

DRAFT

subject to approval

MINUTES OF THE
SANTA FE COUNTY
PLANNING COMMISSION

Santa Fe, New Mexico

September 21, 2017

I. This meeting of the Santa Fe County Planning Commission convened on the above-cited date at approximately 4:00 p.m. at the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

II. Roll call preceded the Pledge of Allegiance and indicated the presence of a quorum as follows:

Members Present:

Filandro Anaya, Chair
Louie Gonzales, Vice Chair
Charlie Gonzales
Renaë Gray
Frank Katz

Member(s) Excused:

Leroy Lopez
Susan Martin

Staff Present:

Vicki Lucero, Building & Development Services Manager
Paul Kavanaugh, Building & Development Services Supervisor
John Lovato, Development Review Specialist
Jose Larrañaga, Development Review Specialist
John Michael Salazar, Development Review Specialist
Tony Flores, Deputy County Manager
Rachel Brown, Deputy County Attorney
Jaome Blay, Fire Marshal
Robert Martinez, Deputy Public Works Director

IV. Approval of Agenda

Vicki Lucero asked that Case F, the Hager Road/Los Suenos Trail Extension Variance, be heard as soon as the applicants arrived in order to take advantage of the presence of the Deputy Public Works Director.

Member Katz moved approval and Member Gray seconded. The motion carried by unanimous [5-0] voice vote.

V. Approval of Minutes: August 17, 2017

Member C. Gonzales moved to approve the August minutes as submitted. Member L. Gonzales seconded and the motion passed by unanimous voice vote.

VI. Consent Calendar: Final Orders

There were no matters under Consent Calendar.

VI. NEW BUSINESS

- A. CASE # V 17-5160 Prabhu Khalsa & Regina Spamer Variance**
Prabhu Khalsa and Regina Spamer, Applicants, request a variance of the Sustainable Land Development Code Ordinance 2016-9 (SLDC) Chapter 7.17.9.3.2, governing height of a structure, to exceed 18' on a ridgetop, and to allow a two-story residence on a ridgetop, and a variance of Chapter 7.17.9.2.4 to allow a driveway to disturb 30 percent slope to access a buildable area. The property is located at 01 Anand Nivas Way within the Vicinity of Sombrillo Within, Section 12, Township 20 North, Range 8 East, (Commission District 1) [Exhibit 1:Site Plan]

JOHN LOVATO (Case Manager): Thank you, Mr. Chair, Commissioners. On July 27, 2017, this application was presented to the Hearing Officer for consideration. The Hearing Officer supported in part of the application and denied in part of the application as memorialized in the findings of fact and conclusions of law written order. The Hearing officers recommended approval to allow disturbance of 30 percent slope for a driveway to access the buildable area and finds sufficient evidence of extraordinary and exceptional conditions that would cause the applicant undue hardship with strict compliance of the Code. However, the Hearing Officer finds insufficient evidence and denies the height and two story variance request as the applicant failed to prove extraordinary and exceptional conditions that would cause the applicant undue hardship with strict compliance of the Code as the property contains 4,000 square feet to build an alternative style of home.

The applicants are pursuing the request for a variance to allow a proposed 2,304 square foot residence to have a 22-foot pitched roof on a ridgetop, to allow a second floor in the residence, and to disturb 3,065 square feet of 30 percent slope for construction of their driveway on their 0.92-acre parcel.

The property is currently vacant. The proposed residence consists of two stories. The first level contains a kitchen, bedroom, laundry room, and living room /dining room. The second level consists of a master bedroom, master bathroom, two bedrooms, a study room, and bathroom. The structure is 24x48 on both levels for a combined total of 2,304 square feet.

The applicants are also requesting to disturb 30 percent slope to access their buildable area with a driveway which is 15 feet to 20 feet in width and 200 feet in length. Chapter 7.17.9.2.4, states, "Utilities, drainage structures, slope retention structures, and access roads and driveways may be located on a natural slope in excess of thirty percent so long as they disturb no more than three separate areas not exceeding 1,000 square feet each." The first disturbance of 30 percent slope consists of 70 square feet and is consistent with the SLDC. The second occurrence is 2,378 square feet of 30 percent slope and exceeds the extent of allowable slope disturbance. The third disturbance is 617 square feet and is consistent with the SLDC. The combined total disturbance of 30 percent slope is 3,065 square feet.

The applicants state, "We are requesting these variances for permission to build a two story home. Before we were made aware that we would require a variance, we looked at the homes of our immediate neighbors which are both two-story homes as well and we designed a two story home for ourselves. We then paid for plans to be drawn up for the County to acquire a building permit. As we are already invested in the plans for the home, and there are already two other homes on the same hillside that are two-story. In addition we would like to request a variance to disturb 30 percent slope to access the buildable area."

The applicants addressed the variance criteria and staff responded as noted in the report for the height of a two-story variance.

Disturbance of 30 percent slope: The applicants addressed the variance criteria and staff responded as noted in the report.

Recommendation: On July 27, 2017, this application was presented to the Hearing Officer for consideration. The Hearing Officer supported in part of the application and denied in part of the application as memorialized in the findings of fact and conclusions of law written order. The Hearing officer recommends approval to allow disturbance of 30 percent slope for a driveway to access the buildable area and finds sufficient evidence of extraordinary and exceptional conditions that would cause the applicant undue hardship with strict compliance of the Code. However, the Hearing Officer finds insufficient evidence and denies the height and two-story variance request as the applicant failed to prove extraordinary and exceptional conditions that would cause the applicant undue hardship with strict compliance of the Code as the applicant contains 4,000 square feet to build an alternative style of home.

Staff Recommendation: Height: Staff recommends denial of the requested variance for height. The applicant's 22-foot residence exceeds height requirements of the SLDC which allows a 14-foot, one-story flat roofed residence or 18-foot pitched roof one story residence. The applicant can create an alternative design so the structure meets height requirements

Two-story: Staff recommends denial of the requested variance for two-story. Structures on ridges, ridgelines, and shoulders shall be limited to one-story structures. The applicant's proposal does not meet requirements of the SLDC; surrounding properties are not located on ridgetops and there is space for the applicant to build the same size house as a single story with an alternative design to allow a solar passive residence.

Disturbances: Staff recommends approval of the variance for slope disturbance. 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 their lot without a variance. Criterion 1, is that the request is not contrary to the public interest. The request meets this criterion as the site offers limited buildable area. The inability to build on the property due to the requirements in Chapter 7, Section 7.17.9.2.4, demonstrates that they 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. The terrain on this property consists of steep slopes, and minimal buildable area. 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 applicant/owner, which meets Criterion 3, that the spirit of the SLDC is met. Therefore, staff recommends approval of the applicant's request for the variance.

Thank you, Mr. Chair and I stand for any questions.

CHAIR ANAYA: Any questions for staff right now? Mr. Katz.

MEMBER KATZ: Is there any document, John, that shows where the house is proposed to be built on the site?

MR. LOVATO: Mr. Chair, Member Katz, there is an Exhibit 3 that gives an idea more or less and I believe there is a site plan as well. I just need to locate it.

MEMBER KATZ: I don't see any outline of a house on Exhibit 3.

MR. LOVATO: Mr. Chair, Member Katz, Exhibit 2 illustrates the roadway and the turnaround and it shows the buildable area, the more or less vicinity of it. It doesn't have the house print on it as of yet.

MEMBER KATZ: Where is the buildable area?

MR. LOVATO: The buildable area is everything that is not shaded and is in white.

MEMBER KATZ: Okay. It would be very helpful to have depicted on this where they're proposing to put the house. It would make it easier for us to get an idea whether there was then room to take the second floor and put it down on the first. Thank you.

CHAIR ANAYA: Any other questions for staff at this time? I do. John, I have a question. You stated earlier that 30 percent buildable for the house itself, on the footprint on a single, was that exceeding the 2,300 square feet or was it not?

MR. LOVATO: Mr. Chair, could you clarify that question?

CHAIR ANAYA: Okay. You stated that the first disturbance of 30 percent slope consists of 70 square feet in consistence with the SLDC, and then the second occurrence is 2,378 square feet or 30 percent slope and exceeds the extendable allowance slope disturbance?

MR. LOVATO: Correct. This is for the road, Mr. Chair. Not for the buildable area. So you have two sections of –

CHAIR ANAYA: Oh, driveway. I apologize. No further questions. Is the applicant in?

MEMBER L. GONZALES: Chair Anaya, I have a question. John, is it the height or – you're saying that it goes too high, it's a two-story. So you want them to build a one-story, correct?

MR. LOVATO: Mr. Chair, Member Gonzales, what is going on is there's two sections to the code. One which doesn't allow anything over the height limitation of 18 feet with a pitched roof.

MEMBER L. GONZALES: Right.

MR. LOVATO: And there's another section in that same code section that doesn't allow for a second story as well. So they're asking for both in this situation to allow the structure to be 22 feet and to allow a second floor within –

MEMBER L. GONZALES: But if they build a single-story home, isn't there more disturbance on a single-story for the same amount of square footage as a two-story?

MR. LOVATO: Mr. Chair, Member Gonzales, the disturbance is actually on the roadway. The buildable area has no disturbance at all.

MEMBER L. GONZALES: Hasn't changed.

MR. LOVATO: Right.

MEMBER L. GONZALES: So the variance is the driveway, the disturbance by the driveway.

MR. LOVATO: The disturbance is –

MEMBER L. GONZALES: Is the height –

MR. LOVATO: The height, and the two-story, and the driveway.

MEMBER L. GONZALES: Okay. I had the same confusion – that was confusing.

CHAIR ANAYA: So three variances – height, road, and the other one was?

MEMBER KATZ: Two stories.

CHAIR ANAYA: Two stories.

MR. LOVATO: That's correct, Mr. Chair.

MEMBER L. GONZALES: So what could they possibly build there? What can they build there? They can build a single-story that doesn't go over a certain height – 18 feet for the pitch and 14 for the flat. And then the road – how wide does the road –

MR. LOVATO: Mr. Chair, Member Gonzales, they can build a single story which doesn't exceed 18 feet with a pitch, so long as it's one story, and they can do up to 14 feet with a flat roof. And the roadway is a separate variance because they're disturbing 30 percent slop. This roadway is 15 to 20 feet in width.

MEMBER L. GONZALES: So the cost for a two-story is obviously cheaper than a single-story for the same amount of square footage. Right?

MR. LOVATO: Mr. Chair, that's what I think the applicants were getting at.

MEMBER L. GONZALES: Thank you.

CHAIR ANAYA: John, one more question on the height. We're dealing with four feet, right? From 18 to 22?

MR. LOVATO: Mr. Chair, that is correct.

MEMBER L. GONZALES: Chair Anaya, there's supposed to be a minor easing of the code. I understand there's three here because maybe the financial thing, but height – it was 14 feet versus 18 feet? That's four feet. I don't understand how people can complain about that so bad, if it's right up there or if it's far away. I don't understand the

height. I mean, if it's a really high house I can understand but if it's 14 feet and they're adding maybe four feet, from 14 to 18, to me that's a minor easing of the code. So I just don't – I've always had a hard time with that height, because –

MEMBER KATZ: I think it's actually 22 feet that they're asking for.

MEMBER L. GONZALES: Is it 22?

CHAIR ANAYA: Eighteen is okay; 22 is –

MEMBER L. GONZALES: And that's a pitch, right?

MR. LOVATO: That's correct.

CHAIR ANAYA: Is it that much difference for that kind of a roof? I don't think so. If it's a cost thing I think –

MS. LUCERO (Building & Development Manager): Mr. Chair, Member Gonzales, there is – there are variance criteria in the code that the applicant has to address in order to be able to grant the variance, and staff's position was that they didn't meet those criteria for the height and two-story portions of the variances. So that is something that we should take into consideration, is the variance criteria.

MEMBER L. GONZALES: Have you guys had any opposition to this applicant versus the height and the size and it's a two-story or a single story?

MR. LOVATO: Mr. Chair, Member Gonzales, there was a little – I think it was more concerns for drainage and for septic systems from surrounding properties but to my extent that's as much as I know of any opposition.

MEMBER L. GONZALES: Thank you, John.

CHAIR ANAYA: Mr. Gonzales.

MEMBER C. GONZALES: John, will this site, or is this site visible from a public road?

MR. LOVATO: Mr. Chair, Member Gonzales, it is. It is visible from the 84/285.

MEMBER C. GONZALES: Thank you.

CHAIR ANAYA: John, I have one other question for you, please. Did staff go out there and make a visual on the property?

MR. LOVATO: Mr. Chair, staff did go out. I was in attendance and I went out there with the applicants and that's when I informed them that they needed a variance to these sections.

CHAIR ANAYA: Did you notice anywhere on the area where they're going to build where they can dig into the ground four feet?

MR. LOVATO: Mr. Chair, the whole entire area on top is flat. They could probably do so with the way the height is taken, it still wouldn't allow for that two-story and for that structure.

CHAIR ANAYA: So in order for them to dig that four feet they would have to put retainers all the way around the house?

MR. LOVATO: That is correct.

CHAIR ANAYA: Okay. Thank you. Any other questions for staff at this time? Hearing none, is the applicant present?

[Duly sworn, Prabhu Khalsa testified as follows:]

PRABHU KHALSA: My name is Prabhu Khalsa. My wife and I are [inaudible] First I'd like to say thank you to the staff for allowing us to go first because my wife's due date was yesterday, so we could have a baby at any minute, so we're really

pleased to be able to speak first. Can I just speak as to what my motivation was? Is that appropriate? Okay. So the property, as it's located, it's on a hillside. It's pretty flat on top. That's the buildable area, and Sombrillo Road, which is a County road, kind of cut through the hills there so there's one side that's pretty much just steep and then there's another side that's pretty steep. We're talking about – the variance for the driveway is to basically cut into that steep area. And the driveway was designed by an engineer here in Santa Fe. She gave us really excellent plans. I think they're probably in your packet.

And actually, if we didn't get the variance for the driveway I wouldn't be able to use the property at all because all the buildable area is on top of the hill so I have to be able to drive up there to build the house.

The reason we wanted to build it two-story was because both of the immediate neighbors up on the same hillside are two stories. I would literally – if I'm not allowed to build my two-story I'd be building my one-story literally 20 feet from another two-story house. It's a literal stone throw away. And the other one, you throw a stone farther, it's pretty close too. It's maybe 50, 60 feet away. I can show a picture from my cell phone if you want to see it. There's two two-story houses.

So when we paid to get our architectural plans made we had no idea that there was going to be an issue about a two-story house because we just looked at the hillside and, like, well, the two houses on the hill already are both two stories, so let us build a two-story also. So that was the motivation. Now, what I think wasn't addressed in the case that I made when I was told that I needed a variance, and the requirements of the variance include things like undue hardship and/or sufficient justice or something like that, and for me, sufficient justice would be to allow the third neighbor to also build a two-story home along with the other two neighbors.

But the argument that I made was that the property is actually pretty long going north to south, and I built a passive solar design where all the three bedrooms have a south-facing window and the three bedrooms are on the second story. And if I had to build a single-story I don't have enough space to go east and west to get south-facing windows for all the bedrooms. So even though I have a lot of space going north-south, I need the space going east-west to get the southern exposure for my passive solar design. And I'm basically at my limit with 48 feet because one side is the neighbor's property and the other side is the driveway we're going to build and the cut out that we need to do to make sure the driveway is built sufficiently to the engineered specs.

So that was kind of the thrust of my argument and I never actually saw that really get addressed was that – there was something saying that, well, I could build a section behind the house with a clerestory or something but then the bedrooms would be on the north side and then by code I'm pretty certain that all bedrooms have to have a window for fire escapes, and that would mean all their windows would be on the north side and that's a terrible decision for sustainable development and passive solar design. I don't want a lot of north-facing windows on my house.

So, it is a difference between 18 feet versus 22 feet, the design that we already paid for had the pitched roof go up to 22 feet. The code allows a pitched roof up to 18 feet. So it really is just about four feet we're talking about.

So I guess that's all I really have to say about it. I can answer any questions.

CHAIR ANAYA: Do we have any questions? Mr. Frank.

MEMBER KATZ: Do you have anything that shows where the house is going on the lot?

MR. KHALSA: I have a picture on my cell phone that I could bring up.

MEMBER KATZ: Does it have like story poles or something on it? Do you understand what I'm asking is I can't tell where you're planning on putting the house on your plat.

MR. KHALSA: Could I point to your sheet? Would that be appropriate?

MEMBER KATZ: Probably not because that won't go into the record.

MR. KHALSA: There's no drawing, because I submitted something to the County where we actually drew like a rectangle, essentially, where the house would be located.

MEMBER KATZ: On your concern about having clerestories for the bedroom, that's exactly the way my passive solar house is designed and it works perfectly. And it would only be one of the bedrooms that would need to have a north exit; the others could have an east and a west exit. So I don't really see that as blocking you from doing a passive solar house.

MR. KHALSA: The east exit would actually be down the driveway.

MEMBER KATZ: You're not that close to the edge, are you? Without knowing where you're putting it is very hard for us to accept.

MR. KHALSA: I can describe it. If you're looking at the driveway, there's the kind of designed turnaround for the fire engines.

MEMBER KATZ: Yes.

MR. KHALSA: Right where the turnaround is on the south side, that's essentially where we'd build the house. It would go 48 feet east to west.

MEMBER KATZ: Well, looking at that, because the driveway is 20 feet wide, 48 feet – well, I guess it's unclear because you have a retention pond at the end of that. So I don't know exactly – ah. Have we something? It looks like there's enough room that you could slightly move the house to the east and have just plenty of room. You don't need a wide space for an emergency exit from a bedroom. So I really understand that you would rather do it the way you're doing it but there's a reason why there are rules against that. Thank you.

MR. KHALSA: The other reason also was that I was trying to build a sustainable house, do one roof for the whole area. I have to have double the footprint if I build a single-story house.

MEMBER KATZ: And what's wrong with that?

MR. KHALSA: Then I have less space for growing trees and farming and whatever else I plan to do up there. But it also costs me twice on the roof and it costs me twice in the slab.

MEMBER KATZ: Okay. Thank you.

MEMBER L. GONZALES: Chair Anaya.

CHAIR ANAYA: Mr. Gonzales.

MEMBER L. GONZALES: Based on this Exhibit 2 that was passed around, it looks like the whole site is very steep to get to the site where you want to build. So you have to cut somewhere, right?

