

MINUTES OF THE
SANTA FE COUNTY
PLANNING COMMISSION

Santa Fe, New Mexico

August 20, 2020

1. This meeting of the Santa Fe County Planning Commission was called to order by Chair Charlie Gonzales on the above-cited date at approximately 4:05 p.m.

In accordance with the Public Health Emergency Order issued by the State of New Mexico, this meeting was conducted on a platform for a video/audio meeting. All members were present via the Webex internet platform.

[For clarity purposes, repetitive identification and confirmations of those on the phone have been eliminated and/or condensed in this transcript.]

1. A. & B. Roll call preceded the Pledge of Allegiance and indicated the presence of a quorum as follows:

Members Present:

Charlie Gonzales, Chair
Frank Katz, Vice Chair
J. J. Gonzales
Steve Krenz
Leroy Lopez
Susan Martin
Fred Raznick

Member(s) Excused:

None

Staff Present:

Vicki Lucero, Building & Development Services Manager
Jose Larrañaga, Case Manager
Paul Kavanaugh, Building & Development Supervisor
Roger Prucino, Assistant County Attorney
John Lovato, Case Manager
Jaome Blay, Fire Marshal

SFC CLERK RECORDED 09/21/2020

2. Approval of Agenda

Paul Kavanaugh, Building & Development Supervisor, noted that New Business item 4.B, Case #20-52030, Jack Gerlack variance was listed as tabled in the agenda and has been withdrawn.

Member Lopez moved to approve as amended and Member Katz seconded. The motion passed by unanimous voice vote. [Member Martin arrived after the vote.]

3. Approval of Minutes: July 16, 2020

Member J.J. Gonzales moved approval and Member Krenz seconded. The motion passed by unanimous roll call vote.

4. New Business

Chair Gonzales recited the guidelines for the meeting as follows:

“Tonight we have public hearings on two separate land use cases. The rules for both public hearings are the same, but I will go over them twice, once at the beginning of the hearing for each case. Please keep in mind that this is a new process. We’re still working out some issues and there may be some bumps along the way but we would greatly appreciate your patience as we go through the process.

“With that said, I will go over the Order of Presentation. The order of presentations for each case is as follows:

1. First will be the staff’s presentation.
2. Second will be the applicant’s presentation.
3. Third, members of the public will be allowed to testify for or against the application.

Commission Members may ask questions at each stage of the case.

“Cross-Examination: The County’s rules of order allow a party to cross-examine or question a witness. If the applicant wishes to cross-examine or ask questions of County staff or any member of the public, the applicant must notify the Chair before the staff member or member of the public is excused. Failure to do so means the right to cross-examination with regard to staff or the particular member of the public is waived.

“Limits on Public Testimony: Members of the public will generally be allowed no more than five minutes to speak. Please be focused and time your presentation accordingly. You will be muted after five minutes. If you believe you will need more time for your concerns or comments, please let me know and I will attempt to accommodate you if your request is reasonable. I also encourage you to group up to increase comment time. You can also send comments to the case manager during this process.

“I will be enforcing the prohibition on redundant, irrelevant, and harassing testimony and comments, so you may not get to speak for five minutes. This means that if someone else has already testified to something, I am not going to allow someone else to testify to it as well. If testimony is not relevant to the issues raised by the application, I will not allow the testimony. If the testimony consists of personal or other improper attacks or is otherwise out of order, I will stop it.

“Identification of Members of the Public: Before we get started with Case No. #18-5180 the Ohlsen variance, Jose Larrañaga will ask members of the public who are interested in testifying for or against the application to identify themselves by name, either via the chat feature of WebEx or orally. At the public input stage, Mr. Larrañaga will call on individuals one at a time. Once you are called and only then, should you unmute yourself and state your name and address for the record. You will be sworn in by the court reporter before being allowed to testify for up to five minutes.”

- A. Case # 18-5180 Gerald Ohlsen, Applicant, Siebert and Associates, Agent, requests variance of Chapter 7, Section 7.17.10.4.1, (25% Slope Disturbance for Roads and Driveways), a variance of Chapter 7, Section 7.17.9.2.7, (Significant Tree Removal), a variance of Chapter 7, Section 7.17.9.2.3 (30% Slope Disturbance for Residence), and a variance of Chapter 7, Section 7.17,10.1.1 (Building Area Analysis). The property is within the Residential Fringe Zoning District and located at 66 Coyote Mountain Road, within, Section 17, Township 16 North, Range 10 East, (Commission District 4). SDA-2**

Jose Larrañaga, advised that those wishing to testify on case #18-5180 to either unmute their phone or tap the chat feature on Webex and identify themselves. Jim Terhune identified himself and another individual said she was giving her time to Mr. Terhune. Susan Kennedy Zeller gave one minute of her time to Mr. Terhune. Andy Rupanber may also appear to speak. [There was interference with an echo, dog barking as well as an individual talking over the meeting on the line.]

John Lovato recited the case caption and provided his staff report as follows: The 21.98-acre lot was created in 1969 and is considered a legal non-conforming lot. The lot contains slopes in excess of 25 percent and the only buildable area is located on a ridgetop. The site is accessed through Coyote Mountain Road which is a private road. Coyote Mountain Road climbs to the top of the ridge, and the Applicant’s buildable area on the ridgetop. However, the Applicant has no legal access due to a legal litigation on an easement that was in favor of a neighboring property and access was not granted to access the ridgetop.

The Applicant’s initial request was for a variance of Chapter 7, Section 7.17.10.4.1, Roads and Driveways, to allow a variance to access the only buildable area on the property. The Applicant was proposing to disturb 25 percent slope to access the ridgetop. The access would have scarred the entire face of the mountain, and the proposed residence on the ridgetop would have been seen from many locations along I-25 and Old Pecos Trail.

The Applicant now requests to build closer to Coyote Mountain road at the bottom of the lot which will disturb 5,753 square feet of 30 percent slope for the residence; 1,350 square feet of 25 percent slope for the access driveway and parking; and 10 significant trees located on 30 percent slope. In addition, the entire site is greater than 25 percent so the Applicant cannot meet the requirements of Chapter 7, Section 7.17.10.1.1. This section requires that only 50 percent of any structure may be located on slope that is between 20 and 30 percent.

The Agent states, "Our client's original desire was to construct a residence on a portion of property considered to be a ridgetop as per the SLDC. Chapter 7, Section 7.17.19.2.1 of the SLDC prohibits a structure/residence to be constructed on a ridgetop, ridgeline, or shoulder unless there is no other buildable area on the property. In this case, there is no other buildable area on the property. However, due to litigation the Applicant cannot gain access to the ridgetop areas without scarring up the mountain and is forced to build at an alternate location. After several meetings and discussions with staff, it was determined by the Administrator staff that the proposed location was an alternative area suitable for construction of a residence other than the ridgetop areas as desired)."

On February 13, 2020, this case was heard by the Santa Fe County Hearing Officer. The Hearing Officer recommended that the Application be stayed pending a review and preparation of a report to the Planning Commission by staff and the County Attorney's office of the existing legal access to the site. If access is determined to be adequate, the Hearing Officer recommends that the Planning Commission shall review staff's findings addressing the issues raised by the public.

The Santa Fe County Attorney's office and Santa Fe County staff have reviewed legal access to the site. It was determined by staff and the County Attorney's office, that the Applicant has legal access. Santa Fe County staff reviewed surrounding plats, and the Santa Fe County GIS plotted points provided by one of the concerned residents of Coyote Mountain Road. In both instances, it was determined there was a 40-foot easement on Coyote Mountain Road that encroaches on the Applicants property which provides legal access and that is in Exhibit 12.

At the February 13, 2020, Hearing Officer meeting, several members of the public testified on the Application. The public had concerns regarding drainage, removal of significant trees, legal access, slope stability, visual impacts, and the impact the construction would have on Coyote Mountain Road

Since the time of the Hearing Officer meeting, the Applicant's agent staked the buildable area and marked significant trees to be removed. Staff followed up with a site inspection on April 4, 2020, and confirmed that the Applicant is within the proposed buildable area presented at the February 1, 2020, Hearing Officer meeting. Staff confirmed that the amount of significant trees to be removed is accurate and that is 10 significant trees on 30 percent slope.

Chapter 7.17.10.7 requires a screening plan for all development at 7,400-foot elevation. The Applicant has provided a landscape screening plan and renderings of the residential structure. As a condition of approval, staff is requiring a grading and drainage plan and soils report to be submitted for County approval prior to a building permit issuance that will address drainage, erosion and slope stability. The permit will not be issued until the County has verified that the grading and drainage plan has adequately addressed pre and post development for on-site drainage and that the soils are suitable for construction to ensure slope stability.

As stated previously, County Staff and the County Attorney's office, has determined that the Applicant has legal access.

The Applicant has addressed the variance criteria and staff has determined that the Applicant meets the criteria as contained in this memo.

Hearing Officer Recommendation: On February 13, 2020, this case was heard by the Santa Fe County Hearing Officer. The Hearing Officer recommended that the Application be stayed pending a review and preparation of a report to the Planning Commission by staff and the County Attorney's office of the existing legal access to the site. If access is determined to be adequate, the Hearing Officer recommends that the Planning Commission shall review staff's findings addressing the issues raised by the public.

Staff Recommendation: The Application is not in strict compliance with the SLDC, but this Application meets the criteria necessary for granting a variance. Due to the topography of the lot, the Applicant is unable to build a home on the lot without variances. The site offers limited buildable due to the requirements and legal litigation on the access easement. If the Applicant were allowed to build on the ridgetop, the access would scar the entire face of the mountain, and the proposed residence on the ridgetop would be visible from many locations along I-25 and Old Pecos Trail.

The Applicant has met the variance criteria where due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner. Therefore, staff recommends approval of the variances requested to build on the lower site subject to the following conditions. And, Mr. Chair, may I enter those conditions into the record?

CHAIR GONZALES: Yes, you may.

Conditions:

1. The Applicant shall provide a plan showing the limits of disturbance and provide a construction fence along the limited area.
2. The proposed structure shall not exceed 18' in height.
3. The site shall be screened with native vegetation.
4. The Applicant shall submit a stabilization plan for all disturbed areas that includes re-seeding of native vegetation.
5. The Applicant shall submit a grading and drainage plan and soil report for approval prior to building permit issuance.
6. No future development of the ridgetop site will be permitted.
7. The Applicant shall comply with Santa Fe County Fire Prevention requirements.

MR. LOVATO: Thank you. And I will stand for any questions you all may have.

CHAIR GONZALES: Thank you, John. Does the Commission have any questions of staff?

MEMBER J.J. GONZALES: I do, Charlie.

MEMBER KATZ: Charlie, please let's have people mute their speakers if they are talking so we don't have to listen to the dogs and the papers.

CHAIR GONZALES: I agree, yes, thank you, Frank. Please mute your computers. J.J., did you have a question?

MEMBER J.J. GONZALES: Yes, I had a question for John. I'm concerned about the number of variances for this application. What would require fewer variances; building at the top of the ridgetop or building at the alternate site?

MR. LOVATO: Mr. Chair, Commissioner Gonzales, I would believe they are both going to be similar in variance, however, the disturbance is going to be much more at the top of the hillside because you have to remove much more significant trees, much more rock outcroppings, you have a ridgetop setback you have to abide by and I don't believe they would meet the 50/50 rule. So it's going to be in similarity to the request as it is right now.

There is no other buildable area and this why staff has recommended this lower area.

MEMBER J.J. GONZALES: I'm kind of concerned because there's a lot of opposition to building on this alternate site and they do have a buildable area on top of the ridge and I was wondering if they just decided to build at the ridgetop if that would appease a lot of the residents of Coyote Mountain Road – that's all of my concern. There would be less opposition maybe to build at the very top although it would scar the mountain a lot more. I just wonder if that was brought up by the staff.

MR. LOVATO: Mr. Chair, Committee member Gonzales, I spoke with several members of the public after the last public hearing and I do mention this. We try and work with the applicants on this and you know just the severity of the amount of scarring on that hillside was a determining factor of building closer down to the road.

MEMBER J.J. GONZALES: Would there be less opposition if they scarred the entire mountain instead of building at the bottom; that all my concern. I don't like any of the alternate plans or scarring up the mountain but they do have a legal lot according to the County and they're allowed to build a house on that lot even though it's 20 acres. I'm just kind of concerned, what would be less controversial for everybody on Coyote Mountain Road. Has that been brought up?

MR. LOVATO: Mr. Chair, Committee member Gonzales, I'm not sure. I don't know how they would feel about being on the ridgetop but maybe that is something that they can address in their testimonies when they speak.

MEMBER J.J. GONZALES: Thank you very much.

CHAIR GONZALES: Thank you, J.J. Those are good concerns. Any other questions from the Commission?

MEMBER KATZ: Yes, Charlie, I have. I think that J.J. has focused directly on the crucial issue. It would be at least from what the neighbors have said, it would be much less aversive to them if there was not a house in that steeper place but the house was built on the ridgetop. It is within the power of some of the neighbors to make that happen by granting them the easement of the road that is already built. To do that, they could engage in some negotiations as to where the house would be, that nothing else would be done on that lot so that wouldn't have to fear a larger development and it would just be a single house. But that's up to the neighbors to actually do and they have it within their power to make this, what I gather, less concerning to them. But they need to do it, we can't.

The road up the hill on the property would be much worse than where they're planning on placing the house on the very bottom there. Thank you, that's all I have.

