,926.32 balance
- Development Committee Report regarding Markana II
 - For some in NENA, the idea of an appeal is new.
 - IDO (Integrated Development Ordinance) has granted new rights to the developer, the Development Committee does not agree with that.
 - Taking on an appeal, may require 5-6 figures to take this on in court with the developer. NENA may need to abandon the appeal. But it may set precedence for future situations like this.
 - A meeting with the developer occurred on June 8th. This meeting was referred to as a Neighborhood Meeting. Since then, the committee has had many meetings and consultations regarding the issue.
 - If an appeal goes forward, NENA is looking at another two months or more dealing with this issue.
 - The DRB hearing was scheduled for June 18th. At the hearing, NENA spoke to the fact that a facilitated meeting was not scheduled.
 - In November, NENA had fought against the last zoning change, when Markana II was asking for a zone change from commercial or residential commercial. NENA lost.
 - Developer claimed he could not get buy in so requested SU2 HDR under the North I-25 Sector Development Plan which allowed a 3 story 39 ft and up to 26 units per acre.
 - In March, the DRB approved the site plan for 38 ft, 99 apartments, 22 units per acre.
 - When IDO took effect in May, NENA was sent a notice within one week to change the site plan that was approved in March. The IDO converted the SU2 HDR to RMH (Residential Multi-Family, High Intensity) zoning which allows up to 45 ft, 50 units per acre.
 - Between the time of the Neighborhood Meeting and Application, the Developer changed the design from a 4 story 48 ft. Mansard roof design to a 4 story 45 ft flat roof design.
 - The meeting on the 18th was with the DRB, the Design Review Board, which looks at technical aspects of the plan, e.g. grading, parking, traffic, etc.
 - Residents from Oakland Estates HOA were also present at the DRB meeting.
 - NENA asked that the site plan not be approved.
 - DRB conditionally approved the new site plan as long as a hydrology plan was updated and as long as the developer held a facilitated meeting.
 - After this decision, NENA Development Committee agreed that NENA was not treated fairly. Land use decisions should have gone to the EPC, Environmental Planning

Committee, not the DRB. Per the IDO, the DRB did not have the authority to deny the request.

- o Oakland Estates HOA, which is within NENA boundaries, can be a party in the NENA appeal, if NENA appeals, or can submit their own appeal.
- o As of this date, there were no other site plans approved prior to IDO that changed after IDO went into effect. There appears to be a loophole in this process. The intention of the IDO was not to have significant changes.
- o Brad Winter submitted CPO #9 (CPO= Consistently Protection Overlay). This CPO was to cover area within the I-25 Sector Plan and was submitted prior to the IDO effective date. The westside of I-25 near Balloon Fiesta Park was covered, but the eastside was omitted.
- o Who within NENA are directly impacted? Oakland Estates and homes in the SW part of the subdivision. Will traffic be a problem? Unknown how to quantify at this time. Parking has been an issue during construction along Oakland.
- o A petition has been started on NextDoor by a member.
- o Whether NENA appeals or not, this decision by the DRB will not affect the property at Barstow and Alameda since a site plan would be submitted after IDO went into effect. The property is zoned differently and, under IDO, is limited to 35 ft.
- o Oakland Estates Board members present are interested in hearing feedback. They may decide to join NENA with an appeal or appeal on their own if it would be more visible.
 - Traffic issues with Markana I - They were told early in the development of Markana I that Oakland would be exit only, but is being used as entrance and exit.
 - Speeding on Oakland was construction personnel and increased traffic from the day care on Alameda and Louisiana.
 - Occupancy does not appear to have filled up since the complex opened.
- o If an appeal is filed, it must be filed prior to Thursday, August 9th. Development Committee members would like to complete it by August 7th, if possible.
- o The fee to file is \$130. Oakland Estates, if a party to the appealing, would split the fee with NENA.
- o Once filed, the document goes to the LUHO, Land Use Hearing Officer, who is an attorney. Documentation would go to NENA and Consensus Planning, the developer.
- o The LUHO would call a public hearing, where NENA would present its case. The applicant would present their position. Then NENA can rebut the applicants testimony.
- o After the public hearing, the LUHO can recommend that the appeal go before the City Council. A mini version of the hearing would be presented to the City Council: NENA presents, Applicant presents, NENA concludes. City Council can deny or remand (send back) to the DRB or EPC.
- o An EPC appeal would cost another \$130.
- o The developer can appeal to the LUHO or, if it goes to City Council, they can appeal the City Council decision in District Court if it is not in their favor.
- o NENA needs to discuss this with a Land Use Attorney. NENA cannot use a city lawyer since NENA is not a public institution.
 - Questions to the Land Use Attorney would be if NENA can abandon the appeal at any point it becomes clear NENA cannot afford the legal expenses and do so without being sued.
- o Only those who have “standing”, who have participated in the DRB hearing, can appeal. NENA and Oakland Estates HOA have standing. West La Cueva NA did not file anything at the DRB hearing.
- o Anti-Slap Laws may protect those involved from retaliation and intimidation by the developer.