MR. KHALSA: Yes.

MEMBER L. GONZALES: So you couldn't get past the variance regarding the driveway without cutting it somewhere. Is that correct?

MR. KHALSA: That's right.

MEMBER L. GONZALES: And so the only building area you have is the flat part on top, but to get to it you have to figure out where you're going to make the driveway come off of the road, and that's why you designed it going at a slight angle with an engineer, I would assume, up the side and at a slight incline.

MR. KHALSA: She managed to design it with less than a ten percent slope. And it's also south-facing so it won't have the snow.

MEMBER L. GONZALES: Thank you.

CHAIR ANAYA: Mr. Gonzales.

MEMBER C. GONZALES: I just have one question for you. How come, when you decided to build, how come you didn't check with the County for the rules?

MR. KHALSA: Well, because there's two two-story houses on the same hillside. Literally, one's 20 feet away and the other's about 50 feet away, so we just thought – we had no idea that there was any rules about ridgetops or anything. We just saw the two-story houses and thought, well, if we do a two story we'll have a nice view like they do and we'll also save money and resources and have to only build one roof, half the size. And I build a very simple rectangular design that just goes straight up.

MEMBER C. GONZALES: Thank you.

CHAIR ANAYA: Mr. Katz.

MEMBER KATZ: Can I ask a question of staff here. These other two houses, are they within a ridgetop district or not within a ridgetop district? How come this confusion happened?

MR. LOVATO: Mr. Chair, Member Katz, if you look at Exhibit 2 I can explain just going of the northern area and southern area. So if you look at the property, north would be facing up. That area right there is not a ridgetop. It drops off, it's on a steep slope. It is a multilevel home, and the area out to the west, that is also a steep slope and not on a ridgetop. Our prior code did address – this is when these were permitted or during the time the Land Development Code didn't address steep slopes the way our new Sustainable Land Development Code address them. It did have ridgetop requirements but it did not have steep slopes and part of this is what's happened with these other two homes on there.

MEMBER KATZ: Are the other homes on this steep slope that wouldn't be allowed now?

MR. LOVATO: Just one of them and that's to the west. It would be allowed; it would just have to comply with the code requirements.

MEMBER KATZ: Well, my question was, does it comply with code requirements?

MR. LOVATO: It currently complies with code requirements because it's a pre –

MEMBER KATZ: I meant does it comply with the current code and you're saying no, it doesn't. But that's because of the steepness of the slope, not because of the ridgetop restriction.

MR. LOVATO: Mr. Chair, Member Katz, that's correct.

MEMBER KATZ: Because it's not in the ridgetop district.

MR. LOVATO: Mr. Chair, Member Katz, that is correct.

MEMBER KATZ: Thank you.

CHAIR ANAYA: Mr. Gonzales.

MEMBER C. GONZALES: I have a question for staff as well. So what you're saying is those houses that are in the area were built on steep slopes so they get a height limitation of up to 24 feet, right, because they're terraced.

MR. LOVATO: That is correct, because they're terraced.

MEMBER C. GONZALES: Thank you.

CHAIR ANAYA: Any other questions for – how do you pronounce it?

MR. KHALSA: Khalsa. My last name?

CHAIR ANAYA: Yeah

MR. KHALSA: Khalsa.

CHAIR ANAYA: Khalsa?

MR. KHALSA: Yes.

CHAIR ANAYA: I apologize for that. I have questions for you sir. I was looking at the drawings that you had on your house and they show that they were built by an engineer. Is that correct?

MR. KHALSA: Yes.

CHAIR ANAYA: So did they do a complete set?

MR. KHALSA: Yes, they did.

CHAIR ANAYA: With topical drawings and the entire site?

MR. KHALSA: Yes, the electrical and the [inaudible] plan and everything.

CHAIR ANAYA: Is there any particular reason as to a lot of those weren't submitted into the packet?

MR. KHALSA: Maybe we only sent – we didn't know that we could send them all in I guess. I think we just sent in what they asked for. They said a site plan and –

CHAIR ANAYA: So who is your representative? Are you guys representing yourself? You don't have any developer or anybody like that?

MR. KHALSA: No. We were just representing ourselves. I didn't know we could get a representative.

CHAIR ANAYA: Well, then you get to catch it all. My question to you then is, I guess maybe it would be more of a statement at this point. If you had all the drawings done, then you knew that you had to have a state permit also. Is that correct? In order to build the house?

MR. KHALSA: No, I wasn't – I thought you only got – I knew you needed a state permit for the well but I thought the permit for the building was only through the County.

CHAIR ANAYA: So you have no idea about what steps you need to proceed with.

MR. KHALSA: No, I was going to work with a contractor to see what all

CHAIR ANAYA: Is your contractor here with you today?

MR. KHALSA: No.

CHAIR ANAYA: Did he explain to you the procedures that you need to follow?

MR. KHALSA: Not yet, because maybe I didn't make it clear to him that we were confused about how it all worked. I thought – basically my plan was to just do the driveway and then sort of figure out the house.

CHAIR ANAYA: Okay, so do you understand the problem that we are having right now with trying to help you out when we don't have what we need in order to do our job with? Do you understand that? Why you're receiving the type of questions that you're receiving is because we're kind of all in the dark, including yourself, so it makes it hard to go back and forth with the plans trying to figure out what's the elevation, what's not the elevation, what is the true peak, what is not the peak? That's the problem that I'm having. I'm not going to answer for them because they can ask their own question if they choose to do so.

MR. KHALSA: I had that problem too because until today the County could never explain to me what defines a ridgetop. I asked them multiple times. In the last hearing they said something – I asked why am I on a ridgetop but the two houses immediately next to me aren't on the ridgetop.

CHAIR ANAYA: Okay, did you receive a packet from the County?

MR. KHALSA: No.

CHAIR ANAYA: Nothing. When you went into the County they gave you nothing.

MR. KHALSA: We received like some kind of package to submit our documents but from the last meeting with the Hearing Officer we received nothing.

[Duly sworn, Regina Spamer testified as follows:]

REGINA SPAMER: So I was the one that came to the County to ask what we needed to get the variance. So we did receive just the paper of all the documents that we needed to submit, so in those documents we were working with John and he helped us out getting all the things ready, but for example, like you were asking of all the plans for the house, and they didn't tell us we had to submit all the plans because we were only addressing the height and – the height of the house and building two stories, so they basically told us, we understood that we only needed to submit the plans that show the elevation of the house, nothing else. So maybe there was like a missed communication there.

And like my husband said about the ridgetop, we did read the code. Also John showed us the code but we still don't understand it because the other two houses next to us are basically the same height as us. They look the same height even though they're not considered on a ridgetop.

CHAIR ANAYA: Okay. Thank you. Do you have anything else that you'd like to state?

MR. KHALSA: I could show you a picture of the land. This is the two-story house –

CHAIR ANAYA: You would have to enter it into evidence.

MR. KHALSA: I thought I submitted this before.

MEMBER L. GONZALES: Chair Anaya.

CHAIR ANAYA: Mr. Gonzales.

MEMBER L. GONZALES: Mr. Khalsa, you said you have two neighbors with two two-story homes on it. Have you had any opposition? Do they know that that's what you wanted to do?

MR. KHALSA: Yes. They're both – they're fine with it. One neighbor I haven't spoken to but the other neighbor, he's fine with it. But also, all the neighbors received a letter before the last hearing.

MEMBER L. GONZALES: And have you had any opposition to what you're going to do?

MR. KHALSA: The only – people came to speak but they were just concerned about drainage from the –

MEMBER L. GONZALES: Have you drilled a well on this property?

MR. KHALSA: Not yet.

MEMBER L. GONZALES: Have you done anything, other than what you have here on paper?

MR. KHALSA: We basically need the driveway before that.

MEMBER L. GONZALES: You've got the permit but you haven't built the driveway, have you?

MR. KHALSA: No.

MEMBER L. GONZALES: You haven't done anything.

MR. KHALSA: No. We can't until we get the approval to do the driveway.

MEMBER L. GONZALES: Thank you.

MR. KHALSA: We were hoping to start as soon as we got the driveway.

MEMBER L. GONZALES: Thank you. Thank you.

CHAIR ANAYA: Any other statements you'd like to make at this time?

MR. KHALSA: Thank you all for your service. Appreciate it.

CHAIR ANAYA: Thank you. This is an open meeting. So do we have anybody in the audience wanting to speak for or against this variance request? Seeing none, the open floor is closed. Now, do we have any other follow-up questions for staff from the Commission?

MEMBER L. GONZALES: Chair Anaya.

CHAIR ANAYA: Mr. Gonzales.

MEMBER L. GONZALES: I'd like to kind of go with Mr. Katz – so on the old code, they would have been allowed to build the home that the height – the two-story. Is that correct? And it wouldn't be considered a variance.

MS. LUCERO: Mr. Chair, Commission Member Gonzales, that is correct. Under the current code and the old code, the building sites where the other two residences are located are not considered ridgetops. So they're not limited to the 18-foot in height for the pitched roof. They were allowed up to 24 feet.

MEMBER L. GONZALES: So is that going to apply to everybody's lot? If they have a lot that has a ridge on it, it's going to be a ridgetop? How are you guys determining which is the ridgetop from one site to the next, because if I look out to the mountains I can see the ridgetops. But if I look – if I'm driving down 285 and going up north and I see a couple houses and I'll see a ridge, is there a ridgetop there? The definition is very vague to me.

MS. LUCERO: Mr. Chair, Commission Member Gonzales, a ridgetop is defined by the upper most elevation between the shoulder and the crest of a hill or ridge that is bound by 30 percent slopes or greater. So that's how we define it, is what the slopes are adjacent to the ridge area.

MEMBER L. GONZALES: So any lot, whether they're on a ridge or not, if it has a slope that's greater than 30 percent, that's going to apply?

MS. LUCERO: If it has – so it's the uppermost elevation between the shoulder and the crest of any hill and the shoulder and the crest would have to be 30 percent slope or greater in order for it to be considered a ridgetop.

MEMBER L. GONZALES: I think that's quite onerous. Don't you?

MS. LUCERO: It's basically – that was actually the standard in the old code as well, so it hasn't changed.

MEMBER L. GONZALES: So this would be considered a variance under the old code as well?

MS. LUCERO: That's correct. Yes.

MEMBER L. GONZALES: Where the building site is or just the driveway that they're cutting?

MS. LUCERO: It would be both.

MEMBER L. GONZALES: Thank you.

CHAIR ANAYA: Any other questions for staff? Mr. Katz.

MEMBER KATZ: I would make a motion if you're ready for that.

CHAIR ANAYA: You have the floor.

MEMBER KATZ: In this case #V 17-5160, I would move to adopt the recommendation of the Hearing Officer and grant the variance for the road and deny the variance for the height and the two story of the house.

CHAIR ANAYA: We have a motion for approval from Hearing Officer. Do we have a second?

MEMBER C. GONZALES: Second.

CHAIR ANAYA: We have a first and a second.

The motion passed by majority [4-1] voice vote with Commissioner L. Gonzales casting the nay vote.

VII. B. Possible action on the Findings of Fact and Conclusions of Law for Case # V17-5160, Prabhu Khalsa and Regina Spamer Variance

MS. LUCERO: Mr. Chair, the order – the findings of fact and conclusions of law is listed as letter B under New Business. So because you did adopt the Hearing Officer's findings then you could take action, if the Planning Commission desires, on the final order that's attached in the packet.

MEMBER KATZ: Mr. Chair, I would move to adopt the order that is in the packet.

CHAIR ANAYA: Staff is that starting from Exhibit D?

MS. LUCERO: Mr. Chair, it's labeled as Letter B.

CHAIR ANAYA: Exhibit 10 in the packet. Oh, I apologize. I found it. Okay we have a motion for approval of Case #V 17-5160 for the order. Do we have a second?

MEMBER GRAY: I second.

CHAIR ANAYA: We have a second from Mrs. Gray.

The motion passed by majority [4-1] voice vote with Commissioner L. Gonzales casting the nay vote.

- F. **CASE # V 17-5170 Hager Road/Los Suenos Trail Extension Variance.**
Los Suenos Trail Extension, Inc. and the Catholic Foundation, Applicants, Jenkins Gavin, Inc., Agent, request a variance of the Sustainable Land Development Code (SLDC), Chapter 7, Section 7.11 Road Design Standards, Table 7-13 Rural Road Classification and Design Standards (SDA-2 and SDA-3) to permit the construction of the Hager Road/Los Suenos Trail Extension from Collector road standards to Local road standards. The 14 lots, referred to as the Hager Lands, are accessed via County Road 70 (West Alameda St.) within Sections 30 & 31, Township 17 North, Range 9 East (Commission District 2) [Exhibit 2: Photo of Los Suenos Trail; Exhibit 3: Fire Inspector Letter]

JOHN M. SALAZAR (Case Manager): Thank you, Mr. Chair. The applicant, independent of any proposal to develop the Hager Lands, is requesting this variance of SLDC Table 7-13 to permit applicant to construct the Hager Road/Los Suenos Trail Extension at local road standards rather than the more rigorous collector road standards.

This matter came before the Hearing Officer on July 27, 2017. The decision of the Hearing Officer was to recommend approval for a variance of Chapter 7.11, Road Design Standards, Table 7-13 Rural Road Classification and Design Standards subject to conditions six conditions as noted in Exhibit 10.

One of the conditions required by the Hearing Officer was for the applicant to conduct a neighborhood meeting prior to presenting before the Planning Commission. The applicant's agent met this condition by conducting a meeting on August 30th at the Nancy Rodriguez Community Center.

The Hearing Officer finds that there are extraordinary and exceptional situations or conditions of the property as demonstrated by the applicant and recommends approval to allow the construction of the Hager Road/Los Suenos Trail Extension to Local road standards.

Within the SLDC Official Map Series Future Road Network the Hager Road/Los Suenos Trail extension is designated as a minor collector-rural road. Table 7-13 requires a collector road for roadways with an average daily traffic of 401-1999 vehicles per day and requires two 11-foot driving lanes with a minimum right-of-way width of 80 feet.

The applicant states that a Collector road is not warranted at this time and is requesting a permit to construct an access road for the existing 14 lots at the local road standards and including a dead ending to the road with a cul-de-sac. Table 7-13 allows for cul-de-sacs to be used on roads with an average daily trip count of 300 or less.

The applicant provided an Average Daily Traffic report in Exhibit 1 prepared by Santa Fe Engineering Consultants, which estimates the daily traffic for the road at 250 vehicles per day despite the fact that the fourteen lots are not yet developed. That trip count assumed that each lot would contain no more than one dwelling unit. The applicant

asserts that, based on the average daily traffic of 250 vehicles, a collector road is unnecessary, and only a local road is needed.

Section 7.11.7.1 prohibits dead end roads accessing 30 or more residences. The applicant states that there are currently 14 existing lots with the potential of one landowner subdividing an additional 12 lots in the foreseeable future. This would bring the total lots up to 25, which, if developed at a density of one dwelling unit per lot, would still be under the 30-residence limit as set forth in Chapter 7, Section 7.11.7. However, it is difficult to project future use of the road as development proposals have not been presented and future use could be higher. Staff reviewed the potential number of lots which could be placed on the fourteen lots and accessed off of the Hager Road extension. The analysis included the following: The subject properties are within the Residential Estate zoning district where density is one dwelling unit per 2.5 acres; the total acreage of the fourteen lots is 368.3 acres; the total number of potential dwelling units on those fourteen lots is 147; the SLDC allows for the potential of each lot being allowed an additional accessory dwelling unit which could increase the total number of dwelling units; the increase in the number of dwelling units could be accomplished through land divisions or development permits or a combination of both.

The applicant's agent addresses the variance criteria below as followed and staff provides its interpretation of how the proposal meets or fails to meet the variance criteria. Those are in the staff report.

The Growth Management Department's Planning Division has reviewed the application and provided the following long range planning, historical notes regarding this roadway: Los Suenos Trail extension is referenced in the 1999 Arterial Road Task Force as a number 2 local priority for the West Area as a north/south connector road to be linked to County Road 70 connection; Los Suenos Trail is also identified in the 2006 TAP Community Plan and described as a two lane road normally associated with trail and bike paths; Los Suenos Trail extension is identified in the SLDC Future Road network and Map 10-3, Future Road Improvements as a collector – that's an 80-foot right-of-way, two 11-foot travel lanes, and paved; Los Suenos Trail and Los Suenos Trail Extension, as indicated in the SLDC Future Road Network Map 10-3, connects Las Campanas Drive at its north terminus and County Road 70 at its south terminus; the Los Suenos Trail extension would function as a collector, providing a north-south access to development in the Las Campanas/Cloud March area and new development adjacent or near the Los Suenos Trail extension to County Road 70; the Los Suenos Trail Extension has been identified as a potential capital project in the County long-range capital planning process.

Recommendation: The Hearing Officer recommends approval of the applicant's request for a variance to permit the construction of the Hager Road/Los Suenos Trail Extension from collector road standards to local road standards subject to conditions in Exhibit 10. Mr. Chair, those conditions read:

1. Right of way width shall be 80 feet and platted through all properties which the Hager Road/Los Suenos Trail extension accesses.
2. The proposed design for the all-weather crossings shall be submitted with the permit application for the road improvements or at the time of subdivision application, whichever occurs first. All-weather crossings shall be designed and constructed to Collector Road standards.

3. Los Suenos Trail Extension shall be constructed from County Road 70 to the Los Suenos Trail/La Vida Trail intersection.
4. At the time that the Average Daily Traffic volume exceeds 400 trips per day on Los Suenos Trail Extension, the road shall be upgraded to Collector Road standards.
5. The property owners along Los Suenos Trail Extension shall enter into a Development Agreement for full build-out of Hager Road to Collector Road standards including the two all-weather crossings.

The Hearing Officer also noted although applicant requested the deletion of this condition the applicant agreed to explore the possibility of entering into such an agreement at the hearing. Those are the five conditions that the Hearing Officer recommends as the applicant met the sixth one with the community meeting.

Staff recommends denial of the applicant's request for a variance of Table 7-13 Rural Road Classification and Design Standards. Should the Planning Commission approve the variance, Staff recommends the Planning Commission adopt the Hearing Officers conditions.

I'll stand for questions, Mr. Chair.

CHAIR ANAYA: Any questions for staff right now? Mr. Katz.