CHAIR GONZALES: Thank you, Frank. Any other questions from the Commission? We'll have the presentation from the Applicant now.

[Technical issues arose as agent for the applicant, Siebert and Associates, tried to participate in the meeting.]

WAYNE DALTON (Siebert and Associates): Thank you, Mr. Chair, Commissioners, like staff read into the record we are requesting variance for the construction of a residence on the subject property. We are in full agreement with staff conditions.

Mr. Chair, I just want to touch on and a few points that were brought up at the last public hearing. One, John touched on it a little bit; legal lot of record. The property is recognized and considered a legal lot of record created prior to the effective date of the Santa Fe County Land Development Code which was 1996-10 and the Sustainable Land Development and is therefore allowed a residence and a driveway on this property.

Approximately 36 letters were mailed to adjoining property owners by first-class mail and two public notice boards were also posted. This also included one registered organization. One notice board was posted at the intersection of Old Santa Fe Trail and Coyote Mountain Road and one notice board was posted on the property. Notice was also placed in the legal section of the Santa Fe *New Mexican* on July 1, 2020. Notice was mailed utilizing the mailing address within the County Assessor's office for adjoining property owners. If the joiners did not receive the notice at the correct address where they reside on a full-time basis then they need to have this information changed with the County Assessor's Office.

I want to point out, Mr. Chair, that we're only required by Code to sent out 15 letters regarding this application and we sent out approximately 36.

Regarding the property. Gerald Ohlsen owns the property and he's also known as Amethyst Land Company, Inc., he's the owner of Amethyst Land Company, Inc. He has owned the property for almost 20 years and has paid property taxes for a residential tract of land.

There is an existing 40-foot easement which is utilized to access the subject property. Due to litigation, Mr. Ohlsen has no access from where Coyote Mountain Road leaves his property boundary to the upper portion which are the ridgetop sites of this property.

All documentation regarding the access to the property has been reviewed by the County Legal Department and according to the Legal Department, Mr. Ohlsen has legal access to the property.

Visible area, Mr. Chair, which are basically the ridgetop area due to [inaudible with dog barking] The only suitable buildable areas on the property are located on the ridgetop; however, the SLDC prohibits structures from being situated on a ridgetop, ridgetop or shoulder unless there are no other buildable areas on the property. In this case, there are no other buildable areas on the property and due to litigation between property owners there is no access to the ridgetop areas and is forced to build at the proposed location.

As far as the current building site goes, since the applicant cannot gain access to the ridgetop area, staff has determined that the alternate buildable area suitable for the construction of a residence and will also preserve less disturbance of 30 percent slopes. The alternate buildable area will also be closest to the nearest pre-existing public private roadway or right-of-way. Additionally, since the residence will be constructed on slopes in excess of 15 percent, the building site was designed to conform to the natural terrain by following contours, to minimize cut and fills, fitting in to existing land forms.

Mr. Chair, John Lovato already went over the square footage for 30 percent slope disturbance, 25 and 25 or less. As per condition number 1 from staff, a plan showing the limits of disturbance and construction fence along the limited area, we'll be submitting at the time of permit application.

As per condition number 2 of staff, the proposed structure shall not exceed 14 foot with a flat rood and 18 feet with a pitched roof.

The proposed residence will be screened as per Chapter 7, Section 7-17-10-7 of the SLDC. A preliminary landscape plan has been submitted to staff as per condition number 3, the final landscape plan with native vegetation will be submitted at time of permit application. All cut and fill slopes will be retained utilizing retaining walls in conformance with Chapter 7-17-10-7-6-A, since retaining walls cannot exceed 5 feet for larger cuts, multiple retaining walls will be used and be set back a minimum of 6 feet from face of wall to face of wall.

As per condition number 4 from staff, a stabilization plan and reveg plan for all disturbed areas certified by an engineer will be submitted at the time of permit application. Drainage control, per condition number 5 from staff, a grading and drainage plan and soil report will be submitted at time of permit application. The drainage plan will comply with all requirements set forth in Chapter 7 of the SLDC including cut and fill slopes, retention ponding, insulation of culverts within the mountain for protection and any other requirements from staff for the proposed residence. The residence will also comply with water attachment requirements.

Significant tree removal, we request to remove approximately 10 significant trees. Five significant trees will be removed from the property and four significant trees will be transplanted at other locations on the property. All other trees on the property do not meet the definition of a significant tree or they are dying. Staff has verified the number of significant trees to be removed or be relocated on the property.

Mr. Chair, I'd like to close by saying any other location on this property whether it be the proposed site or any other site on the property is going to require variances from the SLDC. It will never conform with the requirements of the SLDC. So wherever the applicant decides to build or is forced to build there is no avoiding variances. And, I would also like to answer that question, we did discuss a driveway up the ridgetop site and it was determined by staff that it would disturb a greater amount of 30 percent slopes and would cause huge scarring and would be highly visible from major arterials. So that discussed with staff and I highly doubt there would be less opposition.

Thank you, Mr. Chair.

CHAIR GONZALES: Thank you, Wayne. Does the Commission have questions of the Applicant? Wayne, I have one question, what is the total square footage of the house, the footprint?

MR. DALTON: We haven't decided on that. It'll be between 2,400 and 4,200.

CHAIR GONZALES: So there's no possibility of you guys surpassing the 12,000 square foot limitation for disturbed area.

MR. DALTON: No, no. This is all we're requesting.

CHAIR GONZALES: Okay, thank you. Commissioners, any questions? This is a public hearing I would like to open the public hearing.

JIM TERHUNE: This is Jim Terhune. We'd like to speak for the Coyote Mountain community.

CHAIR GONZALES: Yes, thank you for attending. Please do.

MR. TERHUNE: There are three or four open mics. Could people check your mics.

CHAIR GONZALES: Yes, and I'll need you to be sworn in.

[Duly sworn, Jim Terhune testified as follows:]

JIM TERHUNE: Jim Terhune, 99 Coyote Mountain Road. There will be a few of us speaking and we did ask for some extra time. I represent about 15 people so we can easily make this 45 minutes but I'll try and make it about 20 minutes if that's okay with you sir.

CHAIR GONZALES: I guess my only question is who did you request the time from?

MR. TERHUNE: Vicki Lucero and John Lovato.

CHAIR GONZALES: Okay, thank you. Please proceed.

MR. TERHUNE: My name is Jim Terhune and my family and I live at 99 Coyote Mountain Road. We've been witnessing these County Planning Commission hearings and it's apparent that everybody is on a first name basis with these gentlemen so please call me JT as my friends do.

So I'm here today representing our Coyote Mountain community and we've all pulled this together and I'm reading off of a bit of an agreed to presentation and the essence of it has already been delivered twice over to the staff and I think it's in the minutes. I think we feel that it is important to lend a voice to the many, many concerns that have been documented and have been given to the County Land Development staff over the past eight months.

What we intent to do here is to present the facts, no embellishment, no hesitancy to carefully choose the right words that we witnessed in the first hearing and especially no misrepresentation of the truth about the hillside. This is a very complex matter and we wish at this point that there had been some back and forth discussions which there has been done. This has been kind of trying to us all. The delays since January, the lack of community involvement in the planning prior to the hearings and again between the hearings and in the inaccurate representation and facts. It has been trying. Last minute delays have been quite an inconvenience and cost and whatever. I had to give up a meeting to the NASA administrator in Orlando but we're here. We are complaining a little bit in the fact we don't feel like our voices and researched facts we have presented and are not being heard. It appears that some have read through the materials but what we intend to do here is present it here and a few more of them but we do feel that it needs to lend a voice in all of this.

We have been very transparent with the facts and figures. We've given over a lot of material and it appears that some of you – we hope you've all read it. I believe we have not gotten anything – no respect back from the corporate owners that are listed and nor the County. We did not get the answers that were asked for and identified in the first hearing. We documented those in our concerns it's the Exhibit E. If you want I can reference your pages if you all want, I think it's A-112. We listed 23 issues and we keep hearing that they've all been answered. They have not been.

The hearing minutes, it was told at the end of the hearing the last one, on page A-60, that we would be getting all the information. We heard that from the agent. We heard that from the County. We have not gotten all of that. So it's very frustrating to us. With all due respect to John he's been a great guy to work with and all, but on page 89 of the staffing report, it's not accurate as they capture what the Hearing Officer agreed. On page A-80 of your paper work, let me read exactly what the Hearing Officer wrote. And,

I quote, “the Hearing Officer recommends that the Planning Commission direct the County staff to prepare a supplemental staff report addressing the issues --” Not just some of them but the issues – “raised by the public testimony and that were not addressed by the staff at the hearing for which supplemental evidence is reasonably required.” So the point of that would be that we thought following this we are not all County experts I we thought that coming out of the first hearing that we would be getting a staff report that did discuss all of our issues and went through the trouble of documenting that.

We’re proud residents of Santa Fe County and unlike the county land developer, we feel that this is our duty to help the County Land Development office and this Planning Commission get the facts on the table. They are not on the table as of today. There are far more than four variances to the CGMP, SLDC and issues that are not being considered especially of about SLDC 7-17.10 which you probably all know is above the 7,400 foot altitude.

Legal boundaries, we’ve researched and provided the data. There was an action on page 2 of John’s, with all due respect to John’s staff report, he says that answer is Exhibit 12. There is proof in Exhibit 12. There’s nothing in Exhibit 12 that discusses that. What bothers us is that – I’ve got a background in mechanical engineering and nuclear physics and I understand cadastral coordinates. These were sworn to in a New Mexico Supreme Court case by the developer. We plotted them twice over using GPS data, cadastral data, and every imaginable formula that is respected in the world and that shows it never touched that property and it definitely doesn’t touch it at top. So we’ve provided the details in Exhibit I which is on your page A-122. We don’t understand how the County can point to something that doesn’t exist and then say that road does touch that property. So we just ask for that – we would like to see that analysis.

It was nice to hear the applicant finally admitting something about the 5 foot walls. I’m sure you’re aware of SLDC 7.17.10.7.8 which is the 5-foot wall limit and 6-foot setback. When we research or googled maps and the pictures that were shown, the topos that were provided, what they’re not showing is the 5 foot wall to meet up with the extent of the upslope is going to require a number of 6-foot setbacks. So if you have three – well you’re actually probably going to need four 5 foot walls and that’s about 24- to 25-foot setback, well aren’t those trees that are going to be part of that setback, they should be counted. And so I’ve done the analysis and calculations, that’s about a 12,000 square foot impact when you take into account what you have to do to overcome the hillside on the north side and the topo shows that and the pictures that were presented in what we’ve been able to find don’t show that hillside being as dramatic as it but the topo is clear – the Google is clear, so I don’t think they’re taking into account the fact that they’ve got to hold back 21 feet. So the bottom line is that the northern side of that driveway, that dirt today is 21 foot higher than the proposed driveway. So how does one get away with not having to do 5 foot walls 6 foot back enough – that’s taking out trees. So bottom line, [inaudible] far more than 7,103 square feet. I calculated more to be on the downhill side than the uphill side, it’s more like 12,000 square feet and I could be off by a couple inches but it is far more than what is being depicted.

The other thing that is disturbing is on page A-85 and A-128, they show trees that are mature and existing sitting right up against the wall. They’re not showing the setback. Those trees, their roots are going to be chopped. They are like 8 feet off that wall. You chop a mature tree’s 8-foot root back, those are going to die. We believe that the 10 count is ridiculous.

There's also two major ravines that are not being depicted in any of these things and anybody who comes up here you can see them. One is slightly to the north of the property and one is right down below which is probably right underneath the development. Those runoffs and those culverts do exist now and they're mature and that kinetic energy coming off of those is going to have an excessive amount of erosion getting around the 7,000 square foot or the 12,000 square foot. So we're quite concerned about that. [Technical – audio problems]

CHAIR GONZALES: Mr. Terhune, are you still with us? [repeated four times] Is there anybody else who would like to speak regarding this project?

MR. TERHUNE: Can you hear us? I'm so sorry.

CHAIR GONZALES: Please proceed.

MR. TERHUNE: I believe we were – there's a lot of echo and I don't believe it is our end; can you hear us okay?

CHAIR GONZALES: Yes, please proceed.

MR. TERHUNE: Okay, if you can hear me, that's fine. So the other thing that is really bothersome is the concern of public safety. We have no idea how the County emergency agency is going to approve this variance. That road is so narrow below and above this location, how are they going to guarantee that we can get a fire engine or the police up or down or ambulances while they are digging the initial part of the driveway or when the truck is arriving with lumber [inaudible]. County can agree that we're going to come up with some way that we have to call the construction group ahead of time so this doesn't appear to be very safe from a county perspective [inaudible] this kind of construction on this narrow of a road. We don't believe that the fire department nor the police have actually weighed in on this.

There has been a complete lack of community involvement. There's three points to make. Up to the first hearing the applicant worked very closely with County staff not our community. They are not abiding by the SGMP 14.2.11, SLDC 4.4.4, and SLDC 4.4.8 and the applicant has provided little in writing or any accurate details including in this meeting in our opinion. I feel like we've been lied to. SLDC 4.4.4 states that, a pre-application neighborhood meeting shall be conducted to qualifying instances enable 4.1 as needed. If there was ever a case where community involvement should have been, could have been and still needs to be it is this case. How was the public able to prepare and get informed without any advance answers to any of our questions, and, again, we've had a meeting. Let me just go through those if I've got a little bit more time. What concerns us as well is that there's far more – first off, there is no legal access to the upper property. There wasn't even that in the litigation. So that has always been wrongly stated. The Supreme Court proved that after the lawsuit and we do believe strongly that that lower access misses that property legally by 4 feet and by some current and active surveys that have been done by [inaudible] owners and the neighboring properties – that property does not touch that road. So there's a big issue between how can three properties be accurate and one be wrong and then suddenly is the one that is right.

