

AMENDMENT 1984-1  
TO ORDINANCE No. 1981-2

RELATING TO VARIANCES FROM HEIGHT LIMITATIONS AND AMENDING SECTION 5 JOINT  
MUNICIPAL-COUNTY ORDINANCE.

BE IT ORDAINED BY THE AUTHORITY:

Section 1. Section 5 Joint Municipal-County Ordinance is amended to  
read:

Sec. 5 Powers and Duties Generally.--The Extraterritorial Zoning  
Authority has the following powers and duties:

(a) administrative review: to hear and decide appeals when  
it is alleged that there is error in any order, requirement, decision or  
determination made by the administrative official or Extraterritorial  
Zoning Commission in the enforcement of the Zoning Ordinance.

(b) special exceptions: to hear and decide only such applica-  
tion for special exceptions as the Authority is specifically authorized to  
pass on by the terms of the Zoning Ordinance; to decide such questions as  
are involved in determining whether special exceptions should be granted;  
and to grant special exceptions with such conditions and safeguards as are  
appropriate under this Ordinance or to deny special exceptions when not in  
harmony with the intent and purpose of this Ordinance. A special exception  
shall not be granted by the board unless and until:

(1) a written application for a special exception is

1 submitted indicating the section of the Zoning Ordinance under which the  
2 special exception is sought and stating the grounds on which it is  
3 requested;

4 (2) The applicant shall bring in an affidavit showing that  
5 the adjoining property owners, the property owners immediately across the  
6 street from the subject property, and any neighborhood group which has made  
7 a request in writing to the County Land Use Administrator that it be  
8 notified of any requests for special exceptions in the area in which the  
9 proposal special exception is located have been notified of the proposed  
10 special exception. A notice of public hearing shall be published in a  
11 newspaper of general circulation at least fifteen days prior to the public  
12 hearing. Additionally, the posting and notice requirements set forth in  
13 Sec. 17 of this ordinance must be met.

14 (3) the public hearing shall be held. Any party may  
15 appear in person or by agent or attorney.

16 (4) the Authority shall make a finding that it is empowered  
17 under the section of this Chapter described in the application to grant the  
18 special exception and that the granting of the special exception will be in  
19 harmony with the general purpose and intent of the ordinance and will not  
20 adversely impact the quality of life in the neighborhood or otherwise be  
21 detrimental to the public health, safety and welfare. In granting any  
22 special exception, the Authority may prescribe appropriate conditions  
23 and safeguards in conformity with this Ordinance. Violation of such condi-  
24 tions and safeguards, when made a part of the terms under which the special  
25 exception is granted, shall be deemed a violation of this Ordinance and

1 punishable under Section 11. The Authority shall prescribe a time limit  
2 with which the action for which the special exception is required shall be  
3 begun or completed or both.

4 (c) variances: to authorize upon appeal in specific cases such  
5 variance from the terms of this Ordinance as will not be contrary to the  
6 public interest where, owing to special conditions, a literal enforcement  
7 of the provisions of this Ordinance would result in unnecessary hardship.  
8 A variance from such terms shall not be granted by the Authority unless and  
9 until:

10 (1) a written application for a variance is submitted  
11 demonstrating:

12 a. that special conditions and circumstances exist  
13 which are peculiar to the land, structure or building involved and which  
14 are not applicable to other lands, structures or buildings in the same  
15 district.

16 b. that literal interpretation of the provisions of  
17 this Ordinance would deprive the applicant of rights commonly enjoyed by  
18 other properties in the same district under the terms of this Ordinance.

19 c. that the special conditions and circumstances  
20 do not result from the actions of the applicant.

21 d. that granting the variance requested will not  
22 confer on the applicant any special privilege that is denied by this  
23 Ordinance to owners of other lands, structures or buildings in the same  
24 district. No nonconforming use of neighboring lands, structures or  
25 buildings in the same district and no permitted use of lands, structures or

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1 buildings in the same district and no permitted use of lands, structures or  
2 buildings in other districts shall be considered grounds for the issuance  
3 of a variance.

4 (2) Notice of public hearing shall be given as in Subsection  
5 5 (b) (2).

6 (3) The hearing shall be held. Any party may appear  
7 person, by agent or by attorney;

8 (4) the Authority shall make findings that the requirements  
9 of subparagraph 5 (c) (1) have been met by the applicant for a variance.