MEMBER KATZ: As I understand what the Hearing Officer did, basically is to take – have sympathy of the situation of their neighboring subdivisions aren't ready to develop and not put the full cost of making it a County road on them until the time comes that that needs to be done, which is why she's required the 80-foot right-of-way. The one thing I'm not clear about is the cul-de-sac. Is that –

MR. SALAZAR: Mr. Chair, Member Katz, the applicant is requesting for the road to end in a dead end cul-de-sac.

MEMBER KATZ: Right.

MR. SALAZAR: Staff, however, would like to see a connection to La Vida Trail and Los Suenos Trail.

MEMBER KATZ: My question is what are the conditions that are proposed in granting the variance when the traffic trips per day increase or the number of lots served increase. Does the cul-de-sac get problem get fixed then? Is that one of the conditions?

MR. SALAZAR: Mr. Chair, Member Katz, the conditions do not address the cul-de-sac. They state that the applicant should build out the road extension all the way up to the Los Suenos/La Vida Trail intersection.

MS. LUCERO: Mr. Chair, Member Katz, condition #3, that's the intent is for the road to be fully constructed and not end in a cul-de-sac.

MEMBER KATZ: Okay. So that's one of the conditions is we don't have the cul-de-sac.

MS. LUCERO: Yes.

MEMBER KATZ: Even right at the get-go.

MS. LUCERO: That's correct. Yes.

MEMBER KATZ: Okay. Thank you.

CHAIR ANAYA: Just a clarification on that. So item 3, the way that it reads first here, or the intent is that it is to be completed?

MR. SALAZAR: Mr. Chair, that's correct.

CHAIR ANAYA: Any other questions for staff? Mr. Gonzales.

MEMBER C. GONZALES: Yes, John, what's the total length of this road?

MR. SALAZAR: Mr. Chair, Member Gonzales, let me find that information for you. Mr. Chair, Member Gonzales, it's over a mile.

MEMBER C. GONZALES: Thank you.

MEMBER L. GONZALES: Chair Anaya.

CHAIR ANAYA: Mr. Gonzales.

MEMBER L. GONZALES: What's the driving surface width on this road?

MR. SALAZAR: Mr. Chair, Member Gonzales, there is no existing road. There is just a platted 66-foot right-of-way easement right now.

MEMBER L. GONZALES: So the easement is platted?

MR. SALAZAR: The easement is currently platted among the different plats of these property owners that lead up.

MEMBER L. GONZALES: So he has to build the road in that existing easement? Correct?

MR. SALAZAR: Excuse me?

MEMBER L. GONZALES: He has to build the road within that 66-foot right-of-way that's already platted?

MR. SALAZAR: Mr. Chair, Member Gonzales, that's correct. They would like to build along that road and that's where we would like to see the increased right-of-way to 80 feet along that right-of-way that's already platted.

MEMBER L. GONZALES: So with the new ordinance, on a collector road, it's 80 feet. Correct?

MR. SALAZAR: Correct.

MEMBER L. GONZALES: So this is 60, you want to bump it 20, and what would be the riding surface on the 80 feet? It sounds like a freeway.

MR. SALAZAR: The driving surface would be 22 feet, Member Gonzales.

MEMBER L. GONZALES: So conceivably, someone could build a road with a two-lane highway on 80 feet. If it's the landowner who owns it it's going to take a lot of land out of his property, but to get there – it sounds like a big, huge easement just for a collector road.

MS. LUCERO: Mr. Chair, Commission Member Gonzales, if these properties were ever built out to their full potential there may be the need for acceleration lanes or deceleration lanes, or possibly even a roundabout at some point. And that is the reason for the 80-foot right-of-way to make sure that it could accommodate any further improvements that might be needed.

MEMBER L. GONZALES: Thank you, Vicki. Thank you, John.

CHAIR ANAYA: Mr. Gonzales.

MEMBER C. GONZALES: I have a couple more questions. John, is this going to be a private or a public road?

MR. SALAZAR: Mr. Chair, Member Gonzales, it will be a private road.

MEMBER C. GONZALES: So it will be maintained by the homeowners association?

MR. SALAZAR: That will more than likely be the case. They could come to the Board at some point and ask that the County adopt it.

MEMBER C. GONZALES: Thank you.

CHAIR ANAYA: John, can I ask you to tell me what page the road is actually on and shows the length and the whole nine yards?

MR. SALAZAR: Mr. Chair, on page NBF-23, it's not necessarily an aerial but it does show the unbuilt section of Los Suenos/Hager Road. I do have an aerial. Let me find it for you.

CHAIR ANAYA: So we're talking the yellow markings?

MR. SALAZAR: The yellow markings. On page NBF-45 there's also an aerial that show the property with the property owners listed. It's – the roadway is marked in red and it shows going from County Road 70 all the way up to Los Suenos Trail/La Vida Trail.

MEMBER KATZ: Is this what's proposed?

MR. SALAZAR: Mr. Chair, Member Katz, this is – that particular aerial on page NBF-45 does show a cul-de-sac, it does show what the applicant is proposing where the cul-de-sac would end. That's on the northern boundary of the Las Lomitas, LLC property. But it does also show what the County would like to see with the connection.

CHAIR ANAYA: West Alameda to –

MR. SALAZAR: That's Los Suenos Trail and La Vida Trail up there, that intersection.

CHAIR ANAYA: Yes. I see.

MEMBER L. GONZALES: Chair Anaya.

CHAIR ANAYA: Mr. Gonzales.

MEMBER L. GONZALES: So on the Exhibit 2, which is NBF-45, there's a number of different owners. It's the Archdiocese of Santa Fe and the Canyon Diablo Properties. So all these people are doing this collectively?

MR. SALAZAR: Mr. Chair, Member Gonzales, that's correct. They've all gone into an agreement and hired JenkinsGavin, Incorporated to help them through this process.

MEMBER L. GONZALES: Thanks, John.

CHAIR ANAYA: Any other questions for staff at this time? Seeing none, are the owners –

[Duly sworn, Jennifer Jenkins testified as follows:]

JENNIFER JENKINS: Good afternoon, Commissioners. I'm Jennifer Jenkins with JenkinsGavin. This is Daniela Valdez, also with JenkinsGavin, and we're just going to set up and have some visual aids that I think will be helpful as well. A little larger size than what you're dealing with in your staff report. So give us just one moment, please.

CHAIR ANAYA: I think we're all just going blind.

MS. JENKINS: So as was mentioned in the staff report as well, I am here representing the Archdiocese of Santa Fe, the Catholic Foundation as well as the Los Suenos Trail Extension Association, which is an association of what has come to be known as the Hager Landowners. Mr. Hager had a bunch of property that he subdivided

into large 40-acre tracts many years ago and so we're dealing with the successors in title to Mr. Hager.

So just to get our bearings here a little bit, this is the Hager, the proposed alignment of Hager Road or what is also called the Los Suenos Trail Extension. Los Suenos Trail comes out of the Las Campanas here and currently terminates at La Vida Trails. So this area in here makes up the Hager lands, and if you just get on – this is the Arroyo Las Trampas, this is the Arroyo Frijoles and then just on the south side here is – this is 599 here, and then there's West Alameda which now is bifurcated by 599. So this is the extension of West Alameda which leads to the Sloman Crossing across the Arroyo Las Trampas into the Pinon Hills neighborhood here, and so to our west we have the existing Pinon Hills Subdivision and to our east we have the existing Puesta del Sol Subdivision. And then of course to the north is Las Campanas, La Tierra and all of that.

There are currently 14 parcels that make up essentially the applicant that is before you. Again, we have large – this parcel here which is at the further south. So here you can see this is where West Alameda continues and then heads into the Sloman arroyo crossing here into Pinon Hills. And the red is the Hager Road easement and we have lots ranging in size from ten acres all the up to about 69 acres but most of these parcels are typical 40-acre parcels.

So why Hager Road? There's an arroyo crossing here that leads into Pinon Hills. This is an arroyo crossing here. All the yellow that you see here are County public roads. These are publicly maintained, publicly owned roads. So we've got all kinds of access. So why this? Well, over ten years ago there was a lot of planning and effort that went into a desire, primarily, I think both by Pinon Hills but primarily by Puesta del Sol not to have the access to these properties come through their communities. So this was established as access for the Hager lands, also as access for Suerte del Sur, which we all maybe recall that very robust approval process for a 264-lot subdivision community here, north of the Hager lands and south of Las Campanas.

So this was deemed to be the primary access for Suerte del Sur, but also, Santa Fe County was very interested in having another point of access – ingress and egress – for Las Campanas to get ease of access down to 599. So it served multiple purposes. So back then Suerte del Sur was approved, the master plan was approved for 264 lots, a cost-sharing agreement was entered into among the Hager landowners and Suerte del Sur. That cost-sharing agreement stated that Suerte would pay for 2/3 of the roadway and at that time it was designated as a minor arterial. When the SLDC was adopted in 2015 it was downgraded to collector status.

The Hager landowners were responsible for 1/3. The Hager landowners all put money in the bank for what was projected to be their 1/3 portion of the expense to build a road to Las Campanas, and Mr. Peters was on the hook for the other 2/3. He had an approval for 264 lots, so he had a much more significant project so it only made sense that it be divided up in a pro rata kind of manner. Well, the Suerte del Sur master plan has expired. Suerte del Sur is not happening anymore. Mr. Peters never put his money in the bank for his 2/3 portion. So now we have the Hager landowners – there's been no development here because there's no access. They're left holding the bag.

So here's the irony of this request. I find myself asking for a variance so I can comply with the code as it's written. I need a variance to comply with the code.

So this is the now infamous chart that I think you are quite familiar with from the SLDC for – we are in Sustainable Development Area 2, this identifies the roadway standards. We have 14 lots, none of which are occupied or developed. Okay? And so for the purposes of roadway standards the County uses a standard metric that a dwelling generates 10 car trips a day. So 14 lots, assuming you would have a house on each one, 140 car trips a day. A local road is permitted to accommodate up to 400 vehicle trips per day. A cul-de-sac, 300 vehicle trips per day.

But I don't get to do that, based upon my existing conditions today, because there's potential. Well, everything has potential. If we were going to implement the code based upon the maximum development potential of every single project regardless of what's happening today, nothing would ever get done. Nothing would get done. So we're requesting the opportunity to create access so we don't – we are not forced to use the public roads that are adjacent to us. If we can't do something that is financially feasible then we can't do it. We're asking for the opportunity to build a road that complies with code and that is financially viable for these landowners just to have access. They have access, but they're trying really hard not to use it.

So we're looking for an opportunity to respect the wishes of our neighbors and say, okay, we'll build a brand new road, we'll build significant arroyo crossings. We want to build it to local road standards and terminate in a cul-de-sac. All of which complies with code relative to the 14 lots. Is this going to be the way this road is going to be forever? Probably not. Eventually, it will be necessary to make the connection here. Eventually, it will probably be necessary to bring this up to collector standards. And if the County is so concerned about Las Campanas having another way in and out, then they need to participate in a big, public improvement. This is a public improvement at that point. This is not about just these poor landowners trying to get reasonable access to their property at a cost that is bearable, based upon the kind of density they can get and the kind of revenue they would realize from this.

And we understand there is a condition of approval that at a certain point, when we max out over those 400 trips, it's got to be upgraded to collector standards. That's how things have been done in the County for years, even under the old code. If you came in with a project at the end of a road and your project made the existing conditions of that road didn't meet code, you had to upgrade the road before you could do your project. That's always how things have been done. Sometimes things are done incrementally. We don't always get the final thing we want at the end of the day on day one. It's just not feasible.

So the cul-de-sac is important for a couple of reasons. This is the segment from where we would like to terminate to the current termination of Los Suenos Trail at La Vida Trail. It's an extra half a million dollars just to build that. An extra half a million dollars to do that. And here's kind of the crazy thing. So this segment of Los Suenos Trail is just a gravel road, not a great one at that. So if we build this to local road standards as recommended by the Hearing Officer, that's great. But if we connect this all of a sudden you're going to have a super highway that is going to get over used because this is not built to collector standards; this is not even paved.

That is the intersection up here. It's a little off the map. Maybe it's on this one. Let me look. But just up here where you have this four-way intersection. Got a lovely asphalt road where Los Suenos Trail comes in and there's another road going east-west,

and then you start this portion of the road. So if we make the connection now we're creating a non-conformity. Why do we want to create a non-conformity? Why do we want to create something that's built to local road standards where everyone over here is going to say, oh, my god, I've got a faster way out to 599. Of course they're going to use it.

So the cul-de-sac serves multiple purposes. It serves these landowners to give them a road they can afford to do absent the other 2/3 of the money that, poof, went away, and it prevents the cut-through traffic. And interestingly, the code says here, The arrangement of roads in any development shall provide for the continuation or appropriate projection of existing or proposed highway or arterial roads. It says nothing about collector or local roads needing to be connected to each other. So again, we're asking for an opportunity to comply with this. Everything we're asking for fully complies with this.

Yes, the road is on the County CIP. That's great. It should be. If the County thinks this connection is so important they need to have some skin in the game. But until that time these landowners are left with two options. Option A, build a local road, cul-de-sac here, that in the interim serves these properties very adequately. And if they can't their only option is to use the existing County roads that are directly adjacent, some of which even stub out to the property. It kind of looks like they were intended to connect to these parcels but we've been asked not to do that and that's why we're here.

I would like to go over a few items on the conditions of approval and that will conclude my comments and I would stand for any questions. Relative to the right-of-way width – I'm actually going to approach again. Relative to the right-of-way width I do agree that 80 feet is a lot of right-of-way. There's an existing 66-foot easement that is platted, which obviously more than adequately accommodates a 20-foot roadway. But there is an agreement among the Hager property owners to do a trail easement along the west boundary here. In this area the trails are really identified to follow the paths of the arroyos, which is a great place for trail connections, but the community here, Pinon Hills, as well as Puesta del Sol, said we'd really like a north-south connection but we want to be off the road. We don't want to have our pedestrian or equestrian or bicycle trails close to the roadways. We want to be separated from the roadway.

So they have an agreement to do a 15-foot easement here. But if we're required to beef this up another 14 feet, you start losing too much real estate. So we would like the opportunity to keep this at 66, which is plenty of space and to keep our 15-foot trail easement here, because if we're forced to do this we might have to lose the trail easement, and I don't know if that is in anyone's best interest. So we would ask that condition to be modified so that we may retain the 66-foot easement and an off-road 15-foot trail easement.

So that is condition #1. Condition #3 relates to the cul-de-sac. So we would ask for condition #3 to be deleted and that we be permitted to proceed with the cul-de-sac standard. And as John stated relative to condition #5, we did agree – we cannot control other landowners in the Suerte parcels or any other adjacent landowners that might be involved in this effort. We can't control who is going to enter into a development agreement or who isn't. We think it's a great idea and we would be very willing to pursue that, but again, we can't control what others are willing to do, so I would just like condition #5 to be clarified as was stated in the Hearing Officer's findings that we are in

agreement to explore that and to pursue that, but with the understanding that we're not completely in charge of what others might choose to participate. So with that I would be happy to stand for any questions. Thank you very much for your attention.

CHAIR ANAYA: Okay. Questions for the owners at this time. Mr. Katz.

MEMBER KATZ: Jennifer, how large are these lots?

MS. JENKINS: There are eight 10-acre lots. There's one 69-acre lot and the remainder are 40-, 43-acre lots.

MEMBER KATZ: And on the two developments on either side, what are the size of the lots on those?

MS. JENKINS: Those range from 2.5 to five. That's kind of the range for both of those communities.

MEMBER KATZ: So it's sort of not unreasonable to think that this area will get developed with about that density.

MS. JENKINS: That is, the SLDC, that is the permissible density is 2.5-acre lots.

MEMBER KATZ: So when staff says there could be a lot of –

MS. JENKINS: Sure.

MEMBER KATZ: It would be kind of foolish to pretend that this is not going to happen and that's not why you're wanting to do this.

MS. JENKINS: Oh, of course. Of course, Mr. Chair, Mr. Katz. We are not pretending that there's going to be 40-acre ranchettes out here. That might be the case in some instances. There could be larger parcels. All we're asking for is to be able to build something based on today, not based upon a future that none of us can predict.

MEMBER KATZ: Okay. As staff pointed out the reason that there's a requirement for an 80-foot right-of-way is because the County is in charge of trying to do good planning and making sure that we don't get stuck with bad stuff. And it's quite obvious that this area is getting developed and although Mr. Peters maybe has failed in his effort to get that area north of you developed, that will happen. And we all know it's going to happen. And that's why 80 feet is needed.

I don't really see how you can avoid that because once it's gone, if someone is building something close there, then it's gone and that's just the type of bad planning that screws things up.

The cul-de-sac is a different issue and would you be comfortable with a similar standard for the cul-de-sac that it starts out as a cul-de-sac but when the trips per day are more than 300, which I think is the cul-de-sac standard, isn't it? Then it has to be connected up.

MS. JENKINS: Absolutely, Mr. Chair, Mr. Katz. I think that's a fantastic idea, because that was the same standard that was used going from local to collector road. I would only offer one slight modification is that at such point that we are exceeding the 300 trips, we either make the connection or provide a secondary emergency access. Because that's really why the limitation. It's really an international fire code limitation on the 300 trips. So I would like either of those two items needs to occur at such time as we exceed the 300. But the 300 and the 400 are neck in neck, so it's more than likely going to be that's when the connection is going to need to happen. So I think that is a great idea.

MEMBER KATZ: Thank you. That's all I have.

MS. LUCERO: Mr. Chair, if I could just interject regarding the cul-de-sac and the connection. Los Suenos Trail Extension has been identified as a potential capital improvement project in the long-range capital planning process, so we have identified that it is going to need to be upgraded and that there is the possibility for public funding through the MPO. However, if that condition #3 is removed and the road is not built as a through road, then it would not be eligible for public funding through the capital improvement process. It would have to be a through road, a connection road, in order for it to be considered.

MEMBER KATZ: So they could be hurting themselves by not having it.

MS. LUCERO: That's correct.

MEMBER KATZ: And having to pay for it themselves.

CHAIR ANAYA: Was that explained to them?

MS. LUCERO: Mr. Chair, I actually didn't realize that that was the case until speaking with our Deputy Public Works Director, so that hadn't been conveyed to the applicant. It was just something that I was just notified of just a short time ago.

CHAIR ANAYA: So Jennifer, are you –

MS. JENKINS: I'm a little unclear, so if I may, Mr. Chair, just to make sure I'm clear. So what is the scope of the potential funding? Is it the entire roadway from County Road 70 to La Vida Trail or up even further?