Based on the provided details that are not included there are least 24 or 25 more SLDC, SGMP code violations. And so the lack of involvement, the walls, removal of the tree count is completely erroneous, that means the size of the area, the driveway standard isn't even met so I don't know how we can agree to even be talking about simply four issues. Archaeological concerns, we are a mile and-a-half away from a pueblo and 13 miles away from the Civil War and supposedly we don't have to follow SGMP 5311,

SLDC 760 1 and 5. There was never a visual impact white story pole. So a lot of things have not been met based on all the word of the 770 pages.

So it's very misleading to see undue hardship on the owner which is what I think I heard although it was cutting up quite a bit because of all the open mics. But, I mean, currently the County records show it to be a very old owner so I'm not sure how one could say that the County records are right when it comes to property but it's wrong when it comes to the document as to who owns the property.

The 10 significant trees is being treated as kind of blasé. The requirement is zero trees at 30 percent. How can 10 be considered acceptable on a 40 percent? And as we said the setback, and I believe the setback you're talking it's more like 30 to 40 trees. So you can draw that all you want but we had a drone footage, what was painted on the ground is not what is shown on the topo. So whoever drew the lines and figured out there's 10 trees – the topo doesn't even show that. We're not sure how we're protecting the land is based on these issues. The litigation continues to be misrepresented. That land that misses that property by 60 feet and we already talked about the 12,000 square feet.

We're not idiots so please there are five quotes that are kind of BS and four variances is really hard for us to swallow. And as I said, [inaudible] and what we would like to do is to slow this process down, get involved with it to see if we've got all the variances covered and we would like to see at a minimum all of Officer Virtue report followed. Though we have provided the details – the two major issues are the road access and the 5 foot walls. So if I can take the cadastral definitions [inaudible] 284 standards, and I've plotted it twice over, that road does not touch that land and we have no idea how the County can point to something that doesn't answer the question. We would like to see some surveys done and we would like to see [inaudible] we're the paying family/community. A few more pages but we had a breakup there, I apologize for that. If you have any questions we can answer we'd be very happy to. We do have two more speakers that would like to speak I believe and then however you want to handle it.

CHAIR GONZALES: Okay, thank you, Mr. Terhune. Yes, our next speaker please.

[Duly sworn, Susan Kennedy Zeller, testified as follows]

SUSAN KENNEDY ZELLER: I will be shorter however, the private Coyote Mountain roadway which is signed "no trespassing" runs up the mountain to the top. My property, number 71, starts at the security along the roadway edge, around the curve next to the proposed construction property at 66 Coyote Mountain Road. My property then continues further up the roadway to the next large curve. [Audio interruption] – the road is totally 100 percent owned by myself, owner of number 71. I do give right-of-way to the all the Coyote Mountain residents for that portion of the roadway for their own passage, for visitors to their homes, for proper service vehicles, like propane deliveries and other firms to repairs their homes. However, the operative word is roadway not parking lot. Therefore, no construction materials can ever be stored along the roadway. No construction vehicles, private or company owned, may be parked along it. No storage sheds or platforms of any type may be constructed using the side of the roadway either the eastern land side nor hanging over the mountain side. The operative word for my roadway is roadway. That means movement not parking at any time.

We also have native trees. I understand that the County requested boundary staging done by the applicant's agent. Where I was not requested access to my property

they indicated various trees that will be eliminated. The tree count was higher than expressed in the variance request. Frankly, I am also a horticulturalist and run a horticultural library; pinon can be removed successfully and replanted. But it's not a horticultural success story. They can be transplanted but the owner has to take vigilant care from proper irrigation at the time of transplant. They grow quite slowly with crowns as wide as the trees tall. So a 6 or 7 feet of growth can take 60 years or more. You know it is the state tree of New Mexico. The tree that appears stubby on the landscape is actually quite mature. Therefore, the removal of any of these trees endangers the retention of the soils/hillside and of course the pinon pines are food for all the wildlife in the area.

I have brought up before the issue of NAGPRA before, Native American Graves Protection Reparation Act, you answer that question from the first presentation that we had and that because it's private land it does not apply to NAGPRA, I understand that. But, frankly, it is said that any human remains be found, and you have approved that they can build there, I am then making that rash assumption that Santa Fe has a legal process that handles human remains found on a construction site.

Residential water, in the plans that we were given of perhaps the proposed house, they don't mention where it plans to get water. It is certainly not going to be getting its water for the house from our community well because our community well is spoken for.

Stormwater runoff: What contingency plans have been made during and after construction if you end up approving this construction, to control the stormwater runoff along the roadway culverts of Coyote Mountain Road? There has been no mention of this in the planning and construction phase. There's been no mention of a continued commitment to control water runoff from the developer or any subsequent owner.

The next two issues intertwine with each other. There is a security gate across the road and it across the road for a very good reason because love to climb the mountain as if it's the bear that went over the mountain to see what they can see. We have put in a security gate and roadway – what plans have been made to maintain our security gate, if you determine that this construction can be done? If the gate breaks who is going to repair. Who is going to repair our fragile dirt roadway on both sides of the road? The upside and the downside. The present owner does have a code to go in and out since we gave him that as a kindness. So far, he has never contributed to maintain the security gate or any of the roadway through the gate and up around by the property that he owns. Which brings me to the last point, general security. If you approve construction, I have extreme concerns about the construction itself. It is totally common knowledge that construction sites are rife with theft and mismanagement. How is security going to handled? There's no mention of security provided for those of us who are living along the road. Already the County sent agents to review the proposed building and frankly, they walked over my property without asking my permission. Now that's good? I don't think so. This does not seem proper nor does it give me assurances that any property development, if you approve it, will secure the safety of the homes and our persons. My home security firm as it happens was checking on my house when you were running around checking on the tree count and he called me very alarmed as to what was happening because people were walking all over the property. As it happened, Mr. Lovato called me after that to tell me what was going on. I had requested to know in advance. Mr. Lovato has normally been very good communicating with us so I can only assume that the people that decided to count jumped the gun and went there in advance.

I thank you for consideration of these serious issues involving any potential for improvements for construction on this parcel. Look, I understand the developer owns the land that they bought to construct something. I firmly believe that the rights of the existing taxpaying community, both personal and property, who are living in Santa Fe County should actually be the first priority of Santa Fe County. Thank you, any questions for me.

CHAIR GONZALES: Thank you. Thank you very much. Let's move to the next speaker and we'll swear you in.

ELIZABETH TERHUNE: Hello my name is Elizabeth and I just had one more point and I would like to give my time to Jim Terhune to present for me. Thank you.

JIM TERHUNE: I just have one more thing that was pointed out to me may I proceed?

CHAIR GONZALES: Yes.

MR. TERHUNE: The one thing I would like to – it's our Exhibit I and on page A-122. How can the County think that the lines that we've represented come right off of their page and it does show erroneously that it crosses over the curve of that lower access. I believe somewhere the County is trying to point to something that has a similar depiction of the lines of the 21 acres. But I clearly in Exhibit I took exactly the website page from the County website and I drew in the lines and I pointed out that there is five major areas in error and the website itself says for reference only, not considered survey data. We respect that so I'm not sure why we're using that as the depiction of legal boundary. But if you get a chance to look at that as was very well pointed out that there's errors – there's five major errors on that page that show the County lines are completely afoul and especially for the 21 acres that we're speaking of. If you get a chance to look at Exhibit I on page 122, it brings to question any line that the County is showing, and, again, if we could get some surveys.

The other thing that was brought to my attention was our Exhibit L. One quick – with one minute I can make this point, if you look at it the properties, the three or four properties around the 22 acres, they all fit nicely from the top northern boundary of the territory down – the first property is in black and it's 5 acres and then there's a blue area and that fits nicely. Those two line up with a gold boundary which is Susan's as she just spoke and that hits perfectly with her dimensions and the first two – so those three properties fit perfectly in surveyed dimensions including an inflexion point in Susan Zeller's gold property line. What's amiss and before I say that, the boundary from Susan's southern property line is currently 12 feet to the south of what the 22 acres thinks their line is but if you look at the whisker that's been recently planted by the owner, the corporate owners, the whisker of that property line is another 8 feet further back from that.

And then the last point, is you take the east-west dimensions that 22 acre property intrudes on the property that is drawn in blue by 8 feet. Now if you take away the 22 acre lines and put them back to where they belong with the whisker and the dimensions that are more accurately depicted by cadastral dimensions, all four properties fit but the one property that does not fit this puzzle is the 21 acres and I think it is drawn very clearly in Exhibit L. I'd appreciate it if you all would look at that and it also shows the depiction of the 21-foot high wall that could be compared to the topo. That's all I had.

CHAIR GONZALES: Thank you, Mr. Terhune. Any other speakers?

MEMBER KATZ: Mr. Chair, may I ask some questions of the speaker?

CHAIR GONZALES: Yes, does the Commission have any questions of the applicant?

MEMBER KATZ: This is Frank and Mr. Terhune you obviously are a whole lot smarter than I am. You used words I've never even heard before and I certainly am no licensed surveyor. I don't believe you are either. Do we have any surveys done by licensed surveyors done on this to kind of clarify this issue for us?

MR. TERHUNE: Yes, thank you for asking that Frank and you may call me JT. Susan's property that is shown in that page 126 of your alls material is a very recent survey done. That already shows that it is her southern boundary is south of what the 21 acre thinks its northern boundary is.

The second point of that is the whisker that has been planted and we contacted the Dawson, the group that planted it, said that that is the northern – and that's a very recent survey, Frank – and that shows it to be 16 feet back from the road. So the whisker has been recent and Susan is depicted in gold and her lands are recent and what's not recent is the 21 acres. I hope that answered your question.

MEMBER KATZ: Thank you. That does help.

MR. LOVATO: Mr. Katz, this is John Lovato. Mr. Chair and Commission member Katz, if I may intervene there. If you look at Exhibit 13, I had it wrong in the actual memo, proof of legal lot goes off Exhibit 13, this is what County staff has reviewed and we have a letter from our Land Use Administrator, as a legal lot of record. It shows under 1405 top corner, shows the access crossing over the property boundary of this property of the application and that's what County staff went off of. So I just wanted to clarify.

MEMBER KATZ: What are you looking at and where would I find it?

MR. LOVATO: That is Exhibit 13 and that is A-81, page A-81.

MR. TERHUNE: Are we allowed to discuss this and answer the question?

CHAIR GONZALES: Okay, Frank, do you have a question?

MEMBER KATZ: No, no, I'm good, thanks.

CHAIR GONZALES: I would like to mention also is that usually if you see a whisker up there, they usually don't use whiskers on property corners. If a surveyors is going to stake out some property corners, there should be some property corners, actual property corners are not whiskers. Whiskers are more for a temporary staking. Okay, any other questions from the Commissioner?

MEMBER KATZ: Can I ask another one?

CHAIR GONZALES: Sure.

MEMBER KATZ: On page A-81 shows the survey that shows the road on the survey; why isn't that determinative?

MR. TERHUNE: Who are you asking about that, Frank?

MEMBER KATZ: You, JT.

MR. TERHUNE: So if you were to take that dimension, they can draw out with a crayola – they can draw it out with whatever but if you take those dimensions that are on that sheet, and those are the cadastral dimensions, that you put into the Vicenty's Formula that drawing is wrong. If you take those lines that represents and you go look at our page 126, you will see that the center line of the road and that boundary line never touch. So they can draw it however they want it and that's about a 1979 vintage – it's not accurate.

MEMBER KATZ: Wouldn't the way of disputing that be to have a surveyor plat that property and show that the road doesn't come near?

MR. TERHUNE: That is what we've asked for, sir.

MEMBER KATZ: We have one that shows it and you're trying to dispute it. So it seems to me that that particular burden on that is on your rather than your using these and redrawing it. You're not a surveyor. You're not qualified to give us the factual information that we need. And I would just think that we would need to have that.

My other point is, what is the width of the easement?

MR. TERHUNE: Forty feet.

MEMBER KATZ: What is the width of the road?

MR. TERHUNE: What's draw is a centerline and there's a 40-foot easement on page 126. This is the easement –

MEMBER KATZ: How wide is the road?

MR. TERHUNE: It's about another foot or so beyond the edge of the easement. It's very narrow.

MEMBER KATZ: So you're saying that the road touches just a tiny bit of the property?

MR. TERHUNE: Not at all. It misses it by 4 feet.

MEMBER KATZ: The road misses it by 4 feet?

MR. TERHUNE: The edge of the easement, the 20 foot over from the centerline, that easement misses it by 4 feet. And to answer your other question, the most recent survey of Susan's is the most recent and it shows it south of that line. So there is a recent survey. So we have proof of where we believe the survey line is. And we did ask of the whisker that was planted there so it would be [inaudible] and it's not a corner. Somebody said it was a corner mark and it's not a corner mark. They said it was the center of the start of the driveway.