- Coronado Airport- former airport property currently owned by Sandia Business Corporation is zoned as light industrial and could go direct to DRB. A request to change zoning to residential request would go to EPC.
- For Markana II, under IDO and since the property is under 5 acres, IDO allowed for DRB review authority.
- Reading of Draft of Motion #1, Motion to Appeal DRB Decision:
- Reading of Draft of Motion #2, Motion to Direct NENA's Development Committee to not file the appeal if the Development Committee is unable verify that NENA can abandon the appeal after City Council upholds the appeal without significant consequences.
- In the 1990's, NENA was indemnified as a neighborhood association and the city would cover the applicant against the appellate. This is no longer the case. NENA would need to hire an attorney since it is incorporated.
- Tim Flynn O'Brien is a Land Use Attorney, but is retiring.
- Jim spoke with Dawn Marie at Brad Winter's office, as well as Chris Melendrez, City Council Attorney.
- IDO requires a pre-application meeting with neighborhood associations for everything, whereas in the old ordinance, it was not required. This meeting was called a Neighborhood Meeting.
- Motion to give the Development Committee authority to meet with a Land Use Attorney for not more than \$1,000 for the consultation. Motion by Gina, seconded by Jim. Carried unanimously.
- If Oakland Estates HOA wants to be represented by the Management Company of their HOA, the HOA board would need to write a letter identifying and approving the representative.
- The draft Motion #1 and #2 were revised based upon the discussion.
- Vote on Motion #1, read by Jim:
 - Motion #1: The Nor Este Neighborhood Association (NENA) shall undertake an appeal of the July 18th 2018 DRB decision (case number SI-2018-00049) that approved the Applicant's Markana II Site Plan amendment that adds a fourth story to 3 of 4 buildings and increasing the number of units from 99 to 135. NENA's Development Committee shall be responsible for the preparation and filing of the application to appeal and then keep the Board of Directors informed as to its progress. The Development Committee shall not obligate NENA for any expenses beyond the usual and customary filing and documentation fees without NENA Board of Director approval. At the first sign that there is a significant risk that NENA could incur expenses it cannot afford, the Development Committee shall advise the Board of Directors and the Board of Directors shall not delay in making a decision to proceed with the appeal or to abandon it. In making the decision to abandon the appeal, the Board of Directors shall assess the risk of a lawsuit by the Applicant against NENA for damages such as project delays and legal fees.
 - Bob Smith called for a ballot vote. The motion was carried by a vote of 5 to 2.
- With the passing of Motion #1, Motion #2 was read by Mildred:
 - Motion #2: If the Nor Este Neighborhood Association's (NENA) Development Committee is unable to verify that NENA can abandon the appeal after City Council upholds the appeal without significant consequences - prior to filing the application to appeal- the Development Committee shall table (not file) the application. This addresses a concern that NENA could be named in the Applicant's appeal of the City Council's decision drawing NENA into a judicial case that NENA cannot afford.
 - Motion seconded by Jim.

- Ballot vote. Motion was carried 6 to 1.
- Motion to adjourn- Bob Smith, seconded by Jason Young. Meeting was adjourned at 8:05pm.
- Next Board Meeting is October 2nd.
- Jason to call a Land Use attorney prior to next week. Will get two names from Tim Flynn O'Brien.

Respectfully submitted,

Gina Pioquinto
Secretary, Nor Este Neighborhood Association

Approval Pending

Nor Este Neighborhood Association Board Meeting (Special)

Tuesday, July 31, 2018, 6:00 pm
North Domingo Baca Multigenerational Center

Agenda

- I. Call to Order
- II. Quorum Check
- III. Review and Approval of the agenda
- IV. Guest Speaker(s)
 - a. NONE
- V. Approval of June 5th General Meeting Minutes
- VI. NENA Officer Reports
 - a. Treasurer's Report
- VII. Committee Reports
 - a. Defer to next regularly scheduled board meeting
- VIII. Old/Unfinished Business
 - a. Defer to next regularly scheduled board meeting
- IX. New Business
 - a. Appeal or not to Appeal DRB July 18th Decision regarding Markana II site plan amendment
 - i. Development Committee report/recommendation
 - ii. Discussion
 - iii. Call for a vote (board)
- X. Calendar
 - a. Board Meeting - Oct 2nd, 2018
 - b. Annual Membership Meeting (elections) – Nov 6th, 2018
- XI. Adjournment