ROBERT MARTINEZ (Deputy Public Works Director): Mr. Chair, so this Hager Extension has been identified as an arterial on the Santa Fe MPO road network, and you've seen the history that it's gone back as far back as the Arterial Roads Task Force. So for roads to be improved with public funds, and even private funds – we've seen this with the Jaguar Interchange – it has to be on the TIP, which is the Transportation Improvement Plan, which is put together by the Santa Fe MPO.

So in order for it to be on the TIP and go through the MPO process it has to be an arterial. Basically, what you have here is a mile-long driveway with a cul-de-sac. That does not qualify as an arterial and would not qualify for public funds. So to answer Ms. Jenkins' question, this road was proposed all the way through from County Road 70 to La Vida Trail.

MEMBER L. GONZALES: Chair Anaya, Robert, could I speak?

CHAIR ANAYA: Yes.

MEMBER L. GONZALES: Robert, in the future, is that road going to be a public road or will it be a private road, or what's the intent here?

MR. MARTINEZ: Mr. Chair, Member Gonzales, this was intended to be a public, County-maintained road from County Road 70 all the way up to the northern terminus with La Vida Trail, eventually going up to Las Campanas. Now, if the Commission allows this road to be built to a lesser standard, which would be a local road, Public Works' recommendation would be that the Commission should not accept this for maintenance or consider it for maintenance until it's built out to the collector road standard.

MEMBER L. GONZALES: Thank you, Robert.

MS. JENKINS: If I may, Mr. Chair, Commissioners, just as a point of clarification. So if we didn't build anything, then the County would be building the whole thing. So if we built a segment of it, then the County could build the piece that creates the connection as would be required. So I'm a little confused about how them getting their

federal funding is mandated on my clients' building this connection right now. If my clients weren't going to do anything then the County would be building all of it. So I'm a little confused about how approving a cul-de-sac today for 14 parcels, if their plan going forward is we're building a through-road from here to here, there's some existing segments of it that we're going to be improving. There's an existing segment here and an existing segment here and we're going to make it go all the way through – I don't see somehow approving this cul-de-sac flies in the face of that.

So I don't want to beat a dead horse here but I think it's brand new information so I'm trying to get my brain around it, but it doesn't really make sense that this body, by approving a cul-de-sac is going to bring this funding into jeopardy, because if we weren't here there'd be nothing out there. So it's a little confusing.

MEMBER KATZ: Can we get some clarification from Robert on that?

CHAIR ANAYA: Robert.

MR. MARTINEZ: Mr. Chair, a couple of comments here. So, yes, it is on the Arterial Roads Task Force long-term road plan. It is on the MPO. It's conceivable that the County could construct this road with County funds as it rises to the top of the priority list but it's not conceivable that this would happen within the timeframe that the developers are needing this access. So, sure, if they want to wait 20 years, conceivably the County through the MPO process could build this road. The issue with the cul-de-sac is that it is not considered an arterial road so it would not even be considered as a project for funding because in its current state it would be considered a non-arterial. So it would not be eligible for federal funds. It has to be an arterial, a through road. So in the state that the applicant wants to build it to, it would not be eligible to be on the TIP.

MEMBER KATZ: Can I ask further, if it was build through to the connection, so it is not a cul-de-sac but it is a through road, but what I want to say is if it's built to the local road standard – in other words, not paved. A dirt road. A gravel road. But a through road, would it then qualify?

MR. MARTINEZ: Mr. Chair, Member Katz, that is correct. It would qualify to be on the TIP and would rise to the top of the priority list as other projects that are higher up get improved and this project moves up the list. So it would be eligible for public funds to improve it from a local to a collector.

MEMBER L. GONZALES: If it was built to County standards?

MR. MARTINEZ: That is correct.

MEMBER KATZ: But the County standard for the local road is a County standard, right?

MR. MARTINEZ: That is correct, but as more development occurs and you go beyond the 400 vehicles per day then the standards get higher.

MEMBER KATZ: Okay. So it would not be a problem for them to start out with the cul-de-sac and when traffic increases, not to do what Jennifer wanted but to require her, the project, to make the connection. Because once you get to that amount of traffic then I think they're going to be required to upgrade the road anyway. So it's not really going to harm them, is it, to start out as a cul-de-sac and in five years then make the connection when the traffic warrants?

MR. MARTINEZ: Mr. Chair, Member Katz, I'm not on the MPO but my understanding is it would not even be eligible to be placed on the TIP, the Transportation

Improvement Plan if it's not a through arterial. Basically, what I said here, is we have a long driveway.

MEMBER KATZ: I understand that.

MR. MARTINEZ: And driveways and local roads are not placed on the TIP.

MEMBER KATZ: So what is the significance of having it not placed on the TIP for five years, seven years, and then have it placed on the TIP.

MR. MARTINEZ: Mr. Chair, Member Katz, it would just push it down the list on possible funding. The longer you wait to put it on the list, other projects get placed in front of it.

MEMBER KATZ: Thank you.

MEMBER L. GONZALES: Chair Anaya.

CHAIR ANAYA: Mr. Gonzales.

MEMBER L. GONZALES: The way you're presenting it, it's going to be a driveway, correct?

MS. JENKINS: Well, a driveway is --

MEMBER L. GONZALES: With the potential in the future to --

MS. JENKINS: With the potential to be upgraded.

MEMBER L. GONZALES: But right now it's a driveway with a cul-de-sac. Right? The landowners out there understand that with the emergency vehicles, and I haven't talked to the Fire Marshal over there, regarding any fire that would be happening there, because it's such a long driveway and because it's not to roadway County standards, it's a driveway. On some of the projects that we've approved before, they won't even go in on a road surface that has a cul-de-sac at the end, and that's what I'm concerned. I don't want the County to get stuck building a road to County standards because you guys aren't ready, and the emergency vehicles get in there and there's a potential for somebody to get hurt because it's not up to County standards. And I'm really concerned about that.

MS. JENKINS: If I may, Mr. Chair, Mr. Gonzales. So the roadway section we're proposing absolutely meets County standards and it also meets standards of the Fire Department. We have a 20-foot drivable surface, which is what is required. We have the adequate radius on the cul-de-sac turnaround, and we're building all-weather crossings across two enormous arroyos. So there are no issues and this actually was approved as a cul-de-sac back in 2006, I believe, by Tim Gilmore.

So there are no issues. So this is a County standard. It's kind of a traditional rural road. So it's basecourse to the proper thickness to accommodate the weight of a fire truck. So this has already been approved. There hasn't been significant changes in fire code in the last ten years, and so this cul-de-sac meets all of the County standards for a cul-de-sac. A driveway is only allowed to serve two lots. So this is not a driveway. This is a road, cul-de-sac/local road standard.

CHAIR ANAYA: Any other questions? Jennifer, I've got one for you. Actually more than one. The road that we're talking about evidently exists there. It's going to have to be brought up to standards. So the standards from 2006 to the standards now are different. You understand that. I understand that. So that's -- the argument about it being approved then, it's a moot discussion. But I do understand where you're coming from at that point.

I want to start off on the property above you guys, where he had agreed to do 2/3 of the cost of the road, and you said that that project is no longer in existence?

MS. JENKINS: Yes. Mr. Chair, Commissioner, the Suerte del Sur master plan expired. He had extended – he got it approved and he had done some time extensions. He basically ran out of time extensions and he needed to actually record a phase 1 subdivision plat in order to keep the master plan alive and in order to – and recording that phase 1 plat, which is what kicked off his financial obligation relative to the cost-sharing agreement with the Hager property owners.

CHAIR ANAYA: So he did do a phase 1 then?

MS. JENKINS: He did, but it's my understanding that he never recorded that plat and that he has taken the large parcels that made up Suerte del Sur and he did a lot line adjustment in 2015 and just moved some things around and modified some roadway easements after the master plan expired.

CHAIR ANAYA: Okay, hold on right there. I'm going to ask this to staff. On that agreement that the developer had entered into with the County at that time, was that project bonded?

MS. LUCERO: Mr. Chair, are you referring to the larger project with the 200+ units?

CHAIR ANAYA: Yes. Not only that, where he had agreed to do 2/3 of that cost and was that recorded?

MS. LUCERO: Mr. Chair, I don't believe that the agreement was recorded and the applicant may have bonded for those improvements at the time that his application was still valid, but once the application expired we don't require them to keep the financial guarantee active anymore.

CHAIR ANAYA: Can you just do a follow-up for us for the next meeting on that particular item?

MS. LUCERO: Mr. Chair, yes, I will look into that.

CHAIR ANAYA: Thank you. Second question that I have is you have three owners on this property that you're trying to do right now, from what I can gather. You have one that's eight 10-acre lots. You have one that's 69-acre lots and then you have one that's 43-acre lots. Are they three different owners or is it just the two that you're –

MS. JENKINS: May I approach and I can clarify that for you. So the Archdiocese, the Catholic Foundation, they own Lot 1, here at the bottom, which is the 69-acre parcel.

CHAIR ANAYA: Okay so one 69 is the Catholics.

MS. JENKINS: Yes. And then these two here are also owned by the Catholic Foundation, and then this one up here at the very top is owned by the Catholic Foundation. So one, two, three, four. So that's one owner owns four large tracts. And then we have – this is Terra Bella here, which was a little over 40-acre tract, and then was subdivided into 10-acre tracts, and there's a consortium of owners here.

CHAIR ANAYA: And on that section right there, how do you plan to bring them over to the road in question?

MS. JENKINS: Well, the Hager Road alignment, there are various spur roads that are planned for spurring off and accessing the various parcels. And there's cross-use easements that have been granted across everybody's property so each of the

property owners can have access to Hager. So the ones where the easement doesn't actually go through the parcel, there are easements that have been created so that the parcels that don't have direct – aren't directly adjacent can have – can construct their access.

CHAIR ANAYA: Okay.

MS. JENKINS: And then we have Judy and Ted Ross own this parcel here. And then Steve Goetz owns these parcels right here and this parcel right here.

CHAIR ANAYA: So they're all very large lots and there are so basically four owners that are going to either sell or subdivide.

MS. JENKINS: Correct. Most of them are sellers.

CHAIR ANAYA: They're going to have to sell to some type of a subdivision then.

MS. JENKINS: Yes. More than likely.

CHAIR ANAYA: They're not going to sell each individual lot.

MS. JENKINS: No.

CHAIR ANAYA: Okay. So the long-range plan for you guys, or the short-term plan for you guys is just to get the road in there so that in the long term these developers – or they can sell their properties to the developers and speed up their process to bring in all the houses that will eventually come into the new road in question, which will be what? Two, three years down the road? Four?

MS. JENKINS: Much longer.

CHAIR ANAYA: Tell me.

MS. JENKINS: I have no idea. What I can tell you, Mr. Chair, from the standpoint of the market and what's been going on in the housing market coming out of the recession, we still have a lot of 2.5-acre lots out there, so this is not something that is going to be really all that imminent, frankly. And so there are, as I said, most of the owners right now are interested in selling their parcels as-is to a potential – someone who would be a potential subdivider. It's really hard to market property you can't drive to. So having some reasonable amount of access in compliance with County standards is really important to these landowners and if they can't build something that they can afford to build that is reasonable, then they are going to be looking at the adjacent public roads. That's their only – what are they going to be left with but to use the public roads that are adjacent to that?

CHAIR ANAYA: Yes, no, maybe. Okay. Thank you. Any other questions for Jennifer at this time? Mr. Gonzales.

MEMBER C. GONZALES: Hey, Jennifer. What's the size – I guess basically what you're asking here tonight, you're asking for us to approve a temporary cul-de-sac. Right? What's the diameter on that?

MS. JENKINS: Whatever the requisite is. Probably – I think it's 110, 120.

MEMBER C. GONZALES: 120-foot diameter?

MS. JENKINS: I believe so. I think that's the requirement.

MEMBER C. GONZALES: Okay. Thank you. I have a question for Robert. Robert, I noticed they're proposing on this new section three inches of basecourse. Is that going to be sufficient for wear in that area, for that length of a road?

MR. MARTINEZ: Mr. Chair, for the 250 trips per day or whatever, I think is what was projected in their TIA, yes, three inches should be sufficient for 250 trips per

day, but when the volume increases the standards increase. So, yes, three should be sufficient for the short term.

MEMBER C. GONZALES: Thank you.

CHAIR ANAYA: So when the volume increases the cost will naturally increase because they're going to have to come back and redo the whole road all over again.

MR. MARTINEZ: Mr. Chair, that is correct. Because the three inches of basecourse that were put down initially have been contaminated or eroded so they're building from the ground up again.

CHAIR ANAYA: You're exactly right. Thank you, sir.

MEMBER L. GONZALES: Chair Anaya.

CHAIR ANAYA: Mr. Gonzales.

MEMBER L. GONZALES: Just a question of staff. Vicki, Pablo, I don't know. Right now the existing ordinance, the SLDC on driveways, what's the length? Is there a maximum? Minimum?

MS. LUCERO: Mr. Chair, there's not necessarily a limit to the length of the driveway, but a driveway as defined in the code only serves up to two lots. So this would not be classified, under the SLDC as a residential driveway.

MEMBER L. GONZALES: So what is it classified as if has just a road with a cul-de-sac.

MS. LUCERO: It would basically be, well, a local road is what they're asking for, to build it to local road standards with a cul-de-sac.

MEMBER L. GONZALES: Thank you.

CHAIR ANAYA: Mr. Gonzales.

MEMBER C. GONZALES: I have one more question of staff. Vicki, Paul, this road, is this road going to be subject to the new part of the ordinance where it required 98 percent compaction?

PAUL KAVANAUGH (Building & Development Services Supervisor): Mr. Chair, Member Gonzales, it would be required whatever is required of the New Mexico Department Highway Transportation Silver Book. I believe that's 96 percent.

MEMBER C. GONZALES: Okay. Thank you.

CHAIR ANAYA: Okay, any more questions for owner? Seeing none, this is an open meeting so do we have anybody in the audience that is willing to speak for or against and if there are so, please keep it to the project and to roughly about two minutes each. Okay? Thank you. Can you all please stand and be sworn in?

[Those wishing to speak were placed under oath.]

CHAIR ANAYA: Can we also keep it to -- try not to be too repetitious.

[Duly Dave Munger sworn, testified as follows:]

DAVE MUNGER: Dave Munger from Puesta del Sol. So the Arterial Roads Task Force created Hager Road of Los Suenos Trail to one, handle new development in the area, two, to handle traffic from developments from the north, and three, to minimize impact to existing neighborhoods including Pinon Hills and Puesta del Sol, or PDS, is how we abbreviate that. The TAP plan reinforced the ARTF plan and PDS, Puesta del Sol, is committed to both the ARTF and TAP plans. The question is whether the proposed variance is at odds with the plans. The answer is yes, if the variance is granted including condition #3 from the Hearing Officer, which is extension of the full

length. Then unacceptable impact to the existing neighborhoods will absolutely result. We're very much against that part of it with a County Road status type building standard.

A gravel road in such close proximity with the probable level of traffic is an unacceptable intrusion to noise and dust. The reason it's unacceptable and a problem level of traffic is the pent up demand in all those northern areas, Las Campanas on down, will quickly exceed the 400 cars per day. They'll build this thing and then they'll be over the limit almost immediately. It's been a stated goal of theirs for a long time to encourage this road. We're not against the road but it needs to be the right standard.

The answer is no because it satisfies our prime concern that new development within our area be routed to Hager Road. We don't want them messing up our internal roads that aren't to any standard at this point. Puesta del Sol requests that the variance be denied if condition #3 must be included. Only full collector road standards are acceptable in that case. If condition #3 is rescinded PDS would support the variance but considers full collector road standards as preferable. PDS, Puesta del Sol, also strongly urges a viable trails plan for the Hager lands be required along with the road plan. We are not looking for sidewalks along the road. That isn't the intent. The problem is 80-foot, is that's where you put them. That's the problem with 80-foot. Sixty-five-foot, they put them elsewhere. So think about that one really carefully. But in any event, we're asking for a trails plan required to be developed.

That said, we're looking for actual trails providing recreation and connectivity with the Santa Fe-wide Gusto trails initiative. You probably don't know what that is and I have a piece of paper I can give you to sort of lead you that way. But it's a citywide/county road system that's interconnected and it goes all the way around the city. It's really a big deal actually. This is a piece of that and so we want to make sure we don't have a problem there. We are willing to participate with the county developers in the Santa Fe Conservation Trust to develop a plan and to help construct the trails if they are dirt single track.

So anyway, the biggest thing is the 400 limit is broken logic. There's a big problem with that. It's going to be exceeded immediately, and then what are you going to do three weeks after you build this thing to County road standards. So either leave the cul-de-sac in. If you need to extend it, gate it and Knox-lock it. Something until the 400 internally happens and so – and maybe if it's gated and Knox-locked, it doesn't miss the TIP thing. So anyway, that's my comment. Thanks.

CHAIR ANAYA: Thank you, sir. Next.

[Previously sworn, Michael Wiess testified as follows:]

MICHAEL WIESS: Hello, I'm Michael Wiess. I'm president of the West Santa Fe Association. We represent Pinon Hills and we stand 100 percent with Puesta del Sol in terms of their concerns about the road being very quickly and immediately overwhelmed if it's forced to connect through. That said, we signed on with the ARTF long ago to build this thing through. It's going to come through and when it does it's going to need to be built out properly and I say we build it out properly from the get-go. If we're going to do it, let's do it right. And we also have concerns that the organization is acting as a single LLC to do this. They are going to benefit from this road. They're going to be able to sell their properties, but they're not, and they need to do that as a group to build this road out. But they're not acting as a group to take responsibility for the impact of this development. They've promised a couple of easements but there's been

no discussion of affordable housing, open space, all of the other issues that have to be addressed when a master or a conceptual plan is brought before the County and this density deserves a conceptual consideration.

Obviously, serial subdivisions like this, we have no legal recourse but it's wrong. And I hope that the developers are able to stand up and do the right thing for the neighbors in the community and provide open space, trails, and viable emergency only access. Pinon Hills is a non-conforming subdivision. We have no access at this point. I would ask that some sort of fire egress, emergency only is granted over to the new road. Thank you for your consideration.

CHAIR ANAYA: Thank you. Next.