CHAIR GONZALES: I have a question for Mr. Terhuan. Mr. Terhuan, usually when a surveyor does a survey and they're not jibing with the surveyor next door they contact the other surveyor and they see what they can do to make things resolve. Has that happened? Has the surveyor for Susan contacted Dawson Surveyors to try and work this out and see where the discrepancy is?

MR. TERHUNE: No. And it's not Dawson necessarily –

CHAIR GONZALES: Well, the legal lot of record according to a 1971 plat over here and that's the actual legal lot of record. There wasn't a code before 1981 at the County. So that is what the County accepts as a legal lot of record. I would say that usually when there's conflicts between surveyors one contacts the other and they try and figure out where the discrepancy is at.

MR. TERHUNE: No, we didn't do that.

MEMBER KRENZ: Mr. Chair, I have a question for Mr. Terhuan. I'm looking at this Exhibit A-26. We got this yellow line; is that supposedly the center line of the easement? Mr. Terhuan, you drew this, you should be able to tell me.

CHAIR GONZALES: What's the question again?

MEMBER KRENZ: The question is looking at A-126 there's the yellow line that shows the center of the easement; is that correct?

CHAIR GONZALES: Can anybody answer that?

MR. LOVATO: Mr. Chair, Commissioner Krenz, I don't think that's the centerline. I think the way the assessor's marks that, they usually hatch a road out and

it's not always accurate with the roadway but they put a name on it and I think that's what you're looking at, if that helps any.

MR. TERHUNE: That's not true. I was trying to answer but I was muted – am I being heard?

MEMBER KATZ: Yes.

MR. TERHUNE: Thank you for bringing up page 126. The yellow solid line is the legal dimensions of the centerline of the road. The easement is 20 to the sides of that, drawn as shown and that's what is in the official, legal definition of the road and it's what is on that other page if one follows the cadastral dimensions and you end up with that location.

What's important about that is that – is the white line is also in the same vain as the legal dimension of the edge of the 21 acres and this is it by four five one feet legally.

MEMBER KRENZ: Just hold on for a second. The yellow line is the center of the easement and we can see the road. So essentially the road is not anywhere near where the easement is in this portion.

MR. TERHUNE: Correct, nor is the white line.

CHAIR GONZALES: I would say that's probably the reason the County has a disclaimer statement on there for that reason because you can't really pick up boundaries by these aerials that the County has provided for us.

MEMBER KRENZ: It's a legal road where it is. They can't measure off the existing road and somehow think that you have the legal portion where it needs to be.

MR. TERHUNE: But you have the orange line or the gold line which is the survey of Susan's property which matches down below, so how is it the white line is to the north of Susan's boundary. And I do believe that Dawson said the whisker was on the property line not a corner point. We can only provide the facts we see.

MEMBER KRENZ: And who put this whisker there?

MR. TERHUNE: The surveyor. We believe it was brought on about three or four years ago by the owner of the property, the 21-acre property.

MEMBER KRENZ: So essentially you're saying that the whisker does not touch the roadway and according to the plat, the easement does not touch the roadway and it does not touch the property in question.

MR. TERHUNE: Correct. Correct.

MEMBER KRENZ: Thank you, Mr. Chairman.

CHAIR GONZALES: Does anyone else want to speak from the public? Okay, I'm going to close the public hearing. Does the Commission have any more questions or discussion?

MEMBER KATZ: Yes. I am concerned about the confusion about the proper survey. Is it possible for us to require the owner to give us a more recent survey?

MR. DALTON: Mr. Chair, this is Wayne.

MR. LOVATO: Mr. Chair.

CHAIR GONZALES: Go ahead, John.

MR. LOVATO: Okay, Mr. Chair and Commissioner Katz, I think this should be a question and I don't know too much about it, but I think it should be maybe that legal will have to chime in on this. Typically we don't get involved in easements as you know. So I don't know if it is something that we can require them to do but perhaps you guys can.

MEMBER KATZ: It's the survey I want not the easement. Although, the survey would show I'm sure an easement. Is there someone from the County Attorney's Office there?

ROGER PRUCINO (Assistant County Attorney): Yes, Commissioner Katz, this is Roger Prucino, Assistant County Attorney. I am not aware of any authority for the County to insist that the applicant prepare a new or another survey as you've already brought to our attention there is a survey, a recorded survey done by a professional surveyor that reflects adequate access and the applicant is relying on that and I'm not aware of any basis for not permitting that reliance and requiring another survey.

MEMBER KATZ: Are you not at all concerned about the points that Mr. Terhuan has raised?

MR. PRUCINO: I wish there was consistency in the points that are being raised but without a different survey that specifically reflects the discrepancy and without testimony from a surveyor about that discrepancy –

MEMBER KATZ: But isn't that something that we want? Isn't that something that we can ask the applicant to satisfy us on? They don't have to do a whole fancy survey of the whole property, all 20 acres and go over the mountain and down the other side, they really know where they need to focus.

CHAIR GONZALES: I think it's a good idea. The property owner could at least survey a portion of his property and do the portion along the side of the road that way he can pick up the edge of the road, the centerline of the road and you can see exactly where the road is on this picture.

MEMBER KATZ: I understand that we have the old survey and I'm too ignorant to appreciate what Mr. Terhune has pointed out about all his points and moving everything around and all of that but it does at least in my mind raise the question that I think needs to be answered. Can we ask the applicant whether they are willing to do that?

CHAIR GONZALES: Wayne, Victoria, are you still with us?

MR. DALTON: Mr. Chair, yes, this is Wayne. If that's the decision of the Planning Commission then it will have to be okay with our applicant, our client. We're strictly going off the information that everyone has been discussing, Exhibit 13, which is a legal document recorded with the County in 1983 and signed by the surveyor in 1979. So that's where all of our measurements are coming from and that is a legal document.

If it is the decision of the Planning Commission for us to do the survey then that's what we need to do.

MEMBER KATZ: I guess it's my suggestion that it would be a really good idea. I mean even if the Planning Commission go with your applicant and grant all of these variances we are not the Supreme Court, sad to say, and this will go further and let's not waste everybody's time and let's try and get the right answer to this now. There are other issues and I understand that. That may affect it but I think this is the most serious issue. Plus this property owner has already been burned by litigation over the easement. One would think that he would want to make sure.

CHAIR GONZALES: Based on those statements, what is the pleasure of the Commission?

MEMBER KATZ: I would move that we postpone for a licensed surveyor to give us the proper portion of this property – the north portion near where the road

comes where it either goes onto the property or it doesn't go onto the property; that's the question.

CHAIR GONZALES: I would second that and I would just add on to that that whoever does the survey that they show all the information that we need like edge of road, start line of road. We need to know those areas so we can do a review on this.

MEMBER LOPEZ: I believe that's the most logical thing to do, is to get another survey.

CHAIR GONZALES: Frank, did you make a motion there?

MEMBER KATZ: I did.

CHAIR GONZALES: And I seconded it.

MEMBER LOPEZ: And I'll second that motion, Frank.

The motion passed by unanimous voice vote.

MR. DALTON: Thank you, Mr. Chair.

CHAIR GONZALES: All right.

- B. Case # 20-5000: Jack and Mark Ellvinger, Applicants, Patrick Collingwood, Agent, request a variance of Chapter 7, Section 7.3.3, Table 7-A, to allow a residence to be 18' within the 25' setback, a variance of Chapter 7, Section 7.17.9.2.6, to allow the finish floor elevation to exceed 5' and allow the residence finished floor to be 8'-11" from natural grade; a variance of Chapter 7, Section 7.17.9.2.7, (Significant Tree Removal), to allow the removal of two (2) significant trees; a variance of Chapter 7, Section, 7.17.9.2.3, (30% Slope Disturbance), to allow a residence to disturb 442 square feet of 30% slope disturbance); a variance of Chapter 7, Section, 7.17.9.3.2, to allow a residence to exceed 18' in height and allow the residence to be 24'-6" in height; a variance of Chapter 7, Section, 7.17.9.2, (standards), to allow a structure to be constructed on a ridgetop; and a variance of Chapter 7, Section 7.17.9.2.2, (Ridgetop Setback), to allow the residence to be constructed on the shoulder. The property is within the Residential Fringe Zoning District RES-F and located at 53 Camino Pacifico, within, Section 30, Township 16 North, Range 10 East, (Commission District 4). SDA-2. The property is within the Residential Fringe Zoning District and located at 53 Camino Pacifico, within, Section 30, Township 16 North, Range 10 East, Commission District 4)**

[Chair Gonzales repeated the rules for the public hearing. See pages 2 and 3.]

Mr. Larrañaga advised that those wishing to testify on case #20-5000 to either unmute their phone or tap the chat feature on Webex and identify themselves. John Boldt was the only one.

MR. LOVATO: Thank you, Mr. Chair, I just want to acknowledge that two more documents were uploaded. One is concerns from Mark Walls and another one is Paul Pease concerns and Chantal Pease.

Jack and Mark Ellvinger, Applicants, Patrick Collingwood, Agent, request a variance of Chapter 7, Section 7.3.3, Table 7-A, to allow a residence to be 18 feet within the 25-foot setback, a variance of Chapter 7, Section 7.17.9.2.6, to allow the finish floor elevation to exceed 5 feet and allow the residence finished floor to be 8 foot 11 from natural grade; a variance of Chapter 7, Section 7.17.9.2.7, Significant Tree Removal, to allow the removal of two significant trees; a variance of Chapter 7, Section, 7.17.9.2.3, 30 percent Slope Disturbance), to allow a residence to disturb 442 square feet of 30 percent slope disturbance. A variance of Chapter 7, Section 7.17.9.3.2, to allow a residence to exceed 18 feet in height and allow the residence to be 24-6 in height; a variance of Chapter 7, Section, 7.17.9.2, standards, to allow a structure to be constructed on a ridgetop; and a variance of Chapter 7, Section 7.17.9.2.2, Ridgetop Setback, to allow the residence to be constructed on the shoulder.

The property is within the Residential Fringe Zoning District and located at 53 Camino Pacifico, within, Section 30, Township 16 North, Range 10 East, Commission District 4, SDA-2. The property is within the Residential Fringe Zoning District and located at 53 Camino Pacifico.

Summary, at the time that this application was submitted, Jack and Mark Ellvinger were the owners of the property as indicated by deed of personal representative recorded in the records of the Santa Fe County Clerk on May 14, 2015, recorded as instrument 1764440. The lot was created in 1966 as lot #2, Unit 2 within the Sunlit Hills of Santa Fe Subdivision. Since the time of Application the lot has been acquired by Sarah Stark and Patrick Collingwood as indicated by deed recorded on April 14, 2020 as instrument # 193960. Ms. Stark and Mr. Collingwood would like to proceed with the application for the variances.

The site is accessed through Camino Pacifico which is a County-maintained road. The access is located on a ridgetop elevation on Camino Pacifico road where the property has a legal access point. In order to access buildable area on a lower elevation of the property, the access driveway would be a north facing slope, disturb 30 percent slope, a considerable amount of significant trees, and would have a driveway slope of 15 percent or greater. Therefore, the Applicant decided to locate the house closer to Camino Pacifico to avoid scarring the hillside with a driveway and is requesting the proposed variances.

The Applicants request to construct a 1,634 square foot house on the shoulder of a ridge. The house will be 24 feet 6 inches in height. This is illustrated on the elevations of the plan set, Exhibit 2. The maximum height limit for structures on ridgetops, ridgelines, or shoulders is 14 feet for a flat roof or 18 for a pitched roof. The Applicants are proposing a pitched roof, and the Applicants intend on exceeding these height requirements on the north elevation.

The house will be constructed on piers so less disturbance of 30 percent occurs, and the house will remain on one level. In addition, the proposed house will be constructed closer to the southwest property boundary to avoid as much 30 percent slope as possible and allow the house to be closer to the property boundary not meeting the 25-foot required setback. Allowing the house to reduce the required setback also lessens the amount of significant trees to be disturbed and reduces the amount of cut or fill to the proposed site.

The Applicants request authorization to construct a residence on the shoulder of a ridgetop, disturb 387 square feet of 30 percent slope for the residence and 55 square feet of 30 percent slope disturbance for a septic system, allow a for a 7-foot setback instead of the 25-foot side setback requirement, allow the house a height of 24-6 on the downhill

portion of the hillside to allow the home to be on one level. The residences finish floor will be 8 foot 11 above natural grade to maintain a single level floor and remove two significant trees within the building footprint. Constructing the house on piers causes the residence to exceed height requirements and increases finished floor elevations from natural grade but also lessens the amount of 30 percent slope disturbance.

The Agent states, "If we were to be pushed further down the slope, not only would a larger area be disturbed, but this area would remain visible from the 'local' road being Sunlit Drive. With the house pushed down the hill from the ridge crest, a longer driveway would be needed, and more grading surrounding the driveway and house would be created. Therefore, the disturbed area would be greater, and the visibility of the development would increase from this location. In addition, 100 percent of the building would sit on 30 percent slopes, there would be no space for a septic system, more significant trees would be removed, and the building would attain a greater height." The Agent further states, "The applicant requires a house on one level, for ageing in place and looking after already elderly parents. Having this flexibility will be essential to her longevity, allowing her to avoid moving to an assisted living community and protecting her from potential viruses which spread in shared living facilities, such as Covid-19."

At the July 9, 2020, Hearing Officer meeting, the Hearing Officer recommended that the Application, exhibits, and testimony establish that the Application meets the requirements of the SLDC for approval of the variances recommended and that the Application be approved subject to the conditions recommended by County staff.