[Previously sworn, Judy Ross testified as follows:]

JUDY ROSS: My name is Judy Ross and I am the owner, along with my husband of Lot 3, which is the one that borders the Frijoles Arroyo. I'm addressing three topics today. One is the extent of Hager Road and equitable treatment in that regard. The second is the emergency access issue that was raised by Pinon Hills, and the third is the easement side.

The extent of Hager Road and equitable treatment is the first topic. We received final plat approval for phase 2 of Ponderado. It was a 12-lot subdivision. The subdivision lapsed because Hager Road, aka Los Suenos Trail Extension was a condition of approval. The cul-de-sac as documented in the letter that you received from the Fire Department, Tim Gilmore, was necessitated by the difficulty of getting Peters to participate in the funding of the road, despite the fact that he was the biggest beneficiary with 74 percent of the calculated and projected traffic based on the Suerte del Sur Subdivision. Although he has signed an agreement with us to fund 66 percent of the road, he has been non-responsive to our calls since his subdivision lapsed, including multiple calls to him in the last four weeks.

We are asking for equitable treatment compared to Peters in two regards. One is actual versus potential lots. After Peters' subdivision lapsed Peters asked for a lot split, which he received. His Los Suenos Trail Extension assuery was based on actual lots, in sharp contrast to the staff report for this variance request, which focuses on potential lots. That does not seem to be equitable.

Second is downstream/upstream traffic impact. The conditions of this variance approval ask us to improve the road to La Vida Trail on property which the Hager Road owners have no monetary interest and from which we receive no benefit. Using this logic on Peters' request, he should have had to provide financial assuery to at least his southern border, which is our northern border, and more equitably, to CR 70, the southern terminus of Los Suenos Trail Extension, because his potential lots could still drive the bulk of the traffic.

Our group does not have the clout or the leverage to get Las Campanas, La Tierra, or Peters to participate. Further, our group has only $\frac{3}{4}$ of a million dollars to build the road and we need approximately at least another $\frac{1}{2}$ million to build the local level road with crossings on the Hager properties. This means that the lot owners and the Catholic Foundation will jointly have to contribute at least another $\frac{1}{2}$ million or more so that the road can be built to the northern border, i.e., the cul-de-sac. This means that there is a significant hardship for the private lot owners and a loss of community support and good deeds that the Catholic Foundation could have done if they have to put that money in.

Therefore, I would ask you to approve the 100-foot cul-de-sac as requested.

The second issue that was raised by Pinon Hills is emergency access. The BDD approved the Ponderado Subdivision without offering emergency access to Pinon Hills for the following reasons. The location for the emergency access contains greater than 15 percent slopes, so a road would have to be engineered so that the people escaping Pinon Hills to the north and the emergency vehicles would not end up in a ditch. Since the BDD approved the Ponderado Subdivision, the County built the Sloman crossing, which has significantly improved egress for the southern half of Pinon Hills. The northern half is still without an all-weather crossing.

Because of the massive floodplains on our lots, providing easement for an emergency road will likely result in the loss of a lot or even two lots. Calle Estevan, which is in Pinon Hills and is the extension into our lots, has approximately 300 feet that's totally unimproved; it's just dirt. So that would have to be improved to road standards, and then there's another 275 feet on our lot that would have to be improved to give the emergency egress.

When we were looking at the 66-foot road, plus a 15-foot trail easement, we had offered Pinon Hills a breakaway gate so they could at least drive up the trail and escape some wildfire that was coming at them. But they declined that opportunity. Therefore we ask you to approve the variance without any further concern for emergency egress.

The final thing that I'd like to address is the easement for the road at 66 feet. We have platted it. Our subdivision is totally based on 66 feet. If we have to go to 80 feet we have to re-engineer the road. We did an environmental impact study. We would have to redo that. We had a bio-survey done; we'd have to redo that and we had archaeology surveys done; we would have to redo that. So our whole road was predicated on the 66-foot easement as were our lots and the easement that's platted.

I would also like to say that our subdivision as it was planned and approved had two affordable housing lots and over 20 percent of the property was dedicated to either trails or open space, since we have the arroyo running through us and the TAP plan calls for both a north-south trail and an east-west trail. We did that. So I would ask you to look at those and take these things into consideration. Thank you.

CHAIR ANAYA: Next.

[Previously sworn, Susan McMurray testified as follows:]

SUSAN MCMURRAY: Hi. My name is Susan McMurray. I'm president of the Puesta del Sol Property Owners Association and I'm not going to go through a lot of what you've heard and be repetitive, but I'm going to say we are very concerned about maintaining the integrity of the neighborhood of Puesta del Sol and Pinon Hills. Since my family bought in Puesta del Sol there has always been a notation that the Hager Road would be done and I think that we need to get it started and we need to get it done and not erode away the original intention of Mr. Hager, which was to have independent neighborhoods and to maintain the integrity of these neighborhoods.

And I also think that when Judy and Ted Ross did their platting and their planning they went over and above. They talked to the neighbors. They worked with everyone. They agreed to all of the trail requests that we had and we feel that they would be very good neighbors and they are really on the short end of this without the Peters money. And so I would encourage you to really look at what's been done overall and to help maintain

the integrity of the different neighborhoods in this area and provide for the adequate trails and walking spaces.

And people have horses and roads are not a good place to ride your horses, so we really do need, and we have people that bicycle and we all are very active walkers. And we're there because of the beauty of the land and we know other people want to be there and we really need reasonable access, at least in the beginning. So thank you very much for your consideration.

MEMBER KATZ: Mr. Chair, can I ask a question of this witness?

CHAIR ANAYA: Susan. Mr. Katz, go ahead.

MEMBER KATZ: I'm not sure what you're asking us to do.

MS. MCMURRAY: I would like you to approve the variance request with the cul-de-sac.

MEMBER KATZ: With the cul-de-sac?

MS. MCMURRAY: Yes.

MEMBER KATZ: Thank you.

CHAIR ANAYA: Next.

[Previously sworn, Ann Noble testified as follows:]

ANN NOBLE: My name is Ann Noble. I am on the board of Puesta del Sol and I've lived in Puesta del Sol for the past 20 years. I've served on the HOA board for most of that time. During this time, during the last 20 years, I've been involved most of that time with the issues concerning the Hager developments and access to them by way of Hager Road or Los Suenos Trail Extension. We've always been concerned that these developments would access their properties through our neighborhood and the neighborhood of Pinon Hills to the west. We worked with the Archdiocese from 20 years ago during that time, when they started splitting up the properties to have covenants placed on these properties, which they did at our behest. So the properties through Hager Road actually have these covenants tied to their properties that they will access their properties through Hager Road.

To facilitate the cost of these they had an escrow account set up so that they could build the road. Of course 2/3 of that has collapsed. So now the Hager Road properties have been left without access to their developments. We support the variance they're asking to build a local road with a cul-de-sac to the north because it seems like the ideal situation for all the landowners to access and for the neighborhoods to remain intact. If need be in the future for the road to be upgraded to an arterial and provide an additional access to the north it could happen at that time. Thank you.

[Previously sworn, Keri-Lynn McBride testified as follows:]

KERI-LYNN MCBRIDE: Good afternoon. My name is Keri-Lynn McBride. Chair Anaya and members of the Planning Committee, I am a resident in Puesta del Sol and just want to touch base on the safety issue and the quality of life. We are a community of walkers as are Pinon Hills. We're on the roads often, all the time, walking, biking, riding horses and so the idea that the road traffic would increase in such a level that it would make it unsafe for us to be able to enjoy those activities really kind of hurts my heart. And so I would ask you to respectfully consider supporting the Hager Road/Los Suenos Extension terminating in a cul-de-sac. That is my desire and I appreciate your time. Thank you.

[Previously sworn, Dave Edgerton testified as follows:]

DANIEL EDGERTON: I'm Daniel Edgerton and I live in Puesta del Sol. I've been there for ten years. I walk my dogs morning and night out there as it is and it's a pretty narrow road. It's pretty reasonable at this point in time. I am very concerned about more and more traffic coming through those properties. I certainly am for the Hager Road being built to try to minimize that as much as possible. There's already at least one house – or land getting bull-dozed right now right across the street from me. I'm hoping that road will work. Otherwise there's going to be a lot more traffic out there. It's going to be unfortunate. So I'm for it. Thanks.

CHAIR ANAYA: Next. So the open session is now close to public comments. Back to the committee. Do you have any questions of staff at this time? Mr. Katz.

MEMBER KATZ: My question for staff is how important is 80 feet over 66 feet with the promise of the condition that the trail be built?

MS. LUCERO: Mr. Chair, Commission Member Katz, the collector road standards in the SLDC require the 80-foot right-of-way, that does not include trail, so per that requirement they are not required to install bike lanes or trail within that easement. So that strictly is for driveway, vehicular purposes only for driving surface and associated drainage, roundabouts, deceleration lanes. Also cut and fills would have to be done within that right-of-way as well.

MEMBER KATZ: I guess what I'm hearing is that there is a strong desire to allow the development to go forward with a cul-de-sac and a local road with the recognition that at some point it's going to get upgraded to the collector road and if there's not 80 feet of right-of-way what is the consequence of that? What is that going to mean?

MS. LUCERO: Mr. Chair, Commission Member Katz, it could prohibit development in the future. Once the road is at capacity and requires those additional improvements, if there's not adequate right-of-way for additional improvements it could prohibit some of the other property owners from developing their parcels.

MEMBER KATZ: Okay. Thank you.

CHAIR ANAYA: Vicki, one question that I have along that line. So the 80-foot is a requirement in order to get the special funding for upgrading the road to County standards and for being able to make it a through-way?

MS. LUCERO: Mr. Chair, I don't know if the 80-foot right-of-way is required as part of the funding, which is what your question was and our Deputy Public Works Director had a prior commitment so he's not available to address this question. The issue was the connection, was what he was addressing as far as the funding, that it needed to have the connection and not end in a cul-de-sac.

CHAIR ANAYA: That is correct. That's to make it a through-way.

MS. LUCERO: Exactly.

CHAIR ANAYA: But in order to get the funding to pave and do all of the stuff that the County would do in order to take it over, does it have to meet the 80-foot or can it – or is it on code where we can do it 60-foot?

MS. LUCERO: Mr. Chair, in order for – I can't address the question regarding funding and whether or not the 80-foot is adequate. As far as whether or not the County ever takes it over as a public road, it would need to meet County standards.

CHAIR ANAYA: Which are –

MS. LUCERO: Well, it's a two-lane road, a minimum of 11-foot wide driving surface, and an 80-foot right-of-way.

CHAIR ANAYA: So it's 80 feet.

MS. LUCERO: It's 80 feet for a collector road. That's what our code requires.

CHAIR ANAYA: That is what I needed to know. Thank you.

MEMBER KATZ: Could I enquire further on the answer she gave me? So you're saying that if it didn't meet the standard then it might inhibit further development. Correct? And I guess the further development would be in this subdivision, this area that we're talking about. Is that correct?

MS. LUCERO: Mr. Chair, Commission Member Katz, that is correct. It would affect all the landowners that are adjacent to or would be accessing off of Hager Road.

MEMBER L. GONZALES: Chair Anaya.

CHAIR ANAYA: Mr. Gonzales.

MEMBER L. GONZALES: I'm really having a problem with this. I don't get that it's a driveway. I do care that it's going to be developed to a certain point and then nothing's going to happen. And these three developers, Hager, the church, and whoever, they have money to do this whole thing. I don't see how they don't. If they don't, then they're not ready to develop it. I don't see why we should be looking at a potential road in the future that may or may not get developed. I don't like that. I just don't like it.

And if it's going to be developed it should be developed all the way so there's no question as to what's going to happen out there and people are going to use all the road, whether it's going to go all the way north or all the way down. It's not up to me. This whole board is going to vote on it, but there's just something wrong to me the way that's happening. I would like to see that if indeed they could all work together. I think I heard a comment that I guess there was some money that Hager was supposed to put and he spent it or he never put it up? Is that not true?

MS. JENKINS: So, Mr. Chair, Member Gonzales, money, funds, are sitting in escrow today of around \$700,000 that was contributed by the original seven Hager landowners. There originally were seven 40-some-odd-acre parcels. That money is sitting there. That was the 1/3 contribution that the Hager landowners were required to provide. The other 2/3 were supposed to come from Suerte del Sur. That 2/3, we're not going to get that. And so that project has expired. We have \$700,000. It's not enough to build a local road terminating in a cul-de-sac. We're probably half a million dollars short. So there is going to have to be additional monetary contributions from these landowners to –

MEMBER L. GONZALES: To get to the cul-de-sac.

MS. JENKINS: To get to the cul-de-sac. Correct.

MEMBER L. GONZALES: And if anybody wants to extend that road, that would be Suerte.

MS. JENKINS: It depends on – it's a timing thing, actually. So, yes. That connection is going to happen, I believe at some point. Development of these lands is not going to happen overnight. This is a long, long-term play here for sure. Like I said, Santa Fe County is not lacking in nice 2.5-acre lots for sale right now. So eventually either

Santa Fe County will make that connection, Suerte will make that connection, members of the Hager lands will make that connection. It will happen eventually, but to force that kind of financial burden on these landowners today – it's not right and it's not fair.

MEMBER L. GONZALES: But you know there's going to be development in the future, correct?

MS. JENKINS: Yes.

MEMBER L. GONZALES: And I even heard the name Peters. Does he not want to participate in this?

MS. JENKINS: Well, we will be reaching out to him. He –

MEMBER L. GONZALES: We know he has money.

MS. JENKINS: He did participate –

MEMBER L. GONZALES: I just don't want the County to make promises to you guys and then it comes back to us, oh, we don't have enough money to build the road and there's so much pressure, we have to get it done. I don't want that commitment on this side. I want the commitment on that side.

MS. JENKINS: I understand.

MEMBER L. GONZALES: That the road will be – if it has to be built to County standards you will certainly build it to County standards and not come to us and ask us, well, oh, we don't have the money, and we've got all kinds of emergency vehicles needed out there and we get stuck with it.

MS. JENKINS: Absolutely. And I can tell you, Mr. Chair, Member Gonzales, that I've been doing this work in Santa Fe County for longer than I care to admit in a public forum and constantly, I come in with a project, this is my road. That road's fine for what's there right now but it doesn't meet standard because you're going to add additional impact to that road, so you have to upgrade that road. Okay. It's the cost of doing business as part of that development. So that's the way it's always been done. Nothing is – there's nothing unique here.

And so these landowners have an obligation to construct access to their property. That is their obligation. But why is constructing access to Las Campanas their financial obligation? Nobody can explain that to me. Why is it their burden to provide Las Campanas with another way out? I don't know. I don't think it is.

MEMBER GRAY: I have one question. So the way I'm understanding it is that you – if you don't put this extension in you lose the federal funding. You realize that, and you're willing to jeopardize that?

MS. JENKINS: Yes.

CHAIR ANAYA: Mr. Katz.

MEMBER KATZ: A question for staff on what they understand condition #5 to mean. I'm wondering if it doesn't mean exactly what Member Gonzales was getting to that this really shouldn't happen until the folks to the north, whether it's Mr. Peters or someone else, agrees to make the contribution. Is that sort of what it's saying, that they shall enter into an agreement for the development?

MS. LUCERO: Mr. Chair, Commission Member Katz, that was the intent was for the property owners to work together in order to be able to pull together the funding for the improvements on the road. The applicant had stated earlier that they didn't know if they were going to be able to get everybody on board and willing to participate. If that goes away and if they are not able to enter into that development

agreement then – and if condition #4 were to remain, then the cost of upgrading the road to collector road standards would be borne by whatever developer or whatever applicant has a development that causes it to go over the 400 trips per day. Which means if it's close, if it's at 380 trips per day and somebody comes in to divide one parcel into two lots, they would like it over the threshold and would be required to make the improvements to upgrade that road to collector standards.

So that was the intent was to have the property owners work together up front to try to see if they could all work together to come up with the funding to improve the road, or at least get reimbursed or whatever is decided within the agreement.

MEMBER KATZ: So I have a question for Jennifer then. Assuming that the variance was granted, local road, cul-de-sac, as soon as it hits 400 trips a day, suddenly you've got to come up with a million dollars or whatever it is to pave it, or no one else gets to subdivide their land in the Hager properties. Is that what you understand to be the case?

MS. JENKINS: So, Mr. Chair, Member Katz, we like the idea of the development agreement. We are all for that and pursuing that, but the interesting thing is, these Hager land property owners already have one. They have a stack of them. There's covenants and there's cost-sharing agreements and there's a Los Suenos Trail Extension Association and they have been working together and they're working together collaboratively right now. So there's already the framework that is in place, so we've already had discussions internally that after this process, and we look – okay, because we see this, it's like a phased approach. This is phase 1 of the road.

Phase 2 is going to happen eventually, and so we already have a framework in place that does not include Suerte or Mr. Peters. There's one document that he did sign, which was the cost-sharing agreement for his 2/3 but he never met the obligation. Before he was obligated to spend that money he had to move forward with an actual subdivision plat which didn't happen, so he's off the hook from that standpoint.

So there's already a framework in place to ensure that bringing this up to collector standards is shared equitably among the Hager property owners. There's already language in there about if the road construction costs exceed what's sitting in our escrow account, everybody's got to pitch in. So we already have that. And yes, we would very much like to create a new agreement based on new conditions today with our neighbors to the north and we are very willing to fervently pursue that.

But with these particular property owners, we already have that framework in place to do that.

MEMBER KATZ: I guess I'm not quite sure from your answer. I'm still puzzled. I assume that there are some landowners in the organization that are more ready to subdivide and sell than others.

MS. JENKINS: Correct.

MEMBER KATZ: And so they're going to subdivide and they're going to sell and they're going to have – you're going to get to what Vicki was talking about; there'll be 360 trips a day then there'll be 380 trips a day, and then one of the other owners is going to want to subdivide and that's going to push it over the 400, at which point it's going to cost a lot of money. Who's going to pay for that? Or is that poor landowner who wasn't real quick off the start, they're just not going to be able to develop their land?

MS. JENKINS: So Mr. Chair, Mr. Katz, so my apologies if I was not very clear in my previous response. But yes, we are looking at amending existing agreements among this group to address that very issue in terms of – we have phase 1, which allows those owners who are interested in selling their parcels, can actually drive and say, here's my parcel. Here's how you get to it. And then having those provisions in place so that upgrade is shared equitably among the property owners, and that is our intent.

MEMBER KATZ: Okay. Thank you.