At the July 9, 2020, the Santa Fe County Sustainable Land Development Code Hearing Officer meeting, several members of the public voiced concerns over the Application. The concerns the public had were that the driveway was too short and was not in line with surrounding properties. Several members wanted the Applicant to build on the lower location of the property. A few members spoke on visual impact of the proposed residence and concerns with setback from the property boundary and disturbance of significant trees.

The Applicants have addressed the variance criteria and staff determined that the Applicants meet the criteria as contained in this memo.

Hearing Officer Recommendation: The Hearing Officer has recommended that the Application, exhibits, and testimony establish that the Application meets the requirements of the SLDC for approval of the variances requested, and the Application should be approved subject to the conditions recommended by County staff.

Staff Recommendation: The Application is not in strict compliance with the SLDC, but this Application meets the criteria necessary for granting a variance. Due to the topography of the lot, the Applicants are unable to build a home on the lot without variances. The site offers limited buildable area due to the topography and the lack of access to buildable area. The Applicants have met the variance criteria where due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner. In order to construct any residence on this property, a variance request is necessary. This causes peculiar and exceptional practical difficulties or exceptional and undue hardship on the Applicants/Owners. Based on this proposal minimizing the amount of cuts and fills and disturbance of terrain and minimizing the visibility if the residence, the spirit of the SLDC is met. Therefore, staff recommends approval of the variances requested, subject to the following conditions, and Mr. Chair, may I enter those conditions into the record?

CHAIR GONZALES: Yes, you may.

Conditions:

1. The Applicants shall provide a plan showing the limits of disturbance and provide a construction fence along the limited area.
2. The Applicants shall submit a stabilization plan for all disturbed areas that includes re-seeding of native vegetation.
3. The Applicants shall submit a drainage plan for approval.
4. The Applicants shall submit a Geo-technical analysis for soil stability
5. The Applicants shall comply with Santa Fe County Fire Prevention requirements.

MR. LOVATO: Thank you, Mr. Chair. And I'll stand for any questions that you may have.

CHAIR GONZALES: Thank you, John. Does the Commission have any questions of John?

MEMBER KATZ: Yes, I do.

CHAIR GONZALES: Frank, go ahead.

MEMBER KATZ: John, to what extent did you explore what a road to the lower part of the property would look like?

MR. LOVATO: Mr. Chair, Commissioner Katz, with the site visit we determined that there would be a great amount of significant trees to be disturbed and in essence there would be a lot of 30 percent because the whole entire hillside is 30 percent slope with limited areas that are not. There is some rockout croppings that may be affected and some drainage ways that would be affected as well. Again, this access point is on the top of hill, what we'd call a ridgetop in definition, and so to access that lower area is what would happen and that's the way staff kind of did this.

We also looked at plans in the TAC meeting, several plan sets that Mr. Patrick Collingwood had submitted to us and it gave us various options and staff determined that the upper portion would probably be the less of the two in terms of disturbances and that's kind of how we determined this and that's kind how we reviewed this.

MEMBER KATZ: I appreciate that, thank you. I am looking at the Google Earth view of it and from that view – and I haven't been to the property and we should go to properties when we work on cases, we should all go together – it doesn't look to me that that many trees would have to be taken down to get down to below. The road would be visible as indeed Camino Pacifico is quite visible from these other roads but it's just a flat road and the house would be much less visible. So I'm not satisfied that we have explored the legal alternative that doesn't require a variance. I understand the compelling nature of granting a variance if the buildable site is worse and I think that's what you're telling us. But I'm uncertain about that, thank you.

CHAIR GONZALES: Thank you, Frank. John, I have a question. The topo that is being used for this project, that was generated for it, was it the topo that was from the County or was it actually done by an engineer or a surveyor?

MR. LOVATO: I believe it was a little bit of both. I think Mr. Collingwood pulled some of that topo off of our County website he also incorporated some of his stuff in there and just verified it. But I think he's probably the best person to ask that question.

PATRICK COLLINGWOOD: Let me just add, so it was pulled from the County contours and we did get a licensed surveyor, David Sierra Surveying, to do a

slope analysis. So, yeah, it was fully the County contours which informed our decisions for this lot.

MEMBER KATZ: Are those the contours that we are looking at on page 20 C-33?

MR. COLLINGWOOD: Right. These are the County contours and the shading –

CHAIR GONZALES: Hold on a minute, sir. We're still having Commission questions of staff.

MEMBER KATZ: So the shading on that is the 30 percent, 20 percent and less than 20 percent I assume and there seems to be substantial areas on the lower portion of the property that are large enough to build a house.

MR. LOVATO: Mr. Chair and Commissioner Frank Katz, that is correct and you're correct about the slope analysis as well. There is buildable area – there is a huge drainage in the middle of that and a significant amount of 30 percent slope but I think you're pretty accurate with what you're reviewing.

MEMBER KATZ: If you went close to the property line with the road you're going to really touch 30 percent in just one of two small places and you could have what looks like the largest area of a buildable site would be the one further up the hill before you have to cross that dreaded arroyo. Thank you.

CHAIR GONZALES: John, the question I would have is, are there any existing setbacks on the perimeter of the property that would restrict us from doing that as Frank was saying?

MR. LOVATO: Mr. Chair, there is. It's 7 foot and there's a utility easement down that side of that and that's what affected the actual access points and that's why the applicant would have to move the property boundary a little more to the lower portion of that – I guess it would be the east, northeast boundary. So that's where the disturbance would occur. The other ones are overhead easements right down the side of that property and there's a 7-foot easement on each side of the property boundary.

MEMBER KATZ: Does that forbid a road being built there? You couldn't have a structure there but –

MR. COLLINGWOOD: Yes, yes, it does. We looked into that.

CHAIR GONZALES: Sir, your time will come.

MEMBER KATZ: Is there an answer from the City [sic] on whether the road could go closer than the 7 feet? Does the setback affect a road, a driveway?

MR. LOVATO: Mr. Chair, Commissioner Katz, there is not – there's for structures, you're not allowed to place a structure within an easement. But as far as a roadway there's nothing in our code that actually forbids that.

MEMBER KATZ: Okay.

CHAIR GONZALES: There might be and I'm not sure but sometimes the subdivision itself will have their own setbacks. It would not affect our call because we go by the County code but sometimes these small subdivisions have their own setback requirements as well.

Okay, any other question of staff? This is for the Commission to staff. Okay, now it is time for the applicant to make their presentation.

[Duly sworn Patrick Collingwood testified as follows:]

PATRICK COLLINGWOOD: Patrick Collingwood, 1414 Avenida Rincon, Unit 201, Santa Fe, New Mexico, 87506. Okay, thank you for joining us today.

I know it's been a long session and this particular case will long as well and it's also very complex so thank you for focus on this.

Before I start I'd like to establish a few basic facts so this lot is non-conforming it was established before the SDLC was put into place. We are fighting an uphill battle in trying to fit house on the lot and still meet the code which we can't do. That's why we're here and why we're asking for the variances.

We've had a few suggestions from neighbors. One suggestion is that we push the house slightly downhill so we don't go all the way to the bottom but we go 20 feet below where it's being proposed right now and this is a suggestion of Chantel Pease and she'll probably describe to us later and help us with. So this is overall a good suggestion but the main issue is really, and I've been looking at the lot for a year now and I have to balance all of these practical concerns such as drainage and driveways and septic. And with this location you wouldn't be able to access the septic tank from the roadway and that's actually very important and so, you know, you would – essentially, the wastewater wouldn't have a gravity flow to the septic where it would then be distributed. In addition, there would be probably another eight significant trees that would need to be removed and the height variance would probably have to increase too. So although it does get us further away from the road it actually presents a number of other problems that are insurmountable.

In response to Mr. Katz's concerns of whether we can build at the bottom, he is right in saying that there are buildable areas down at the bottom which are fairly flat but the real issue is the access. So we're looking at a forested hillside of dozens and dozens of mature pinon and juniper trees which are 60 or 70 years old. There are rockout croppings and there is the 30 percent slope. So it's sort of hard to see from a visual or even from a map but the nature of the land is very unique and has a lot of sort of protected features to it. So it's – it really is impossible to take a driveway down there without disturbing these features. And in terms of the 30 percent slope we're looking at 8,000 square feet of 30 percent slope with a start being if we go all the way to the bottom. That's pretty significant. A driveway needs a cut and fill so it needs a cut of 2 to 1 and a fill of 3 to 1, so essentially what I'm saying is that it's not just the driveway itself but it's actually all the earthwork on the left and right of it which allow for that 14-foot wide driveway to be flat and then once you get to the bottom you're also looking at the Fire turnaround so it's a 70 foot in each direction Y. So essentially you kind of get in this situation of diminishing returns where although you are avoiding a problem up at the top you're opening up a whole kind of can of worms that are very hard to get around.

In summary and I have six minutes left, I'll sort of outline the seven variances that we're asking for. First of all, this is a small house; it's 1,650 square feet. Most of the houses that get proposed in the County and ask for variances are in the 3,000 square foot range. It's fully solar. It doesn't have a garage. It does have a carport. It will have a rainwater catchment system buried beneath it and so the idea is to build a small house that doesn't disturb the land a lot and doesn't cause erosion problems. That's really a big concern of ours, when you disturb that grade, even though you can reseed it and do all those sort of measures the grade is so steep that it's very hard to sort of hold that earth back, So our concern is really to build safely and responsibly. And in total this construction will only disturb 3,000 square foot. That's driveway, house, carport and around the house it's 3,000 square feet which is a quarter of the maximum. We have already got a licensed technical engineer to do a soils report and we'll get an engineer to do a drainage plan and to do a stabilization plan for the disturbed area and we will

comply with the fire prevention requirements. The County is recommending approval on condition of these things that we need and we're fully committed to meeting all of those contingencies. I'll just go through the variances very quickly.

Variances numbers 1 and 7 to do with the ridgeline setback because of the building area that has been selected we are within the 25-foot ridgeline setback and there are two variances to do with that. One is to do with the setback and one is to do with building within that ridgeline if there's another buildable location on the property which we have discussed. The case is against us again, so you know, it's again the only viable buildable area and in terms of disability, yes, it's on a ridgeline. But you can only see it from two local roads. You can't see it from any arterial or major roads. And in addition the view from the local road on Sunlit Drive West, which is across the valley, if you go there and you stand there and look back and see where that house would be, it doesn't break the horizon line. I've actually illustrated that on Exhibit A.

The second variance is tree removal and this is variance number 2. Now truth of the major character of this site is that it is a fully wooded ravine essentially. It's very unique. We're asking to remove two significant trees. Two, two period. Two significant trees on 30 percent which you know is a very light touch intervention. And in terms of building a driveway to the bottom we're estimating – I mean, dozens of trees really. It's very dense and if you avoid the trees like Commissioner Katz said and go close to the property line, right on that ridge I believe are three rockout croppings in succession. So it's either the trees or the rockout croppings. But either way, we're in a tight spot. And the other side of it is that the trees are essential for erosion control so we really don't want to be cutting them down. They hold back the soil and we are keeping two trees between the house and the roadside though it's partially screened from the roadside so that's where we found the trees.

There are two more variance which are to do with height; variance 3 and 6 are to do with height. One is to do with building height and the other is to do with finished roof height. Because the grade just drops down so, so, so steeply from the road it really is cascade impossible to get a single-level house and yet stay within the 18-foot max height for a structure on 15 to 30 percent and to have a finished roof level which is 5 feet from upgrade. You can see that in the sections that I provided. I think they're some of the attachments – A-43 and A-42.

The unique case about the height is that you only experience the height from A) the private property and B) when you're down in the ravine. So when you're standing on the roadside the house is actually pretty low. The highest point of the house is 8 foot 10. So it's sort of an unusual situation. [Bell rings] Oh, I think I'm out of time but I'm just going to tell you about the last two variances and Sarah will explain how we want the house on one level for ageing in place which is very important to her and we don't want any mechanically operated lifts or chair lifts, etc. Essentially we can't push the house further down because we want the ADA ramp from the driveway and so we're in this position where the very tip of it is over the height limit.

So the last two variances have to do with the side setback. Again, if you look at the topo maps, that's A-33, you can see it's sort of flat in the very corner but then as you go to the west it just starts dropping off so so steep. If we weren't in that side setback we would be requesting even greater height and initially we were requesting 18 feet within the 25-foot side setback allowing the minimum setback for the easements – we've actually reined back on that so we're now only 7 foot within the side setback. So we

managed to shift the house and drop it a bit. But, again, it was tight and it was tough and there were a lot of things to play.

And then the other side setback is – let me just check what the variance 7 was so I can explain it to you. The last variance was to do with constructing a house on a ridgeline. I think I've covered that and don't need to go back over that again.

I think I've sort of explained to you all of the sort of complex facets of this project and I'll pass it over to anyone that wants to ask questions and I'm happy to help with that. Thanks for listening. Bye.

CHAIR GONZALES: Does the Commission have any questions of Mr. Collingwood?

MEMBER KRENZ: Yes, I do.

CHAIR GONZALES: Steve, please go ahead.

MEMBER KRENZ: For Mr. Collingwood, I want to refer to page C-34. C as in Charlie, 34. I wanted to talk to you about why you picked the location that you did for the septic tank.