MEMBER L. GONZALES: Chair Anaya. If indeed we approve this variance, I would like to see that as a condition, that indeed, that if it goes over 400 trips a day and a County road has to be approved then indeed all the landowners out there will pay for it. Thank you.

CHAIR ANAYA: I have one comment, Jennifer. Unfortunately, you're kind of asking for a lot from the County and you're stuck in the middle, apparently. On face value, the County dealt with the customer above you and in 2006 he made all these agreements and agreed upon yadda yadda yadda, and didn't fulfill any of these agreements, but yet he's still up there. He owns that property and I don't know if we have any recourse or not; that's one thing that I'm asking the County to look into but frankly, as you know, I'm always trying to help you guys out, any way possible. But at some point the County has just got to say, you as developers, and you represent a lot of them, and big ones and small ones, individuals, large companies. You know where we're coming from too.

We have to protect all of the citizens in the county and that being in the county, all of Santa Fe County, which is a large square foot piece of dirt. That's what you have right now is a piece of dirt that's in the county. You know where we're coming from now. You know that they're already looking at trying to help that area to be improved tremendously by bringing it up to those standards and helping – asking for federal funds and grants to help build these roads.

Well, I don't want to see you guys come back and say, well, we can't do this now because we sold part of the property and they can't come up with their share. That's the problem that I have. That's the problem that I have is now, whoever this smaller parcel is allowed to sell to – and I understand they have to go through a process too. But then they'll come back and say, well, that's not what they told us. Time in and time out, that's what we hear. They didn't tell us. When we bought the property, they didn't tell us. The people earlier today, well, the County didn't tell us. Yes, maybe, yes, not.

I'm going to make a suggestion. I'm not going to make a motion. I'm going to let these guys make a motion, but I'm going to let you know that right now, I think my opinion, my suggestion is that this board go on and say we want it done, 1 through 5, as agreed. And for those simple reasons that you guys need to hold this other gentleman to the fire. Because if not, he's going to take advantage of you.

MS. JENKINS: Especially if we build the road for him, he's got no reason to come to the table.

CHAIR ANAYA: Sure he does. Trust me.

MS. JENKINS: And just so you know, any agreements relative to cost sharing, they're all recorded documents. They all impact successors in title. A lot of these owners here are successors in title, so any obligation for future cost sharing is going to be

of public record and will be discoverable as part of any purchase process. So we don't intend to hold our cards close to the chest in that regard.

CHAIR ANAYA: Well, same with him, too. He had the same agreement. Okay. So that's why I feel the way that I feel is because, by God, at some point, we've just got to say enough is enough. Let's help the small guys like they're going to need the help. They're going to need it. I'm sorry. Now, having said that, what's the favor of the board?

MEMBER KATZ: I have a question.

CHAIR ANAYA: Oh, yes. I'm sorry, Mr. Katz.

MEMBER KATZ: It's a question of staff and – no, never mind. I was wondering why these landowners should be responsible for building the extension that would be needed if it's not a cul-de-sac. It's really not going to particularly serve them but I guess it serves them because they need to have two outs. And I guess one of those outs could be some sort of a fire gate or something through one of the neighboring subdivisions. It seems to me, Mr. Chair, that there's the interest of the landowners here who want to start the process and can start the process with just the local road standard. There's the interest of the two neighboring subdivision that want that and want that with the cul-de-sac so that these people in the Hager properties don't enter through their areas. And so I can see a strong motivation to agree to the variance with the conditions that were imposed except for the condition of not having the cul-de-sac because I totally agree that if you don't have the cul-de-sac three weeks after it's finished they're going to have to make it a paved road and that makes no sense. So I think either we agree to do it with the cul-de-sac, with the requirement that when the traffic gets to a certain level, then they've got to bring it up to the collector standard, and I don't know – at that point, I guess I share the sense that it's not fair to make these people make the connection to the north, even if it reached the standard that they would have to make it a collector road, they could still have a cul-de-sac if they had a fire escape through one of the subdivisions. Is that correct?

MS. LUCERO: Mr. Chair, Commission Member Katz, they would be required to have secondary access. And on that point, as you were talking about the gate, there is a code provision that says that roads within subdivisions shall not be gated, unless it's only serving five lots, which this one already serves more than five lots. This particular area of land serves more than five lots. So gates would not be allowed.

MEMBER KATZ: So what is their option when there are suddenly more than 300 trips a day and they can't have a cul-de-sac anymore?

MS. LUCERO: Then they would be required to upgrade the road to collector standards and we're requesting that the connection be made now, but if that's not the case then they would be required to upgrade the road to collector standards with the connection.

MEMBER KATZ: What right do they have to build that connection?

MS. LUCERO: At the time – well, it would be the developer at the time that is basically kicking it over the threshold to make that connection for secondary access purposes. For one, the code does require secondary access I think when you're exceeding 30 lots, which pretty closely would coincide with the collector road standards for the average daily trips.

MEMBER KATZ: Yes. I guess my concern is this, that they – when the road needs to be built to that standard, what authority do they have to build the road that's not on any of their property? Where does that come from? Is that already – whose property is that road? That extension that would go up to where it comes in now?

MS. LUCERO: Mr. Chair, Member Katz, if I'm understanding you correctly, you're talking about the portion that goes beyond the Hager properties?

MEMBER KATZ: Yes. Is that property still owned by Mr. Peters?

MS. LUCERO: Yes.

MEMBER KATZ: What gives these people the right to build a road on his property?

MS. LUCERO: Well, it would be an easement that would be granted for public use. So anybody –

MEMBER KATZ: Has he granted it?

MS. LUCERO: Well, I believe it was done as part of the Hager Road acquiring the right-of-way for Hager Road.

MEMBER KATZ: So that right-of-way already exists.

MS. ROSS: [from the audience] But it's only 66 feet.

MEMBER KATZ: Yes.

MS. LUCERO: Correct. That portion is 66 feet.

MEMBER KATZ: Okay. Thank you.

CHAIR ANAYA: Wow. So let me ask you, Jennifer, because evidently you've been out on this property up there, by Mr. Peters. The road that we're talking about that you need to butt up to, how many feet is it? There's only – it's 66 feet wide.

MS. JENKINS: The right-of-way is 66 feet, all the way from West Alameda or County Road 70 all the way up to where Los Suenos Trail terminates.

CHAIR ANAYA: How long is that?

MS. JENKINS: A mile and a half, over.

CHAIR ANAYA: On Mr. Peters' land?

MS. JENKINS: No, no. The portion – may I?

CHAIR ANAYA: I'm just talking about Mr. Peters' land.

MS. JENKINS: The portion that's not constructed is about .4 mile, between where we would terminate the cul-de-sac up to La Vida Trail is about .4 mile in a 66-foot right-of-way.

CHAIR ANAYA: What do you think that cost would run?

MS. JENKINS: That would cost about another \$400,000 to build that.

CHAIR ANAYA: So \$400,000 is stopping you from getting what you want right now. Correct?

MS. JENKINS: Uh-huh.

MEMBER L. GONZALES: And Mr. Peters is pressuring us to approve that, so then we're stuck with all the people that will saying we have to have this. We have to have this. We have to have this. And then we land up building it, just because of all the people that require it out there in the not too distant future because it will turn into a 400 car a day like that.

MS. JENKINS: That's why the cul-de-sac makes sense right now.

CHAIR ANAYA: Yes. I understand that part. The next question that I have is – I'm just trying to put it all one way.

MS. JENKINS: Absolutely.

CHAIR ANAYA: Is there anybody living on that property right now? Mr. Peters'?

MS. JENKINS: I don't believe so. There are some parcels on the east side. There's some residences on the east side of Los Suenos Trail. I could show you on an aerial.

CHAIR ANAYA: Is that road vacant then? Vacated?

MEMBER KATZ: There is no road.

CHAIR ANAYA: Yes. There's a dirt road there.

MEMBER KATZ: No. Is there any road there at all?

MS. JENKINS: Oh, yes. There's a little bit of road.

CHAIR ANAYA: Isn't that what this drawing is that you showed us? This picture?

MS. JENKINS: Yes. This is the better – so right now, there's the kind of gravel portion of Los Suenos Trail coming out of Las Campanas. The picture I showed you is that four-way intersection where we have asphalt of Los Suenos Trail then we have another asphalt road going this way, and then the southern leg of that intersection is this yellow right here. And so there are a few lots up along here, and of course La Vida Trail serves lots up here. But there are a couple little cul-de-sacs further north that are accessed off of this gravel portion. So the unimproved portion, and again, the 66-foot right-of-way goes all the way up and this, the red, is what is not improved right now.

MEMBER KATZ: When you say not improved –

CHAIR ANAYA: Which is yours, other than .4 mile.

MS. JENKINS: Yes. So this is about .4 mile right here.

CHAIR ANAYA: Okay, which you have to fix anyhow.

MS. JENKINS: Potentially.

MEMBER KATZ: Is there any road there?

MS. JENKINS: No, there's nothing right here. Nothing.

MEMBER L. GONZALES: Those two water crossings, are they going to have to be built to FEMA standards?

MS. JENKINS: They'll have to be all-weather.

MEMBER L. GONZALES: All-weather crossings.

MS. ROSS: [from audience] The FEMA work has already been done.

MS. JENKINS: Yes. We've already been through the process with FEMA.

MEMBER L. GONZALES: So you already know what you'd have to build.

CHAIR ANAYA: Half the work is done.

MEMBER KATZ: Mr. Chair I'm ready to make a motion.

CHAIR ANAYA: Okay. Thank you, Jennifer. Okay. What would be the pleasure of the board? Mr. Katz.

MEMBER KATZ: Mr. Chair, I would move to adopt the recommendation of the Hearing Officer, with the conditions that she imposed except for #3 and I would leave it as a cul-de-sac until the traffic merits that it requires the rest of the road be built. I think this serves the purpose of allowing these people to start their development. It helps the neighboring developments and it recognizes that probably pretty quickly it's all going to blow up and if things are working well and it gets developed that they would then have

to make the connection from the secondary access, no longer be a cul-de-sac and improve the road.

MS. LUCERO: Mr. Chair, if I could just get a clarification on that condition. So who would be responsible for paying for the improvements for the connection?

CHAIR ANAYA: Who owns the road?

MEMBER KATZ: Well, #5 is still going to be a condition and that's where it's going to get worked out. It's really not our problem. It's their problem, because basically their development is going to stop if they haven't worked it out.

MS. LUCERO: Okay. Thank you.

MEMBER KATZ: Do people understand what I –

CHAIR ANAYA: No.

MEMBER KATZ: Approve what the Hearing Officer said with the exception of #3; it can remain a cul-de-sac until the number of trips per day require that the secondary connection be made.

MEMBER GRAY: So in addition to the secondary connection it would also be upgraded to a collector road.

MEMBER KATZ: I think there's a different number of trips per day that require the collector road. Is that 400?

MEMBER GRAY: Okay.

MEMBER KATZ: But the intent is that it can be a cul-de-sac until the trips per day require that there be a secondary access. It can be a local road until the trips per day require that it be a connector road. I think that's what it says.

MEMBER GRAY: I second the motion.

CHAIR ANAYA: Okay, so trips per day exceed what? Three hundred?

MEMBER KATZ: Three hundred is the rule for the –

CHAIR ANAYA: Is that what it is?

MEMBER KATZ: For the cul-de-sac, for making a secondary connection and ending the cul-de-sac, and 400 is for bringing it up to collector road standards. Now, in essence, those are going to happen at the same time because as soon as it's connected there are going to be 400 trips a day because it's going to be used.

CHAIR ANAYA: Okay. We have a motion for approval of Case #V 17-5170, Hager Road, with conditions – with recommendations from the staff, or is this from –

MEMBER KATZ: The Hearing Officer.

CHAIR ANAYA: Hearing Officer, with conditions on #3 to read, okay to build cul-de-sac until road trips per day exceed 300, and then once it hits 300 then they go to the 400 –

MEMBER KATZ: Once it hits 300 the extension from County Road 70 to Los Suenos Trail/La Vida Trail intersection needs to be built.

CHAIR ANAYA: Yes. Now, Vicki, you translate that and then I'll ask for a second.

MS. LUCERO: Okay. So basically, once the – you're allowing the variance subject to the conditions except #3 and in lieu of that you're allowing them to build it out with a cul-de-sac until such time that the ADTs require them to do a secondary access point, then they will have to make the connection and do away with the

cul-de-sac, basically, and then once they hit the threshold for collector standards, which is above 400 ADTs then they'll be required to upgrade the road to collector road standards.

MEMBER KATZ: That's exactly right, and practically, those will happen at the same time as a matter of just what the real world will cause.

CHAIR ANAYA: Okay. We have a motion for it. We have a second from Mrs. Gray.

The motion passed by majority [4-1] voice vote with Member L. Gonzales voting against.

[The Planning Commission recessed from 6:45 to 6:52.]

VII. C. CASE # V 17-5130 Kevin Braun Variances. Kevin Braun, Applicant, requests a variance of Chapter 7.17.10.4.2 (Roads and driveways) to allow a driveway to disturb 8 separate occurrences of 25 percent slope or greater. The property is located at 16 S. Cloudstone Drive, within Section 5, Township 16 North, Range 10 East (Commission District 4)

MR. LOVATO: Thank you, Mr. Chair. On July 27, 2017, this Application was presented to the Hearing Officer for consideration. The Hearing Officer supported the Application as memorialized in the findings of fact and conclusions of law written order. The Hearing Officer recommends approval to allow disturbance of eight isolated disturbances of 25 percent slope for a driveway to access buildable area and finds sufficient evidence of extraordinary and exceptional conditions that would cause the Applicant undue hardship with strict compliance of the Code.

The Applicant is the owner of the property as indicated by the warranty deed recorded in the records of the Santa Fe County Clerk on December 1, 2016, as Instrument #1811106.

The property is located above the 7,400-foot elevation and is currently vacant. The property is subject to Chapter 7.17.10, Development at or above 7400 feet of the Sustainable Land Development Code. Section 7.17.10.4.1 states, "Roads and driveways shall not be designed or constructed on slopes over twenty-five percent." Section 7.17.10.4.2 states, "Exceptions may be approved by the Administrator for roads and driveways proposed to cross slopes greater than twenty five percent that disturb no more than three isolated occurrences of up to 1,000 square feet each, provided the applicant demonstrates that crossing such slopes has minimal impact to terrain or to visual quality and otherwise would conform to the purposes, design criteria and development standards set forth in this Section 7.17."

Therefore, the Applicant is pursuing the request for a variance to access what he has identified as the only buildable area on the property. The Applicant is proposing to disturb 8 separate occurrences of 25 percent slope for a total of 7,963 square feet of 25 percent slope disturbance for construction of a driveway. Two of these disturbances are above 1,000 square feet and the rest are all under 800 square feet. The proposed driveway is 900 feet in length, 14 feet in width, and has a maximum grade of 10 percent. The majority of the slope disturbances are due to natural drainages that affect the property.

The Applicant states that there is no other buildable area on the property due to topography and drainages associated with the property. One of the arroyos on the property is a FEMA designated floodplain. The Applicant's architect stated, "It would be unstable conditions for a permanent residence to be built so close to the floodplain." The Applicant has engineering plans with drainage calculations and has designed all weather access with a series of culverts. The Applicant would like to get the driveway in place so he can begin to build his residence.

The applicant has responded to the variance criteria and staff has responded as well in noted in the report.

Recommendation: On July 27, 2017, this Application was presented to the Hearing Officer for consideration. The Hearing Officer supported the Application as memorialized in the findings of fact and conclusions of law written order. The Hearing Officer recommends approval to allow disturbance of eight isolated disturbances of 25 percent slope for a driveway to access buildable area and finds sufficient evidence of extraordinary and exceptional conditions that would cause the Applicant undue hardship with strict compliance of the Code.

Staff also recommends approval of the variance. 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 their lot without some sort of variance. Criterion 1 is that the request is not contrary to the public interest. The request meets this criterion as the site offers limited buildable area and meets all other aspects of the SLDC. The inability to build on the property due to the requirements in Chapter 7, Section 7.17.10.4.1, demonstrates that they 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. The access to the only buildable area on this property crosses three drainages. The terrain on this property consists of steep slopes due to drainages and offers minimal building locations. 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 Applicant/owner, which meets Criterion 3, that the spirit of the SLDC is met.

Thank you, Mr. Chair. I stand for any questions.

CHAIR ANAYA: Any questions for staff from the members? Is the applicant here?

[Duly sworn, Kevin Braun testified as follows:]

KEVIN BRAUN: Kevin Braun. I'd be happy to answer any questions you might have. Basically, John kind of laid it out. There's a -- if you look on Exhibit 3, it doesn't show the contours but I have a separate aerial contour map that shows basically the back end of this lot goes up a steep mountain and the front of it has that large arroyo on it and there's basically really only one spot to get into to build at.

CHAIR ANAYA: Okay, do we have any questions for Kevin at this time? Seeing none, it is an open meeting. Do we have any comments for or against? Seeing none, do we have any questions for the staff from the Commission? Seeing none, do we have a recommendation?

MEMBER KATZ: In case #V 17-5130, I would move to follow the recommendation of the Hearing Officer and approve the variance.

MEMBER L. GONZALES: Second.
CHAIR ANAYA: We have a first and a second.

The motion passed by unanimous [5-0] voice vote.

MEMBER KATZ: Don't feel badly we didn't give you the same amount of time we gave the other folks.

MR. BRAUN: Thank you. I appreciate it.

VII. D. Possible Action on the Findings of Fact and Conclusions of Law for Case # V 17- 5130 Kevin Braun Variances

MEMBER KATZ: I would move to approve the order that's in the packet.

CHAIR ANAYA: We have a motion to approve the order for Case #V 17 5130. Do we have a second?

MEMBER GRAY: I second.

CHAIR ANAYA: We have a motion and a second.

The motion passed by unanimous [5-0] voice vote.