MR. COLLINGWOOD: Before continuing, Steve, I apologize. This is an old plan and we didn't manage to update it. We're not putting the septic down at the end any more. We're actually doing an advanced system that's right up next to the house. The septic tank is remaining and that's the rectangle by the road but the leach field is moving to be next to the septic tank. We're doing an advanced system which takes up a lot less space. In answer to your question, the septic tank needs to be there because there's actually a break in the trees there and there is access from the road which is kind of miraculous but there is. It's the perfect spot of the septic because it can both be accessed from the road for emptying it and for servicing it or replacing it or whatnot but it's also lower than the house and you get the gravity flow from the wastewater from the house into the septic. It's sort of unique to the puzzle.

MEMBER KRENZ: Where is this new system that you're talking about going to be placed and how much area does it take up?

MR. COLLINGWOOD: The new leach field, it's gone from – I don't know, I want to say 2,000 square feet which is what we're proposing here and that's not including the disturbance of the trench to around 300 square feet. We did our research and we consulted with septic experts and they pointed us to a system that is remarkably compact. It's high tech and it's expensive but it's compact. If you go right along the roadway it's just to the west of the septic tank.

MEMBER KRENZ: Thank you very much. That helps a lot. In other words, you are now no longer talking about digging a trench essentially where the road would have gone in the alternate building location.

MR. COLLINGWOOD: No, no, yeah, we're not doing that any more.

MEMBER KRENZ: Okay. It would be good if we had the actual plat that shows where all this stuff was.

MR. COLLINGWOOD: I apologize. It was difficult to add documents at the last minute. But I'm happy to share that with you and I can email that to you after this and we can discuss it some more if you'd like.

CHAIR GONZALES: Okay, Steve, anything else?

MEMBER KRENZ: No, thank you, Mr. Chairman.

CHAIR GONZALES: Thank you. Do any of the other Commissioners have any questions for Mr. Collingwood?

MEMBER J.J. GONZALES: Mr. Chair, J.J. speaking.

CHAIR GONZALES: J.J., go for it.

MEMBER J.J. GONZALES: Listen, I have a couple of questions either for staff or Mr. Collingwood. This concerns me about the seven variances that are requested. Some of these variances like the height, I'm concerned that the pitched roof or whatever type roof or the elevation of the house is going to 24 feet and in that area a pitch is suppose to be 18 feet and flat roof 14, pitched roof 18 feet. He's requesting on the plan that I saw was 26 feet 6 inches. That's quite a bit more than the 18 feet that are supposed to be in that area. I'm concerned about that.

The other variance is that they want to build a one-level house but the elevation from grading is 8 foot 11 and the code says 5 feet from grade to the floor. So those variances exceed the allowed limits by quite a bit. It's not just a minimal easing, you know, one or two feet. It's like 8 feet and 6 feet on those limits.

And also the setback. I read a letter from one of the neighbors that the building is going to be 7 feet from her property line or their property line and I was wondering if they had resolved that? Did the County, did staff approve the setback of 7 feet instead of the 25 feet? That kind of concerns me because 25 feet is what's required on the setback and they want to push it back within 7 feet of the property line and there's an adjoining property owner that says they don't want that. They sent in letters that I read. So answer those kinds of questions. I think it's too many variances. It's quite a number of variances for this project and it seems this property has a lot of encumbrances that may be very difficult to build the house that they want. They should modify the plans and make it conform more to what the SLDC says. Go ahead, Mr. Collingwood.

MR. LOVATO: Mr. Chair, if I may and then Mr. Collingwood can go after. This is John Lovato, Building Development Services. One of the height issues is because this is on piers. The reason it is on piers is to disturb less 30 percent slopes on this property which cause erosion control and whatnot. That's what County staff looked at. The height is part of an issue on that because it's on piers and it's suppose to be on one level and this is for, as the applicant stated, ageing parents. Staff looked at it as less disturbance because it is on piers. That takes part of those two: it takes the height into account there and adds height to this proposed structure and then it takes the finished floor and raises it above the ground because it is now on piers. The reasoning why is because we figured if they went down the hillside they're not going to catch a grade and we can't grant a variance to the fire codes that may be required to catch grade on this hillside. That was one of the questions that Mr. Katz had asked. That was a concern for staff.

In terms of the setback, we did not approve anything and that's why this is before you. The reason why we recommend approval, however, is the reasoning as the same as the structure being on piers and that is to disturb less 30 percent slope. These are things that staff looked into in site visits and in plan sets and the reasoning we moved forward this way. Mr. Collingwood can answer anything that he may want to add to that.

MR. COLLINGWOOD: Thank you, J.J., for your attention on this. You're right seven variances is a lot. The issue really is that when you start to remove variances, like the height, the building height, the setback – you actually wind up asking for a bunch of other variances, right? So if we were going to do a four-level house that follows the hillside and went down the hillside, yes, we would be avoiding the need to ask for height variances and site setback variance but on the other hand you would be exceeding the maximum height from lowest point to highest point which I believe is 1,000 feet. We'd be exceeding the 12,000 square feet disturbed. We'd be exceeding a

number of complex drainage considerations and there would be more significant trees to remove.

We worked very closely with the County on this and we did explore options. I drew up six different plans and it was a very complex problem and we looked at all the options and this one, although it does seem extreme, is the least worse option as it were. And as for the site setback, you're right, we did ask to be 7 feet to the neighbors but what we're now saying is that we can pull that back a bit and we can now be 18 feet from the neighbors which was complex but I think we can do it. That's not as bad as it sounds anymore. It's gone from being 7 feet from the neighbors to 18 feet from the neighbors and that's a 25-foot setback.

Thank you, and if anyone else has a question please ask.

MEMBER J.J. GONZALES: I have another question on that. Did you notify the neighbor that you were doing 18 feet instead of 7 feet; are they in agreement with that?

MR. COLLINGWOOD: We didn't notify them directly but we did talk about it in the last meeting. I'm happy to notify them if it will make them feel better about the project.

MEMBER J.J. GONZALES: Well, I would appreciate that if they would agree with that instead of the 7 feet. The other thing is the height. You have on the east elevation on C-44, you have 26 feet 6 inches height. That height is a very tall building and that has countywide impact. If they approve your variance at 26 feet 6 inches, then that means that somebody else in the County can go at least 26 feet. We've had that problem in the past.

MR. COLLINGWOOD: It's not quite as simple as that because it's a very complex problem and the County are very reluctant and they're very tough on these variances and they need really, really, really good reasons to grant these variances. So it's not like someone wants to build a 26-foot house and they say oh look at what happened on Pacifico, they did it so why can't we. There's a very rigorous process where you have to look at all the options and all the considerations. The other sort of drawback to such a proposal and I guess if somebody down the line if they had a site which was this complex, which is pretty unlikely because there aren't that many non-conforming lots left and not [inaudible] but, yes, if they had problems that were less extreme to resolve and if they were very good reasons for it, then yes, they might be granted 26 foot 6. But it is by no means an open door policy or some decision that will have runaway side effects for infinity.

MEMBER J.J. GONZALES: Thank you for that. One comment that I have to make is that. One comment I have to make is, staff does a wonderful job and they do their homework. They do everything but not on all of these variances have we ever come to an agreement with. Staff does their work and it seems that on this project, you could ask for 10 variances because of the difficulty of this lot and it would be granted. You know, there are seven variances here and that is extreme and some of these variances have countywide impact. But the staff does their job. They do their due diligence and we have to make tough decisions sometimes. But, thank you very much.

MR. COLLINGWOOD: Thank you.

CHAIR GONZALES: Thank you, J.J. Does anybody anyone from the Commission have any questions of the applicant? I have a couple. Mr. Collingwood, I was looking at your topo and the one problem I have with it – well, first of all, I want to thank you for going with this pier system. I haven't seen one of these done in awhile and

I know your desire to use such a system is because you're thinking about the environment and the land and you're trying to disturb as least as possible.

Being that said, I was looking at your contour plans and all your slope analysis on your topo maps and I didn't see any elevations at all, any labeled elevations at all. I had to figure it out for myself what the contours actually were.

MR. COLLINGWOOD: Oh, I apologize for that. Next time we'll be a lot clearer. I think we wanted to show the height in that section because that was more practically visible and the plan was more about showing the slopes, showing the shading of the slopes. But you're absolutely right it probably was, I imagine, a headache to count them up and figure out what we were talking about. But if you'd like I can send you a plan with the contours labeled and with the elevation tags so that could help you.

CHAIR GONZALES: Sure and also on that note on Exhibit C-36, I was looking at your slope analysis that you have there and I'm just getting confused a little bit. It looks like your legends, I don't if they changed or what, but on this C-36 the 30 percent slopes and greater are the dark blue; right?

MR. COLLINGWOOD: Yes, correct.

CHAIR GONZALES: Okay, because if you look on the sheet before I think it's showing that it's coming off something else.

MR. COLLINGWOOD: Yeah, they might have been scanned and the colors have changed. But essentially the lighter the shading the less slope and the darker the steeper. And you've got a gradient of white which is 15, then the middle which is 15 to 30 and then you've got the darkest which is 30 and above.

CHAIR GONZALES: I would advise you in the future to use different patterns or different color code system.

MR. COLLINGWOOD: Okay, yeah, I'll definitely take those back. It's a good suggestion.

CHAIR GONZALES: Why are you asking for 442 square feet of 30 percent disturbed for the house or 387?

MR. COLLINGWOOD: The former, what was it four – which page are you looking at, sorry?

CHAIR GONZALES: I think I took it off of two different places. The 334 calls out 387 and then I saw it in your report that calls out 442.

MR. COLLINGWOOD: It will be the 442 and the reason it's 442 is because we have to do the septic tank and the pump tank which is just up 30 percent. So that kind of upped our square footage.

CHAIR GONZALES: Also, I would advise you to label the footprint of the house. It's kind of hard to tell exactly where the house is when you overlay it on the slope analysis map. So please label the footprint of the house.

MR. COLLINGWOOD: Right, I can definitely do that and get that to you.

CHAIR GONZALES: Okay. I don't have any further questions and I will open the public hearing. Is there anyone that would like to speak in favor or against this project?

JOHN BOLDT: Yes, this is John Boldt. I have some serious reservations about a number of things but principally the front setback.

[Duly sworn, John Boldt of 71 Camino Pacifico, testified as follows]

MR. BOLDT: So, I should maybe begin by saying I probably have the house that has been most recently in the whole subdivision. I've been all the same things

that these folks are going through and I understand it in spades if you will. We also had to end up putting an advanced system in because that's the only thing we could get in too because a leach field wouldn't fit anywhere. We fussed with all the side setbacks and backsets and such. I am really concerned about the front setback here which it appears from messages that I've seen that go back to April is only 10 feet from the way they planned it but as I understand the code is 25 feet; is that correct?

MR. COLLINGWOOD: So, 25 feet is the side setback and 10 feet is the front setback.

MR. BOLDT: I think they're all 25 feet, front, side, back and front.

MR. COLLINGWOOD: I don't know whether you're talking about the Sunlit Hills HOA or about the County?

MR. BOLDT: The County.

MR. COLLINGWOOD: I can tell you the County is 10 foot at the front.

MR. BOLDT: I've got a document that says otherwise.

MR. COLLINGWOOD: Well, if we can share that maybe also we can look at that.

MR. BOLDT: The other issue is that this Camino Pacifico is and some of you, including Charlie Gonzales, probably already know is about to be paved so there are lots of stakes out there right now. And we know that where the stakes are relative to where the road center is currently are not exactly in the same place. I don't see anything on any of these plans that shows where the center line of the right-of-way is and I don't see where the edges of the right-of-way are given relative to where the side of the road exist now and where it's going to be. It doesn't show where any of the drainage is going to take place and those things are all going to change when this road is paved soon. As I understand it, the bids have been out and they've been sent back and they're in the process of picking the vendor that they're going to use for this and it's going to happen soon. So these numbers need to be concrete and they need to be documented and they need to be on these plans and I don't see any of that information on any of the plans that I have.

MR. COLLINGWOOD: So let me just – it's a complex issue and I'm glad you brought it up. The road right here –

CHAIR GONZALES: Hold on, Mr. Collingwood. Let him finish and then you can have a chance to answer.

MR. BOLDT: That's one issue. The other piece is trying to do in your documentation Mr. Collingwood, is to try and maintain the arroyo and beautiful views that we all have here and having a house this close to Camino Pacifico would be closer than any house on the street by a lot and I would not like driving by this every day, I have to say. It's just not going to be very pleasant compared to the things that are around on this street and the things that most of us have built. That's one issue.

The other is the septic system, I'm glad to hear you're going to do an advance system. I think they're fair better for the terrain that we have to deal with here.

One other suggestion that I would have is to consider looking at the bottom of that property to be able to build a house. There is a very large parcel that is owned by a party down there that already has an access driveway that comes right up to the bottom of this property. I suspect with a little negotiation you could get access to the bottom of this property for a minimum cost and minimum hassle and have a much easier place to build a nice house and not have to deal with all problems that we're talking about here.

MR. COLLINGWOOD: Thanks, John.

CHAIR GONZALES: Okay, is that all?

MR. BOLDT: I think I've done my 5 minutes, right. So I'll stop here. Documentation for drainage plans and such like you're talking about.

CHAIR GONZALES: Thank you, John. Is there anyone else in the public who wants to speak?

CARL VAN STEEN: Yes, Carl Van Steen.