VII. E. CASE # V 17-5050 Barbara Stromquist/Randy Felker Ridgetop Variance. Barbara Stromquist and Randy Felker, Applicants, James W. Siebert and Associates, Inc., Agent, are requesting a variance of the Sustainable Land Development Code Section 7.17.9.2, Steep Slopes, Ridge Tops, Ridgelines, and Shoulders Standards to allow the construction of a home on a ridgetop despite having other buildable area on the property. The 14.79-acre property is located at 45 Eagle Ridge Drive within Section 18, Township 16 North, Range 10 East (Commission District 4) SDA-2 [Exhibit 4: Photo of Hillside; Exhibit 5: Supporting Material]

MR. SALAZAR: Thank you, Mr. Chair. This matter came before the Hearing Officer on May 25, 2017. The decision of the Hearing Officer was to recommend denial of a variance of Chapter 7, Section 7.17.9.2. That is in Exhibit 10. The Hearing Officer recommended denial based on the findings that there is insufficient evidence of special conditions that would result in undue hardship to the Applicants from a strict application of the code.

The Applicants' Agent states the ridgetop location is 1060 feet from the southbound driving lane of I-25 and the alternate building location is 620 feet from the same southbound driving lane. The difference in distances results in two very different noise levels between the two sites. Mr. Chair, part of the Hearing Officer's recommendation in her findings was that the – let me read it. On page NBE-54, the Hearing Officer recommends that at the hearing before the County Planning Commission the applicants present evidence as to the difference between the County's noise readings and the applicants' noise readings and should address the additional building sites as

described in 14. above. The applicants did submit additional noise readings. That in Exhibit 9, and different hours of the day on the sound readings from different locations on the property. Those readings are a little different than the ones that are in this report now.

The Applicants' agent addresses the Variance Criteria and staff responded whether it met or did not meet the variance criteria as noted in the staff memo.

Recommendation: The Hearing Officer recommends denial of the Applicants' request for a variance to allow the construction of a home on a ridgetop. There are multiple other buildable sites on the property where the house and the driveway will not disturb 20 percent slopes. If the decision of the Planning Commission is to approve the variance, staff recommends the following condition be imposed. Mr. Chair, may I enter those conditions into the record?

CHAIR ANAYA: You may.

[The conditions are as follows:]

1. The Applicant must obtain building permits for the residence meeting the standards set forth in Chapter 7 of the SLDC.
2. The height of the dwelling unit shall not exceed 14' in height.
3. The Applicant shall not disturb any rock outcroppings or 30 percent slopes.
4. The Applicant shall comply with all Fire Prevention Division requirements at time of development permit Application

And I'll stand for questions, Mr. Chair.

CHAIR ANAYA: Okay. Do we have any questions for John concerning this case? Mr. Katz.

MEMBER KATZ: Do we have any photos showing – I understand there were at some point story poles put up. Do we have any photos showing any of that that would give us an idea? There is the issue of whether it would be better to be quite a bit further away.

MR. SALAZAR: Mr. Chair, Member Katz, I do have pictures – I have one picture of some story poles that the applicants' agent did put up on the property. This is actually taken from Old Las Vegas Highway, I-25 and Old Las Vegas Highway, quite a ways away. There are some – there were also some yellow tape that was placed on the top of the story poles. I'll give this to the Commission to look at.

MEMBER KATZ: Thank you. One other question. The Hearing Officer thought we needed more information on the noise study. Are you telling us that we now have that more information? Or is there more to be gotten?

MR. SALAZAR: There's additional information that the applicant provided in Exhibit 9 and the applicants' agent, during the Hearing Officer meeting was contesting our sound reading that we used with the Sheriff's Office as compared to the firm that they hired that specializes in it.

MEMBER KATZ: Okay. Thank you.

CHAIR ANAYA: Mr. Gonzales.

MEMBER C. GONZALES: John, I'm looking at the site plan. Is there anything here showing the location of a septic?

MR. SALAZAR: Mr. Chair, Member Gonzales, everything that's been provided to us – it only shows the site for the building. It is my understanding, however,

that the septic would be located up there on the top of that ridgetop. I believe it's – they were never provided with information about the septic. It's not located on any of the drawings.

MEMBER C. GONZALES: Is that part of the code still in effect where you can't put a septic on 15 percent slopes or greater?

MS. LUCERO: Mr. Chair, Member Gonzales, I believe it still is in effect, but let me double check and if that's not the case I'll let you know in just a few minutes.

MEMBER C. GONZALES: Thank you.

MEMBER L. GONZALES: Chair Anaya, I was driving out to Eldorado one day and there was a yellow sign posted on I-25, and all you could see was that cliff. You can't really see this lot from the highway. Is that correct? Is that why that picture you guys took was from Las Vegas Highway, across?

MR. SALAZAR: Mr. Chair, Member Gonzales, it was across the highway on Old Las Vegas Highway. The applicant put that up to show staff how minimal the residence would be at that location.

MEMBER L. GONZALES: So you're saying that the impact wouldn't be that bad by being that far from – because you had to cross the road. Is that what you're saying? Because on the highway you can't see it at all.

MR. SALAZAR: Mr. Chair, Member Gonzales, you can see those story poles from that. That picture is a little blurry. I took it on my phone. It was – the megapixels on my phone aren't great. But you can see those story poles in it, so you will see the top. You may not see the entire residence.

MEMBER L. GONZALES: Just the top. Thank you.

CHAIR ANAYA: Any other questions from staff at this time? Vicki.

MS. LUCERO: Mr. Chair, Commission members, I'm not seeing in the code where it addresses whether or not septic are allowed on 15 percent slopes or greater. NMED may have a requirement though that addresses slopes. I believe that they do but I can research that and get back with you at the next meeting.

MEMBER C. GONZALES: I'm remembering that it used to. I don't remember anymore. Thank you.

CHAIR ANAYA: Okay, no other questions from staff so how about the owner?

[Duly sworn, Jim Siebert testified as follows:]

JIM SIEBERT: My name's Jim Siebert. My address is 915 Mercer, Santa Fe. The applicants are here tonight. Randy Felker would like to make a statement then after his statement I'll do my presentation on the variance request.

[Duly sworn, Randy Felker testified as follows:]

RANDY FELKER: To the Commissioners and the Commission, I'm Randy Felker. Barbara Stromquist is to my left here at the end of the first pier. Barbara and I bought this property over 30 years ago, bought it from the original development. The property is located right next to the freeway, I-25, south of town. At that point the freeway almost goes north and south. It veers more south than it does to the east, but it's the freeway going to Las Vegas, I-25. This lot is 15 acres and there is a road within the subdivision, it's a subdivision road that pretty much parallels the freeway and to the west of the access road that parallels the freeway within the subdivision is a ridgeline.

And for 30 years this property was not subject to a ridgetop ordinance. It could be built on the ridgetop and when we bought the property 30 years ago we intended at some point to build on a beautiful, almost level site that was slightly over the edge of the ridgetop on the west side of the ridgetop, which really couldn't be viewed from the freeway. Unfortunately for us, about a year ago when the code was adopted by the County the ridgetop lot was voided as a potential building site if there was a lower buildings. The lower building site, unfortunately for us is next to the freeway.

This lot is a 15-acre lot so it's a very big lot. The freeway extends along a very long portion of the property, something like 600 feet and the freeway noise and the freeway view is visible for about 600 feet so it is viewed from the north and from the east and from the south, and the exposure of the lot that the County would approve a building site on, I guess not only the freeway noise but the freeway view and the freeway dust and the freeway traffic.

Barbara and I have had this lot, as I noted, for about 30 years, had the property for 30 years. I have been here in Santa Fe for 45 years; Barbara was born here. She worked at her father's photography studio, David's studio until she became a school teacher at Santa Fe High, retired as a school teacher from Santa Fe High and we considered and hoped that this would be our retirement home, that we would build on it at some time in the future. We discovered the prohibition in the County code just about the first of the year, hence this application.

During the 30 years that this subdivision has been in effect there is a road that I mentioned that pretty much parallels the I-25 and on that road there have been five houses built on the ridgeline and one guesthouse built on the ridgeline, and this is the only lot that has not been developed. If this lot were developed and the house built near the freeway it would be not only extremely visible from the freeway but the covenants in the subdivision would allow a two-story house to be built which would be I think much more obtrusive to the general public and the view of the public from across the freeway and the traffic and the passersby by the freeway.

We did stake the property, the anticipated building site near the ridgetop with poles, with white poles, and I can only say that from my perspective, and I checked that out from the freeway and from the Old Las Vegas Highway, which is on the east side or the northeast side of the freeway, I couldn't see the poles and we had to call Jim Siebert and say, well, I don't think the poles have been placed. Because I couldn't see them. I think the building site is I think almost imperceptible from either the freeway or across the freeway from Old Las Vegas Trail, or the Arroyo Hondo area or the Hondo Hills area. And the anticipated building site is suggested by us and that is part of the application to be dug into the ground and bermed into the ground and built slightly over the side of the hill towards the west side of the hill, which would reduce its visibility even further.

There's absolutely no opposition to this application. I have received not one negative comment from any of the neighbors. We have letters. I believe we have six letters of support from the neighbors. The neighbor to the north and the neighbor to the south that are adjoining this property have both written letters in support of the application. There's no objection by any party within the subdivision or the subdivision association.

I would note that the subdivision has very strict restrictive covenants. The restrictive covenants in some respects mirror the County's. There is a height restriction of

14 feet for this type of development on the ridgeline, whereas the height restriction if it were to be build near the freeway would be, I believe, 24 feet or subject to the County's requirements. We're not here to build a mansion that sticks out like a castle on our ridgetop. The plan is, if approved to build a house that is bermed in and barely visible from across the freeway and from the freeway and we're hoping that we're not going to be prohibited from building on this lot the way we planned on doing for 30 years in the way all the neighbors have done when they have developed their lots along the same road that would provide access to this. And I don't know if you have any questions but I'd be happy to answer those questions. And would you bear with me and yell at me because I have a hard time hearing.

MEMBER KATZ: I'll get close to the mike. I appreciate where you want to build. I appreciate that it's probably further away and may even be less visible. We would really have been helped by having photographs that would give some sense of that and it's distressing to not have that.

MR. FELKER: Mr. Siebert has some additional photographs and presentations.

MEMBER KATZ: Oh, good. Okay. I'll be patient then. Thank you.

MR. FELKER: I would say this. I'm not sure if we have the video that's able to be presented to you all but unfortunately, the view into the County's suggested building site nearer the freeway and the view from the building site to the freeway shows that the freeway looms in front of the building site and the view of any house that would be built on the suggested site by the County would have nothing but a huge view of the freeway.

MEMBER KATZ: We're not worried about that.

MR. FELKER: I know the County might not be but –

MEMBER KATZ: I understand that it's not present for you and I think we'll take that into account, but one of the things – the concerns are not just your immediate neighbors but it's the thousands of people who drive way and see houses on the ridgetop. That's why we have ridgetop ordinances and the impression I get from reading the materials is that the ridgetop house would not be terribly visible.

MR. FELKER: That's correct. In fact we had previous built a house in the subdivision and sold it many years ago and it's been used as an example of how one can build and berm into the ridgetop and preserve a nice view of the surroundings. And I would hope and I would commit that this house will be built in the same manner.

MEMBER KATZ: Yes. Okay, well, hopefully Mr. Siebert can give us some more information. Thank you.

CHAIR ANAYA: You made a statement, sir. Just a second ago you made one statement that for Mr. Katz to speak up because you couldn't hear.

MR. FELKER: I heard Mr. Katz.

CHAIR ANAYA: No, I thought part of the variance was because of the noise.

MR. FELKER: Barbara can hear very well.

CHAIR ANAYA: Maybe you should have had Barbara come up.

MR. SIEBERT: What I'd like to do is I'm going to give you some background information on the subdivision itself and the location of these two different sites, and then the report I handed out, I'm going to just simply walk you through that and

just point out to you why we really think that this variance does have exceptional circumstances.

So this is I-25. This is the cul-de-sac here, the end of the road on Eagle Road that actually comes partially into the site. And so there's two different locations. One is the one down here that is approximately – well, it's 620 feet from the edge of the driving lane. The one up on top of the ridge is 1,060 from the edge of the driving lane. This is the subdivision, the Arroyo Hondo Vista Subdivision and what this simply points out is the number of houses that have actually already been built on ridgetops within the subdivision. Once again, to locate you in terms of the site. The site sits down here. This is I-25.

So let me ask you – well, let me do this first. Can we play the video? There's a very short video that we have that we'd like to kind of give you a feel. I think it would have been important to be on the site to be able to kind of understand how the site relates to I-25. So we just asked to run a very short video to give you a better idea of that.

MEMBER KATZ: While we're waiting for that, Jim, is this site a lot higher than the other ridgetop sites. The ridge does go up towards the end there, doesn't it?

MR. SIEBERT: It is slightly higher than the ridge where the next house is, that's correct. And it's probably higher by about 40 feet. Correct.

MEMBER KATZ: Thank you.

[A video was shown.]

MR. SIEBERT: So this is taken from the lower site, the one that's closer to I-25, and one of the reasons we selected this site was because we can meet the driveway requirements, grade requirements and all so it had already been – a lot of the trees had died in this area and it didn't require removal of a lot of trees. But this video was taken on a weekday and it was from about 3:00 to about 3:30 and it gives you just an idea of how close this lower site really is to I-25 and gives you a better feel for what the noise issues would be involved with this. And I think that's enough that it gives you an idea of the proximity and also the traffic issues with this. So we'll stop the video. Thank you. I do not have a video from the upper site. No.

So what I'd like to do is go to Exhibit A and page 6 of Exhibit A and read from the order of the Hearing Officer. What it says is the Hearing Officer recommends that at the hearing before the Planning Commission the applicants present evidence as to the difference between the County's noise readings and the applicants' noise readings and should address additional building sites described in 14 above. If you turn to Exhibit B, which is the fold-out, what this is are there other sites that would be on the other side of the hill that are available for construction, and what this represents is the dark area is 30 percent slopes. This is something, by the way, we didn't present to the Hearing Officer. We didn't know it would be an issue. But the bottom line is that it would be very difficult to have a building site that's on the other side of the mountain that's totally away from I-25.

MEMBER KATZ: May I ask a question here?

MR. SIEBERT: Sure.

MEMBER KATZ: It appears that pretty close to the cul-de-sac, to the left of that graphic there would be space to have the house. It wouldn't be visible at all from I-25. It would be – most of it looks like it's less than 20 percent. There might be a little

bit that you'd have to have on the 20 percent but there's quite an area there that looks like it's big enough. Why wouldn't that suit? I know it's not the top of the hill, not great views, but what's wrong with that site?

MR. SIEBERT: If you take a look at that site is actually is on a ridge, so you would still be facing towards I-25. I didn't run the actual requirements for ridgetops on that particular area but it would leave you with a very small building site.

MEMBER KATZ: Looking at the lines, it looks like there's some substantial area there that's not terribly steep.

MR. SIEBERT: Let me talk about noise here. One of the issues that came up with noise, we had a consultant that specializes in noise. In fact it's the same consultant the County uses for their work and she ran it through on a computer model and it's the same computer model that HUD uses, and there was a slight difference between what the County reading was and the computer model. So as a result, what we did is we took noise readings in the am and the pm period for both sites and did a comparison of those noise readings.

What we found is that – and if you go to the tab 3, once again these are taken during the am and pm peak hours, that on the upper site. Or excuse me, on the lower site, the noise readings will be on the high level. They're 72 decibels. It kind of ranges from 72 to 67, and the average being around 63 decibels in the am period and 64 in the pm period. And then if you compare that to the upper site, the highs and the lows are around 67, 68 decibels and then the lows are around 50, 51 or 52 decibels. The average being a little over 58 decibels in the am and 58.6 in the pm.

And just so you understand, this was taken on a day that was a clear day. It was a low wind day. If the roads are wet either from snow or rain, the noise is substantially greater and if the wind is blowing either out of the south, southeast or east, then that noise especially is carried over this site.

The other thing that happens, if we can go back to Exhibit B, the fold-out, at the bottom of that is sections that we've done through both sites and what happens here is that on the lower site there's kind of two things happening that you have to begin to dig it into the upper slope to meet some – assuming a two-story building, to meet the height standard. On the upper site, because it's actually relatively flat at the top, what the proposal is that the house would be sunk into the ground around four feet. And so what you would have visible is ten feet of building on the side that faces I-25 versus the potential to have a building on the lower site that could be anywhere from 18 to 30 feet that would be visible from I-25 and once again would be around 400 feet closer.

The other thing that comes into play here is the fact, as Mr. Felker pointed out is that this is the retirement home, as Barbara Stromquist told me that this is their last home. And the advantage is that you would probably have differences in elevations and steps associated with the lower site and on the upper site it could be on one elevation.

The other thing that happens is that if you have any patios or you really want a view, on the lower site you really have to face I-25. To accomplish that. On the upper site what happens is you have the ability to turn your back to I-25 and literally you could have very few windows and any patios would be facing away from I-25.

The next tab I'd like to point out is in C as well. The issue of noise. And this is taken from, the bottom of it is 7-9.4, it's taken from the SLDC. And it talks about noise limits and noise levels. In this particular case it says five decibels above ambient. Well,

ambient can be pretty significant. We're not saying that it doesn't satisfy that but the intent of providing this is 55 decibels, which is on the chart on Table 7-21 is the recommendation from EPA for residential uses. So we're significantly above that for the noise levels recommended by the Environmental protection agency.

The other thing in the packet, the last one, E, is letters from the adjoining either homes or lots. In one case it's a lot but once again these are people that are immediately adjoining this particular application, and they all are in support of building on the ridgetop.

I think the last thing I'd like to do is go back to Exhibit A and this is the decree, if you can turn to page 5 and read two of the findings from the Hearing Officer. It says the Hearing Officer finds further that sound and specifically sound from road noise can qualify as an extraordinary and exceptional situation or condition of property that could result in undue hardship to the owner and therefore meet the SLDC criteria for a variance. The Hearing Officer disagrees with staff's conclusion that because the SLDC does not address noise as a mitigating factor for locating a residence no one may obtain a residence based on noise. And the reason was, the staff stated at the meeting with a request from the Hearing Officer to the staff was can noise be considered as an exceptional or extraordinary condition and the answer was that it could not.

So to read on, it is not possible or practical to provide for every situation for which a variance could be granted to the SLDC. The nature of real property is such that each property is unique and so long as the variance request is related to the conditions of the property, as this one is, an owner should not be foreclosed from seeking a variance based only on the grounds that the SLDC does not specifically deal with that condition.

So what she's saying here is that noise should be a consideration, and that's one of the reasons why we carefully went out and did additional noise studies on this particular property.

We are in agreement with conditions if the Planning Commission would so decide to approve this. We're in agreement with conditions as stated by staff, and I think we'd be willing to offer another condition and that has to do with the visibility, that the site is visible. Obviously, it's less visible than the lower site from I-25, but the applicants would be willing to plant vegetation along the side facing I-25 that would obscure the majority of that particular façade. So with that I'll answer questions you may have.

MEMBER L. GONZALES: Mr. Siebert, on that last point that you made, on Exhibit B, where it says on the very far right, Interstate 25, along the eastern boundary. Is that what you're saying for vegetation?

MR. SIEBERT: You're talking about the noise?

MEMBER L. GONZALES: For the extra condition, you said that –

MR. SIEBERT: Oh, yes. You're talking about the fold-out.

MEMBER L. GONZALES: Right. Is that along the I-25 or is that near the house? Where are you talking about?

MR. SIEBERT: It would be along the I-25, the façade facing I-25.

MEMBER KATZ: The site of the house. It would up top. It wouldn't be on the frontage road area.

MEMBER L. GONZALES: Would it be along, like Frank is saying, is along I-25 the boundary, or near the house?

MR. SIEBERT: No, it would be – can I approach and maybe just point? Where it would be would be along the façade here, of the house. There would be additional planting. There is some planting now and a lot of that planting can be saved.

MEMBER L. GONZALES: And that would help the visual scape of the ridgetop and the house, right?

MR. SIEBERT: Correct.

MEMBER L. GONZALES: Thank you.

CHAIR ANAYA: You would have some tall trees?

MR. SIEBERT: Well, it would probably be best not to plant something really tall, because you want to guarantee their survival and generally if they're smaller, so I'd say between six and eight feet would be appropriate height where we can more or less guarantee the survival of those trees. The bigger – and they would be pinon. My experience is the bigger the pinon you plant the less likely it is to survive.

MEMBER L. GONZALES: Tall pinons, right?

MR. SIEBERT: Yes. Tall pinons.

MEMBER C. GONZALES: Jim, if your client is willing to build a single story on the ridgetop on site one, why can't he build a single story on site two?

MR. SIEBERT: He could. That's certainly a possibility. As I pointed out, it would still, because of the slope you're still going to have to bury it part into the hill and then I guess the issue is if you really want a patio you're going to have to dig out a lot of that hill to provide the patio or you're going to have to provide it towards I-25.

MEMBER C. GONZALES: Also, if he was to do that, couldn't he build like a noise barrier wall on that site to reduce the noise?

MR. SIEBERT: Well, I think the noise barrier would really have to be built – my understanding of noise attenuation and it's just like they do highways. The best attenuation is to have the wall right next to the roadway. In this case they couldn't put it next to the roadway because you wouldn't be allowed to build it on the highway. You'd have to put it on the property and that would be a pretty expensive proposition. You're talking about a solid masonry wall that at a minimum would need to be eight feet tall.

MEMBER C. GONZALES: It also appears to me that the existing trees on the site are pretty tall. Is that correct?

MR. SIEBERT: They are. Correct.

MEMBER C. GONZALES: Thank you.

CHAIR ANAYA: Any other questions for Mr. Siebert? Hearing none, it is an open meeting, so if we have anybody who wants to speak for or against the project, please come forward and be sworn in.

[Duly sworn, J. R. Damron testified as follows:]

J. R. DAMRON: Yes, my name is Dr. J. R. Damron, Mr. Chair, members of the Commission. I'd like to make a few points here. My wife, Dr. Barbara Damron and I fully support this variance for this homesite. I'd like to make probably three points on this. I've lived in Santa Fe for a long time, 35, 38 years, and I've lived in this particular subdivision, Arroyo Hondo Vista for the last 18 years. I have one of those homes that is on that ridgeline on Eagle Ridge Drive.

So our house is approximately 200 yards from this proposed building site that the Stromquist-Felkers are asking for and I have no concerns about them building it. I've

know Ms. Stromquist and Mr. Felker for approximately 30 years and I believe them of high integrity. I believe I've seen their home product before. It's environmentally and visually very, very good, and would not be a concern for the surrounding spaces.

The second point I want to make is with regard to solar implications. At the staff site, or the lower site that is closer to the interstate, that site would really not be applicable for solar because it faces north and east and is blocked by the hill or the mountain of which that parcel that they own. On top, if it's buried down it has more of a solar application, passive solar, which faces south and west, depending on whether it's summer or winter, depends on where the sun sets. We use a solar application, a passive solar application for our home and most of the homes that are built on that ridgeline, we try to get away from the noise and the way we do that pretty much is the views are south and the west. They're not to the north or the east. No one wants to see the interstate. So the living quarters are on the south side or the west side and then we also get the application of passive solar, especially in the wintertime.

And the third point that I want to make has to do with a public health issue. And it's been alluded to by Mr. Siebert, and I just want to reiterate some of the points that were made there. Ms. Stromquist is retired. Mr. Felker is semi-retired. This is the house that they're going to be living in for some time. The noise can be oppressive along Eagle Ridge Drive in that area off of I-25. We're not affected as much as this particular lot would be that is proposed by the staff because ours is cut. That's a four-lane highway, I-25. It's very busy. You've got autos, you've got semi-trucks, you've got public service vehicles such as police, state police, ambulances, fire trucks, going up and down there 24 hours a day. The noise is continuous. The noise is continuous especially – it really ramps up when there's low cloud cover. If it's going to rain, if it's going to snow. Fortunately, we get a lot of sunshine in New Mexico but just on a clear day it can be oppressive on that end.

Like I said, we're a little bit better because when they put I-25 in it was cut out of the mountain, so there's a cliff there that sort of blocks some of that noise, but on this particular lot where the staff is proposing a building site, there's no cliff there. It is wide open to I-25. And so visually, if you build a house there, you're going to see I-25. That's basically what you're going to see.

So I think, in my estimation, taking these things into account, the health issue of the noise could cause hearing loss. Mr. Felker does have some hearing loss at the present time but the constant noise is not a good thing and it really ramps up at certain times, depending on the weather and during the day or during the night. So I just feel like in my estimation that if you just look at the – this could be a significant health problem for them or for anybody who would have to purchase their home after they've decided if they've wanted to sell it, and I don't think that it would be – I don't think that they should be forced to try to build on a site that is not appropriate. So thank you very much I appreciate the time you afforded and your consideration and hope that you would grant them this variance. Thank you, Mr. Chair.

CHAIR ANAYA: Thank you very much, sir. Anybody else for or against? Seeing none, let's close that part of the meeting and now we'll bring it back to the Commissioners to talk. Do you have any questions for staff? Seeing no questions for staff, I will be up for entertaining a motion.

MEMBER L. GONZALES: Chair Anaya.

CHAIR ANAYA: Mr. Gonzales.

MEMBER L. GONZALES: I'd like to make a motion to approve Case #V 17-5050, Barbara Stromquist and Randy Felker Ridgetop Variance with staff's recommendations.

MEMBER KATZ: I would second that motion and make a finding that – adopt the finding of the Hearing Officer that noise can be a factor and also the finding that the additional information that was submitted by the applicant indicates that there is a significant noise difference. And I would add the condition that was suggested by the applicant that the majority of the freeway facing façade be obscured by plantings.

MEMBER L. GONZALES: And that's a friendly amendment, I assume.

MEMBER KATZ: Yes.

MEMBER L. GONZALES: Thank you.

CHAIR ANAYA: We have a first and a second with friendly amendments about item #5, planting trees as tall as six to eight feet tall. Do we have a – we have a first and a second.

The motion passed by majority [4-1] voice vote with Member C. Gonzales voting against.

CHAIR ANAYA: Vicki, do we have an order on that one?

MEMBER KATZ: I think you need to prepare an order for us.

MS. LUCERO: Mr. Chair, we'll need to prepare a new order with the added conditions and the additional findings. So we'll bring that back to you next month.

CHAIR ANAYA: Thank you, ma'am.

VII. G. CASE # CUP 17-5080 Tumbleroot Brewing LLC Conditional Use Permit. Tumbleroot Brewing LLC, Jason Kirkman/Jason Fitzpatrick, Applicants, request approval of a Conditional Use Permit to allow manufacturing of craft beer and distilled spirits. Tumbleroot Brewing will occupy an existing 4,250 square foot structure to house a brewery, a distillery, a packaging line, both warm and cold storage for the product and a small tasting room. The site is within the Planned Development District Santa Fe Community College District (CCD) and zoned as Employment Center (CCD-EC). The site is located at 32 Bisbee Court via Hwy 14 within T16N, R8E, Section 24, SDA-1, (Commission District 5)

JOSE LARRAÑAGA (Case Manager): Thank you, Mr. Chair. The Applicants are requesting approval of a Conditional Use Permit to allow a manufacturing use within an existing structure. The manufacturing will consist of a small production brewery and distillery. The site is within the Planned Development District Santa Fe Community College District, Employment Center of the Sustainable Land Development Code and is within the Turquoise Trail Business Park. Table 8.44, CCD Use Table illustrates manufacturing plants as a Conditional Use, which is a permitted use within the Employment Center Subdistrict upon approval of a conditional use permit.

The Applicants propose to utilize the existing 4,250 square foot structure to house a brewery, a distillery, a packaging line, both warm and cold storage for the product, and a small tasting room. Table 8.44, CCD Use Table illustrates a tap or tasting room, warm and cold storage, and the sales of beer, wine, and liquor for off premises consumption as a permitted use within the Employment Center Subdistrict upon approval by the Land Use Administrator.

The Applicants propose to make minor modifications to the interior of the structure to meet the needs of the brewing facility. The exterior of the existing structure as well as the parking and access will not be altered. The lot is built out and most site improvements are existing. Limited outdoor development is proposed.

On July 27, 2017, this application for a Conditional Use Permit was presented to the Hearing Officer for consideration. The Hearing Officer supported the Application as memorialized in the findings of fact and conclusions of law written order, subject to the following condition. The condition reads:

1. The CUP showing the site layout and any other conditions that may be imposed through the approval process shall be recorded at the expense of the applicant in the office of the County Clerk in accordance with Chapter 4, Section 4.9.6.8.

Staff has analyzed the application and has determined that the proposed use meets the criteria as set forth in Chapter 4, Section 4.9.6.5. This application was reviewed for the following applicable design standards as per Chapter 7, Sustainable Design Standards of the SLDC: access, fire protection, landscape and buffering, lighting, signs, parking/loading, utilities, water supply, wastewater and water conservation, open space protection of historic and archaeological resources, terrain management, flood prevention and flood control, solid waste, and criteria set forth the Planned Development District, Santa Fe Community College District Employment Center.

Building and Development Services staff has reviewed this project for compliance with the pertinent SLDC requirements and has found the facts presented support the request for a Conditional Use Permit to allow the manufacturing use within an existing structure. The use is compatible with the current development within the Employment Center. The use will not impact adjacent land uses, and the application satisfies the submittal requirements set forth in the SLDC inclusive of the conditional use criteria as set forth in Chapter 4, Section 4.9.6.5.

The review comments from state agencies and County staff have established findings that this application to utilize an existing 4,250 square foot structure to house a brewery, distillery, a packaging line, both warm and cold storage for the product and a small tasting room is in compliance with the state requirements and design standards set forth in the SLDC. In approving any CUP the Planning Commission may impose such reasonable standards, conditions or mitigation requirements in addition to any general standards specified in the SLDC or the SGMP as the Planning Commission may deem necessary.

Recommendation: Staff recommends approval of a Conditional Use Permit to allow the manufacturing of craft beer and distilled spirits within an existing 4,250 square foot structure, located at 32 Bisbee Court with the following condition:

1. The CUP showing the site layout and any other conditions that may be imposed through the approval process shall be recorded at the expense of the applicant in the office of the County Clerk in accordance with Chapter 4, Section 4.9.6.8.

Mr. Chair, I stand for any questions.

CHAIR ANAYA: Do we have any questions for Mr. Larranaga? Mr. Gonzales.

MEMBER C. GONZALES: Jose, have you been out to the site?

MR. LARRAÑAGA: Mr. Chair, Member Gonzales, no, I have not.

MEMBER C. GONZALES: I'm just curious. I'm curious and concerned about the retention pond that's there. Is the water – I know it's existing. Is the water making it into the pond and is that pond being maintained? I'm kind of curious, Jose, because it's showing – I don't know if it's a wall around the retention pond or if it's curb and gutter. I'm just wondering how the water's getting into the pond.

MR. LARRAÑAGA: Mr. Chair, Member Gonzales, I don't believe I have a topo showing the grade or the slope on this property. As you say, it's existing. We would have to verify that. I don't have proof of that in the packet.

MEMBER C. GONZALES: Okay. That's fine.

CHAIR ANAYA: Any other questions? Seeing none, is the applicant here?

[Duly sworn, Jason Fitzpatrick and Jason Kirkman testified as follows:]

JASON FITZPATRICK: Commissioners, my name is Jason Fitzpatrick. This is my partner –

JASON KIRKMAN: Jason Kirkman.

MR. FITZPATRICK: And the two of us are Tumbleroot Brewery. We have been working on this project for a couple years now. I've looked at different sites around Santa Fe and we found that Bisbee Court was an ideal location to house our brewery and distillery and small taproom there. We do have plans for a larger taproom in the City of Santa Fe and have gone through the special use permit process for that location, and this is going to be I guess the last hurdle that we need to get to for this process. We have – we initially started this with a TAC meeting last November. We had an ENN meeting in March. We had an Alcohol and Gaming hearing and we've also had our hearing in front of the Hearing Officer without any opposition at all three meetings, so we feel that the community around there is actually very supportive, even though we don't have anybody behind us in support today but we feel that they are supportive of us being in that community park and feel that our manufacturing facility, which is why we need to go through this conditional use is in the spirit of that whole business park and the Employment Center.

MR. KIRKMAN: And to add on to that, if you look at that area that is the Employment Center it extends from the C exit off of 599 but it includes Santa Fe Brewing Company, another brewery. There's another, I think just right next door, they're not a distillery but they're a rectifier. They purchase and bottle distilled spirits. So they have quantities of distilled spirits on site, do the packaging. There are other food and beverage manufacturers in the area, in that Employment Center. So from Santa Fe Tortilla Company to other honey producers, etc. So we really feel like we fit the character of that Employment Center.

MEMBER L. GONZALES: Chair Anaya.

CHAIR ANAYA: Thank you. Before I turn it over to Mr. Gonzales I have a question for you. The hours of operation that you'll be – are what?

MR. FITZPATRICK: So we'll start brewing early in the morning, usually around, depending on the day, but 8:00 I would say. And that taproom there, our focus, it's only going to be 25 people based on the occupancy. It's a small area; it's only 300 square feet, out of the 4,250 square feet of the building, and that's mostly for tastings and tours, looking to get people in in the afternoon, maybe going home to Rancho Viejo and also just to bring people out there so they can tour the facility and actually see the process. So our hours, we don't anticipate being open very late there.

CHAIR ANAYA: So latest serving hours would be what? Ten o'clock?

MR. FITZPATRICK: I would say that would definitely be the latest.

CHAIR ANAYA: I think that's a state – is that state?

MR. FITZPATRICK: No. State is – so with a small brewers license or a craft distillers license you can have a taproom open until 2:00, but especially in the craft beer industry most close at 11:00 or 12:00 because nothing happens after 12:00 that's good in this business. So even our taproom will close earlier than the state requirements.

CHAIR ANAYA: Okay. And the type of water that you'll be using? And the reason I'm asking this question is because it just happened to be on the news last night about them using – this sounds very strange but it was recycled water.

MR. FITZPATRICK: Are you talking about over in Europe, over in Germany? Recycled water from a festival?

CHAIR ANAYA: Yes.

MR. FITZPATRICK: We will not be urine in our beer.

CHAIR ANAYA: I just wanted to know why you were only having 25 people there. And the last question I have is why aren't you calling it Jason & Jason?

MR. FITZPATRICK: We thought about that but my wife came up with Tumbleroot and I like to please her.

CHAIR ANAYA: Your wife is smart. Thank you. Any other questions? Mr. Gonzales.

MEMBER L. GONZALES: How many employees are you going to have?

MR. KIRKMAN: Mr. Chair, at the production end – this is kind of a two-part thing. We've got the production facility down on Bisbee Court and then our main taproom on Agua Fria. I'll be in charge of the production, brewing and distilling. Jason will run the taproom. The production side, we'll start off with me and another brewer and distiller, and then we'll have another employee who does packaging and runs basically kegs to the other taproom, and a bartender. So add it all up and you're talking about five employees, not all full-time to begin with, in addition to myself. And then there's also the taproom.

MR. FITZPATRICK: Yes, the taproom in town, we'll also have a marketplace there. So we'll have four to five employees in the market place and 15 to 20 in the taproom, depending on part-time/full-time.

CHAIR ANAYA: Are you guys hiring a taster? I'm not applying, believe me.

MEMBER L. GONZALES: Thank you, Jason.

CHAIR ANAYA: Any other questions? Mr. Katz.

MEMBER KATZ: I don't suppose you have some demonstrative evidence in the backpack there.

MR. FITZPATRICK: You'll have to come down and taste once we're open.

CHAIR ANAYA: On that note, any other questions? Hearing none, anybody out in the audience? It is an open meeting so does anybody want to say for or against? Seeing none, I close the open meeting. Now, let's go back to the staff or the Commissioners for any questions for staff? Hearing none, do we have a motion? Mr. Gonzales.

MEMBER C. GONZALES: Mr. Chair, I move for approval of Case #CUP 17-5080 with conditions, and I would like to add an additional condition that if the retention ponds is not cleaned it is to be cleaned out. Is that okay with you guys?

MR. FITZPATRICK: yes, it is. We can work with the landlord to make sure that happens.

MEMBER KATZ: Second.

CHAIR ANAYA: We have a motion to approve with the item #2, retention pond must be cleaned out if needed. We have a motion and a second.

The motion passed by unanimous [5-0] voice vote.

VIII. A. Petitions from the Floor

None were offered.

B. Communications from the Committee

None were presented.

C. Communications from the Attorney

None were presented.

D. Matters from Land Use Staff

None were presented

E. Next Planning Commission Meeting: October 19, 2017

F. Adjournment

Having completed the agenda and with no further business to come before this Committee, Chair Anaya declared this meeting adjourned at approximately 8:15 p.m.

Approved by:

Filandro Anaya, Chair
Planning Commission

ATTEST TO:

GERALDINE SALAZAR
SANTA FE COUNTY CLERK

Submitted by:

Debbie Doyle, Wordswork