[Duly sworn, Carl Van Steen, 31 Camino Pacifico, testified as follows:]

MR. VAN STEEN: One of my concerns is that there's many, many variances as was mentioned before by several people here. These are not very obstructing variances like a one foot into a setback, like a window well that gets no obstruction but these are really influential to houses along the roads like Mr. Boldt was just mentioning, it is going to be like 7 foot from what I see, that is going to be along the road like a strip mall in a nature environment so it's really going to impact the whole streetscape of the neighbors. Mr. Collingwood is mentioning that it is not very obstructive and almost no impact but from Sunlit Hills West but those people are like 2 miles away. They are not really impacted by the view and don't have their views obstructed by this property.

Also, they are mentioning that they are really concerned about nature for the building sites. There was already an emergency report because they had been putting fires, big tank fires, on the property in a quite dry season where there's no water on the property to extinguish fire. So they're reluctant to take care of nature and think about the neighbors around them.

MR. COLLINGWOOD: We've been clearing a lot of dead wood, Carl.

MR. VAN STEEN: Yes, but that doesn't mean you have to burn it on the property and put all of our people in jeopardy of getting a big wildfire here. Those fires have been [inaudible] several times and it's a high wind area and it really concerns us. We have wildlife stock here at home so if we have to evacuate our horses that would be a really, really bad situation. So it's not really – also below the property there's also horses. This is an equine/equestrian community so there are a lot of people who have lots of land and animals on their land.

Also, if the house would be dropped and it would still be on the pillars, even though the house might be a little higher it probably would not be as intrusive on the environment from the street coming up Pacifico and you probably would be looking down onto the road. That wouldn't be a very bad option like Mr. Collingwood mentioned. I think it would be less visible.

That's all I have for now.

CHAIR GONZALES: Thank you, Mr. Van Steen. Is there anyone else in the public that wants to speak in favor or against this?

[Duly sworn, Chantel Pease of 54 Camino Pacifico, testified as follows]

CHANTEL PEASE: I'm not going to repeat the suggestion and possibility of moving back the building 20 or 25 feet further. If you were to look at C-40 on the map or the drawing where you have the colored trees and everything. This is the best drawing that I see that has the house. You can see the lighter gray is really what the previous speaker has asked about and if one were to move that plan further down towards the white area, whiter area, it would seem to me that they would be better off. So I'm not going to continue on this but there is one very important personal comment that I have and that regards really the safety of the people who would be living in this house so close to the road because in case there is a car on Camino Pacifico that is driving and somehow skidded, and is what happened to Mrs. Marjorie Ellvinger several years ago, where she

basically ploughed into the cliff. And when I started looking at the area where the house – at the end of your proposed house is, if I were to be driving and skidded especially in the winter time where between the trees, I can imagine hitting the building. So this is something that Sarah may want to think about because your house has a lot of windows and everything else. And Mrs. Ellvinger has actually fell down several hundred feet or something like this and only her dog saved her because the dogs were on the balcony when she skidded and she was trying to avoid an animal. So to me, it's a very big concern. I realize that the slope would be much less [inaudible] but I can imagine very well.

Also, when you think about now that there are two very big trees right off the road and you can think that with the paving of Camino I think that those trees are going to be gone which means that we're going to look right into your building. That's a worry. Now if they don't cut the tree down we are familiar with our bark beetles. In a season of bark beetles the tree will be dead. So it doesn't matter that it's hiding you right now or not.

The last thing I want to mention, we talked about building at the bottom of the hill in terms of advantages. You may want to think about and consulting with [inaudible] because he already has a road that goes to his barn, the horses barn that would be close, very close to that lower site and may be asking for some right-of-way because he already has a right-of-way of the first house that is close to Sunlit West and he's very friendly and easy to talk with. And that dirt road is already there. So basically, your driveway up the hill to the lower site would I think be very minimal and you're not destroying and trees. Oh, my time is up, thank you.

CHAIR GONZALES: Okay, thank you. Anybody else out there?

PAUL PEASE: Yes, Paul Pease.

[Duly sworn, Paul Pease, testified as follows]

MR. PEASE: Thank you for this hearing. There is some minor issues that concern me today. The neighbor who we just spoke about a little earlier was not notified about how close the change in the property line would be from 7 feet versus 12 feet or something like that. But I think that's neglecting concern of one of the neighbors.

The other thing, a technical issue, people are talking about seven variances. When I look at the agenda, I only see six. I really don't know where the meeting is going sometimes; it's hard to follow.

I live at 54 Camino Pacifico and some of the diagrams that you're talking about you say are in color but not the ones that we got. Most of them are black and white and they're hard to read and follow some of the detail. And I want to know if the committee has heard from Mark Wells, he's a neighbor, just above this lot.

CHAIR GONZALES: Sir, I will ask the applicant when I give him time to speak. Please proceed.

MR. PEASE: Well, I'm basically opposed to the plan site because it's too close to the road unlike any other property in Sunlit Hills. I believe that without too much change they could move another 25 feet away from the road and put it down a little lower and it would be safer and that's what I would suggest. Move the planned house 25 feet further from the road. It's not a big distance. It's good on the property and it's not much difference from where it is right now. But I'm not a builder. That's it.

CHAIR GONZALES: Thank you very much, sir. Is there anybody else that would like to speak for or against this project?

SARAH STARK: I'm not sure if I missed my turn but I've been waiting for my turn. Is this the right time?

CHAIR GONZALES: I'm sorry, sure.

[Duly sworn, Sarah Stark of 43 Canyon Road, testified as follows:]

MS. STARK: I appreciate everything that has been said today. I appreciate the honesty that it takes to come and oppose a building project in your neighborhood and I would like to say to the Commission and to my future neighbors that we have been in this process for almost a year with the County and there have been lots of compromises and lots of considerations about where to put the house and where we will minimize the footprint on the land which is of primary concern to me. I am going to be living in this house with my son. This is my house for the rest of my life I hope thus the need for it to be on one level. Hopefully, my parents at some point if they need to come stay with me will be able to visit me and thus the one level.

I am very attached to this piece of land. It is quite beautiful. The trees are one thing and the rock outcropping with lichen are simply incredible and if you haven't been on the land, I know that many of you as neighbors have been, it really is quite wonderful and so the idea of building up at the top to minimize the footprint has been something that we have been steering towards for many, many months. We have been working with shifting it and I believe we have been in contact with Lynn Harris who is the neighbor adjacent and I think up to the point that she informed us at one point that she didn't want us to be in contact with her so regularly so I don't know if she knows the ins and outs and I think it's farther from her setback, her property line than it was and I just want to point out that it is the carport, it's not my kitchen window or something like that. It's not the primary house building that is that close into her setback.

I don't know about this option of building on the bottom. I have no idea about what the legal ramifications are except for that I am very, very opposed to disturbing what would probably be one-third of the property in order to build a driveway down there. It just seems like in a time when we are as we should be concerned about the land that is moving in the wrong direction.

To build a smallish house in the corner of the property to minimize footprint and to be aware of not blocking views from the street as much as we can so the house is sitting down low, has been ever present in our minds as we try to juggle this house to fit on what is a very difficult building location.

I think that's all I have to say. I really appreciate all the time and the care because I know that this is important for our future that we don't do these things lightly. Thank you.

CHAIR GONZALES: Thank you very much, Ms. Stark.

MR. BOLDT: This is John Boldt, can I do a counter question here to Ms. Stark?

CHAIR GONZALES: No, I need to let Mr. Collingwood put his time in as well too.

MR. COLLINGWOOD: Thank you everyone for contributing to this discussion. I'll go through some points that were made and thank you, Sarah for explaining our case so eloquently.

So there were some statements that were made which need to be clarified. Paul Pease said that there were no other houses close to the road in the whole of Sunlit Hills, and you just need to go to Sunlit Drive West and there are at least four houses right on the road. So he's right. The precedent on Camino Pacifico isn't quite there. The houses

are mostly set back, but some actually are pretty close and some are like 20 feet away. But there are houses the other side of the valley that are on very, very steep pieces of land and the only place to build was right next to the road.

So it is a precedent. We will be – half the house will be screened from the trees. The roofline will be – let me look up the sections – will be 8'10" from grade, so you will be able to see over the house. Maybe not at the tips of the roof, but 70 percent of the house you'll be able to see right over it into the views.

We apologize that some of the drawings were unclear. We did send an email to our neighbors before all this happened with all the drawings which were in color, but if the neighbors do want color copies I can send that to them.

There was some discussion about getting like an easement from a neighbor. It sounds like an interesting solution but that neighbor isn't here right now and we can't really be suggesting things that are on someone's property who isn't here. The other issue with that is that the land does flatten out at the very bottom but ironically, right – if you were to do this easement through his land and continue that road you get stretches of 30 percent right there because essentially the valley drops down to plateau and then it drops down again to the arroyo and the road is in the arroyo. So you have the same issues with the trees and the rock outcropping of the topo down there. It's not like a magic bullet, and frankly, we can't really be discussing it because again, it's private property and he never agreed to that. So that's why we're sort of back up in this corner of the property.

And then there was also talk of dropping the house 20 feet lower which might help the view from Pacifico a bit but then we get into all these technical difficulties where there's no place for the septic, the septic can't be emptied from the road, and there's no gravity flow from the house to the septic, and there were more trees being disturbed and there's more extreme slopes. So it's been really hard, the whole process and we kind of recently we did reduce the side setbacks some, so we went from seven feet to the neighbor to 18 feet. Did we tell the neighbor that we were doing this? No, but we didn't see a need to because we were essentially increasing the distance from her property line to our carport by 11 feet or so. And as Sarah mentioned she asked that we don't contact here because she didn't want to be involved in the nitty-gritty and she made that very clear.

So the point is there's been a sign up there for a number of months which outlined all the variances and we're really glad that everybody has shown up and really gotten to know this project as well as they have and have studied it so that we can have this discussion we're having right now. So thank you all. I'll pass it on to the next speaker.

[Duly sworn, Mark Walls testified as follows:]

MARK WALLS: Good evening. Mark Walls here, 43 Camino Pacifico. So I'm opposed to this project, and I don't have anything specific to add. I would just say I'm in support of all my neighbors' objections. I find it troubling to grant so many variances on one property. I think it sets a bad precedent. And to the fact of trying to fit a specific house to the property through variances rather than to find a suitable footprint for the property in question – I understand we all want to have ease of access to our property. We all want to be comfortable in our homes. So Sunlit Hills in general is very hilly. The topography here is very hilly. So I don't think necessarily some of the goals they have as far as this building project are in line with the neighborhood. So I would just – I would like to see them try to fit into the neighborhood more than try to change the neighborhood to fit their needs. So maybe this isn't the perfect property for them. Maybe there's

something else. I just don't feel like it's up to the County to make their dreams happen at this particular property. That's all I really have to say on that.

MR. COLLINGWOOD: Thank you, Mark. Can I add something about the nature of this property?

MR. WALLS: Sure.

MR. COLLINGWOOD: Sunlit Hills as a subdivision was created in the mid-sixties and I don't know how many lots there are, probably hundreds. It's a big subdivision. Most of the lots were sold off and developed actually in the seventies, eighties, nineties, and there were a few like black sheep remaining, right? And this was one of them. So it's very hard to compare like for like properties. Say with your house, for example, if it were built today would it need variances? Yes, actually, for the driveway. Would it need seven variances? Maybe not. I haven't studied it very closely, but I guess my point is it's hard to talk about the neighborhood as a standard and to talk about building in the neighborhood as a sort of formula which only needs so many variances, which only needs a flat place to build or which – the issue really is that all the easy lots that were buildable were bought and were already developed, so we're not talking about them anymore, and the one or two lots remaining are very, very hard to build on. So that's sort of why we're here and why we're going through this struggle. We do appreciate you guys sort of getting your heads around this because it's very complex. So, thank you.

MR. WALLS: I get all that and that's why that property has not been developed and that's why that property was so valued low, and that's part of the puzzle here. And it's not up to the County or the neighbors to make all those things happen, is my point.

CHAIR GONZALES: Okay, let's go on. Do we have anybody else from the public that needs to speak?

CAROLINE VAN STEEN: Yes. This is Caroline Van Steen.

[Duly sworn, Caroline Van Steen testified as follows:]

MS. VAN STEEN: 31 Camino Pacifico. So I just wanted to make a comment to Mr. Collingwood about lots being available in Sunlit Hills. Actually, there are several lots with very nice views and they're all about 5.5 acres up to 7.5 acres. There are several of the lots still available in the neighborhood. We are both realtors so we are familiar with the lots that are available in the Sunlit Hills area and we have been very surprised that this lot was actually being planned to build because of the very steepness and just the way it lays that Mr. Collingwood, there are several lots available just in Sunlit Hills. I'm not even talking about Arroyo Hondo or Seton Village next door.

As a matter of fact, Mr. and Ms. Pease, they have a lot available around the corner. And it's been for sale for several months. When you were shopping for lots, it was for sale.

MR. COLLINGWOOD: Thank you, Ms. Van Steen. I think we're straying a bit from the issue here. The problem was that this subdivision was incorporated in the mid-1960s, which the new development code is recent. Because Santa Fe County back then, and we're talking 50 years ago, right? They allowed these lots to be created. I wasn't there; you weren't there. None of us were there when that decision was made but the decision was made to allow each lot to be buildable, and that is written in the law. So you're right. There are other lots in Sunlit Hills that people could build on and maybe they're easier, but the bottom line is every single lot can be built on no matter how steep or crazy or unconforming it is. And I will add, actually, now this sounds like sort of a

dramatic situation and it is, but more recently the County are much more thorough when they create lots and they suggest a buildable area for a house and a path for a driveway, so I guess what I'm saying is all subdivisions created now, up until 20 years ago, they don't run into the problems that we're running into now, so they're covering their tracks and creating lots which are much more easy to build on and which don't require seven variances to build on.

So we're dealing with a historical anomaly here and that's pretty hard for us to get our heads around, including myself. But thank you.

CHAIR GONZALES: Do we have anymore – anybody from the public that wants to speak? Anybody else?

MS. BOLDT: Yes. May I make a comment? He said the proposal –

CHAIR GONZALES: Wait, wait. You've already spoken, haven't you?

MS. BOLDT: Yes.

CHAIR GONZALES: We're looking for anyone new from the public.

MS. BOLDT: Oh, new. Let me know when I can barge in.

MEMBER KATZ: Can I ask a question of the folks from the public who have testified, the neighbors?

CHAIR GONZALES: Sure, Frank.

MEMBER KATZ: My question is whether any of them would be here if the proposal was to build down below and to build the road down from Camino Pacifico to the lot, the building site down below.

MR. VAN STEEN: There would be no objection from me. This is Carl Van Steen. I would not be objecting if it wasn't being so close to the road and really like a strip mall along Camino Pacifico where we actually totally change the streetscape for the neighborhood.

MEMBER KATZ: Okay, other people? Is there anyone who would object? If you would object please let me know.

MS. PEASE: Objecting building by the road, right?

MEMBER KATZ: No. Objecting to building down below where there is buildable site but it would take a driveway that would go from the road and it would require a bunch of exceptions and variances, whatever, for the driveway to go there.

MS. PEASE: No objection. No objection.

MEMBER KATZ: No one has an objection to that?

MR. WALLS: Correct. And there would be a possibility of a road to access the bottom of the lot.

MEMBER KATZ: I'm not asking that. I understand that. They'd probably want to ask about that, but I'm asking if it has to be from above, because a road from above would be quite a scar. So there's no objection to that?

MR. BOLDT: So this is Jim Boldt. So you're talking about running the driveway all the way down from the top to the bottom.

MEMBER KATZ: To the buildable sites, yes.

MR. BOLDT: I think that's a bad idea. Bringing it in from the bottom across the property down there is a much better idea.

MEMBER KATZ: They don't have an access from there. It would be good if they could get it. They would probably want to ask for it and maybe it would be possible, but that's not something that they have a right to do now and so my question –

MR. BOLDT: Why don't they have a right to do it?

MEMBER KATZ: They have a right to ask the folks, but they don't have a right to tell them, yes, you have to give us an access.

MR. BOLDT: Oh, no. For sure. I understand that.

MEMBER KATZ: They could ask, but they can't control that. This is their property. They have access from Camino Pacifico and I'm just curious to hear whether anyone – I know it's not ideal, and that's one of the reasons why they wanted to build up top, but that has of course, as you've all said, it's own problems.

MR. BOLDT: Putting a driveway down that steep slope, I can tell you from my own property where I had to go 18 percent in places, it's not nice and it was difficult, and it cost a lot of money. And this one would be the same way and it's not a good idea but it's do-able.

MEMBER KATZ: All of that would be their problem if they chose to do that.

MR. BOLDT: Right, correct.

MEMBER KATZ: But if we follow what you're telling us and say, no, you can't do it up here. There are too many variances that you're asking for, that forces them to go that direction.

MR. BOLDT: If they could put that driveway down that steep slope, that would be good but it's going to be difficult.

MEMBER KATZ: Okay. Thank you very much. Thank you, Charlie. I'll talk later when we bring it back to the board.

CHAIR GONZALES: Thank you, Frank. Okay. I'm going to close the public hearing. Anyone from the public that want to speak that hasn't spoken yet? No. Okay. I'm going to close the public hearing.

MEMBER KRENZ: Mr. Chairman.

CHAIR GONZALES: Yes.

MEMBER KRENZ: Can we still ask questions of Mr. Collingwood?

CHAIR GONZALES: I just closed the public hearing.

MEMBER KATZ: But he's the applicant; you can ask questions of the applicant.

CHAIR GONZALES: Yes. Yes. Please go ahead.

MEMBER KRENZ: All right. Thank you. I just have two things I want to go over with him. I'm referring to the area of interest map, which is Exhibit #3, marked C-45.

MR. COLLINGWOOD: Oh, yeah.

MEMBER KRENZ: So first of all, I want to talk to you a little bit about this seven foot away, 18 foot away question. Are we talking about the property that's immediately west of the proposed site?

MR. COLLINGWOOD: We're talking about the property southwest.

MEMBER KRENZ: Southwest. Okay. So as I look at this I see where the house is. And you get the impression from the comment made by the landowner that you're talking about being seven feet away or 18 feet away like from their bedroom window or something, when in point of fact there's that building on that other lot's got to be – I don't know – 50, 100 feet away at least.

MR. COLLINGWOOD: Right.

MEMBER KRENZ: Is that correct?

MR. COLLINGWOOD: Yes. That's correct. You make a good point, and in addition there's a little ridge in between the two houses so no matter how close it is to the line you can't see either house from the other house.

MEMBER KRENZ: Okay. Thanks for clearing that up. Second question. And now I'm looking at Exhibit #5, which is C-47.

MR. COLLINGWOOD: Yes. I see.

MEMBER KRENZ: Now, on this page there's notation about the height and the variance for the height, etc. But I'm looking at 7.17.9.4, Architectural and Appearance Standards.

MR. COLLINGWOOD: Yes. I see it.

MEMBER KRENZ: And in number 1, in the last half of that paragraph it says any pier foundation shall be enclosed so that exterior walls appear to meet the ground and such a foundation system shall not exceed five vertical feet above the natural grade. In your proposals that you're showing us I don't see that any of this is enclosed; is that correct?

MR. COLLINGWOOD: That's correct. You raise an interesting point. So this section of the code is to do with fire prevention, so that fire doesn't rush under the house and ignite a house from below, and before we designed this, and this is a process every builder goes through, the first people you talk to are the Fire Prevention Department and you talk to them about driveways and –

MEMBER KRENZ: This has nothing to do with fire prevention.

MEMBER KATZ: This is architectural.

MR. COLLINGWOOD: Let me finish.

MEMBER KRENZ: It has to do with architectural and appearance standards.

MR. COLLINGWOOD: Okay. If you would let me finish. You're right. It does have to do with appearance but it also has to do with fire and we got a note from Jaome Blay saying that if we use fire preventive materials underneath the house then we could expose the foundation system. So –

MEMBER KATZ: That's according to the Fire Department, but that's not the issue; it's architectural. The Fire Department doesn't tell you about architectural standards.

MR. COLLINGWOOD: Right. I guess I don't know whether it's in the appearance standards because of the fire stuff or whether it's simply an appearance thing. But I – there's nowhere else in the code – there are no other places in the code that talk about the requirements of fire hazard on a structure aside from driveways, so I imagine they would put it in this section of the code.

MR. LOVATO: Mr. Chair, Commissioners, I don't believe this section of the code was caught, so therefore he'd have to either ask for a variance in this section and renote and do it all over, or you would have to comply with this section of the code.

MR. COLLINGWOOD: Okay.

MEMBER KRENZ: That's exactly what I'm getting at. Thank you, staff.

CHAIR GONZALES: Thank you, Steve. Anything else?

MR. COLLINGWOOD: We can comply with it if it's an issue and we can cover it so that it's not exposed. That's not an issue. And maybe I can add one last thing about the –

MEMBER KATZ: The board now, to the Commission, Charlie.

MR. COLLINGWOOD: Can I continue or are we moving on to the next phase?

CHAIR GONZALES: Do the Commissioners have any more questions? Frank?

MEMBER KATZ: Are we at the stage where the Commissioners discuss this?

CHAIR GONZALES: Yes. I'll close the public hearing and what's the pleasure – or does the Commission have any discussions?

MEMBER KATZ: I would like to discuss it.

CHAIR GONZALES: Please do.

MEMBER KATZ: I think a little bit – I recognize fully that they're asking for a lot of variances and I think the reasons they're asking for the variances on this rather difficult sit is if they can't build at all we may have to buy it and I don't want to buy it and every other one of you taxpayers will have to buy it. That's not a really good solution. If the variances are not the best but reasonable.

My concern is that there's just a whole lot of things that we don't know and there were drawings that were changed. And Patrick was very nice to say he would get it to us but we're making the decision right now and we don't have them. I again, on this also would propose that we find out more about building below.

I am happy to approve this if they can't build below but I am not at all satisfied that that can't be done. I haven't been out to the site and it would be helpful if I was but I have looked at the graphics that show substantial areas that I think a road could go down there. Yes, it would be steep. Some of us live on steep roads and we have lived. But I don't know how other people feel but I just think that exploring how the road could go, exploring whether the neighbor would consider granting an easement of access for a building below that would comply with virtually all of the rules on the buildable site down there. What do other people think about that?

MEMBER J.J. GONZALES: Frank, I would agree with that.

CHAIR GONZALES: I agree as well, Frank.

COMMISSIONER RAZNICK: I agree with you, Frank.

MEMBER KATZ: I would move to postpone with the direction that the applicant further clarify – further explore what doing the road would be, where it could go, and that information will get to us and we will go down and look at where that is to see whether this seems to be easier. I know that there are outcroppings and those we sure as heck don't want to disturb. But see what the road from the top would be like, and see whether there's any possibility of getting an access easement from –

MR. LOVATO: Mr. Chair, Commissioners, I just want to note that there is a provision in the code that special meetings need to be done for any staff or any members of the Commission to go out there and it's a very hard thing to accomplish and I just want to put that out there. Perhaps our County Attorney is aware of that and can chime in on that but I just really want to put that out there if you guys plan on going out there.

MEMBER KATZ: I appreciate that. I sit on the H-Board. We go out every meeting to look at the properties. Or at least we did before the pandemic. That may make things a little bit more problematic.

CHAIR GONZALES: I think it's something that we need to maybe talk to the Attorney in Communication with the Attorney.

MEMBER KATZ: Okay. I would move to postpone for exploration of the issues that I have discuss.

CHAIR GONZALES: I second.

COMMISSIONER MARTIN: Second.

MEMBER KRENZ: Mr. Chair, I would only like to add that if we're going to postpone this I would urge Mr. Collingwood to come back with drawings that are consistent, because they're all over the place.

MEMBER KATZ: Absolutely.

MEMBER KRENZ: It's difficult for us to figure out exactly where things are.

CHAIR GONZALES: I totally agree. Put your elevations on there and show everything that we need. Get it up to par. Again, all in favor say aye.

The motion passed by unanimous [7-0] voice vote.

CHAIR GONZALES: Okay. It's been tabled to the next time. Thank you for coming, all.

5. Petitions from the Floor – None were presented

6. Communications from the Commission

CHAIR GONZALES: I'd just like to say thank you, staff. I know these two cases we had today are pretty complicated. You guys are going with the code, the spirit of it, it tells you guys how to push that house around and I know it's not easy and I thank you all.

MEMBER KATZ: I have something to add.

CHAIR GONZALES: Frank.

MEMBER KATZ: When – I'm thinking of the first case that we asked that a survey be done. That will probably be submitted to staff and hopefully it can be given to the neighbors so that if they want to hire a surveyor to counter something so we don't have to come and do the meeting again, and delay again.

MR. LOVATO: Mr. Chair, Commissioner Katz, usually when I do get additional information I forward it on to Mr. Terhune who does deliver it to his neighborhood association.

MEMBER KATZ: Excellent. Thank you.

7. Communications from the Attorney

MR. PRUCINO: I don't have anything of substance, Mr. Chair. I guess I am curious if the Commission wants to identify any deadline for these matters coming up again.

MEMBER KATZ: We're not in a rush.

CHAIR GONZALES: I would like to say, I have brought this up before in the past. I think my early days on the Commission. I brought up to schedule to do some field inspections for controversial projects. I was always told it's been possible. But I would like for maybe the County Attorney's Office to check into it to see if maybe we

can get that going for the rest of the Commissioners; what do you think? Do you agree with me?

MR. PRUCINO: I think it's certainly an issue worth looking into. I'll visit with Mr. Lovato and look into it from a legal standpoint as well.

CHAIR GONZALES: Thank you.

8. **Matters from Land Use Staff** – None were offered

9. **Next Planning Commission Meeting:** September 17, 2020

10. **Adjournment**

Member Gonzales moved to adjourn and Member Katz seconded. The motion passed without opposition and Chair Gonzales declared this meeting adjourned at approximately 7:10 p.m.



Approved by:

Charlie Gonzales 9-17-20
Charlie Gonzales, Chair
Planning Commission

SFC CLERK RECORDED 09/21/2020
SFC CLERK RECORDED 09/21/2020

ATTEST TO:

Geraldine Salazar
GERALDINE SALAZAR
SANTA FE COUNTY CLERK

Respectfully submitted by:

Karen Farrell
Karen Farrell, Wordswork

COUNTY OF SANTA FE) PLANNING COMMISSION MI
STATE OF NEW MEXICO) ss PAGES: 41

I Hereby Certify That This Instrument Was Filed for
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Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Geraldine Salazar
Deputy *E. Herrera* County Clerk, Santa Fe, NM
Martinez