10 (5) the Authority shall further make a finding that the  
11 reasons set forth in the application justify the granting of the variance  
12 and that the variance is the minimum variance that will make possible the  
13 reasonable use of the land, building or structure;

14 (6) the Authority shall further make a finding that the  
15 granting of a variance will be in harmony with the general purpose  
16 and intent of the Zoning Ordinance and will not be injurious to the  
17 neighborhood or otherwise detrimental to the public welfare. In granting  
18 any variance, the Authority may prescribe appropriate conditions and safe-  
19 guards in conformity with this Ordinance. Violation of such conditions and  
20 safeguards when made a part of terms under which the variance is granted  
21 shall be deemed a violation of this Ordinance and punishable under Section  
22 11. Under no circumstances shall the Authority grant a variance to permit  
23 a use not generally or by special exception permitted in the district  
24 involved or any use expressly or by implication prohibited by the terms of  
25 this Ordinance.

1 (7) all height variance requests for lands located within  
2 the approach, transitional, horizontal and conical surfaces as described  
3 within the approach and clear zone layout plan of the Santa Fe municipal  
4 airport dated February, 1980 prepared by PMM and company, adopted herein by  
5 reference and on file in the city public works department shall be  
6 reviewed for compliance with federal aviation regulations. The applica-  
7 tion for variance shall be accompanied by a determination from the federal  
8 aviation administration as to the effect of the proposed variance on the  
9 operation of air navigation facilities and the safe, efficient use of  
10 navigable airspace. Such variances shall be allowed where it is duly found  
11 that a literal application or enforcement of the regulations will result in  
12 unnecessary hardship and relief granted will not be contrary to the public  
13 interest and will not create a hazard to air navigation. Additionally, no  
14 application for variance to the height requirements within the area  
15 described in this section may be considered by the Authority unless prior  
16 approval is granted by the Federal Aviation Administration and a copy of  
17 the application has been furnished to the airport manager for advice as to  
18 the aeronautical effects of the variance. If the airport manager does not  
19 respond to the application within 15 days after receipt, the Authority may  
20 act on its own to grant or deny said application. Any permit or variance  
21 granted may be conditioned to require the owner of the structure in  
22 question to install, operate, and maintain, at the owner's expense, such  
23 markings and lights as may be necessary.

24 (d) Actions concerning appeals.

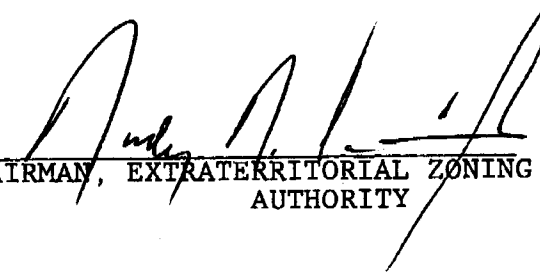
25 In exercising the powers set forth in subsection 5 (a) of this section, the

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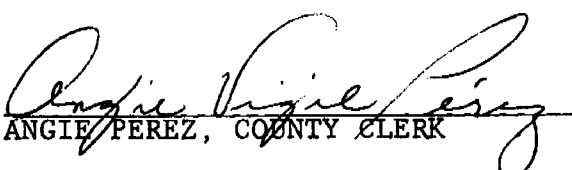
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1 Authority may, in conformity with the provisions of this Ordinance,  
2 reverse or affirm, wholly or partly, or may modify the order, requirements,  
3 decision or determination appealed from and may make such order, require-  
4 ment, decision or determination as ought to be made.

5 PASSED, ADOPTED AND APPROVED THIS 24<sup>TH</sup> DAY OF SEPTEMBER, 1984.

6  
7  
8   
9 CHAIRMAN, EXTRATERRITORIAL ZONING  
10 AUTHORITY

11 ATTEST:

12  
13   
14 ANGIE PEREZ, COUNTY CLERK  
15

16 APPROVED AS TO LEGAL FORM:

17  
18   
19 MIKE KAUFFMAN, COUNTY ATTORNEY  
20

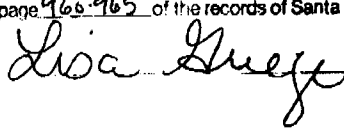


COUNTY OF SANTA FE ) SS

Witness my Hand and Seal of Office  
ANGIE VIGIL PEREZ  
County Clerk, Santa Fe County, N.M.

552,118

I hereby certify that this instrument was filed for  
record on the 2nd day of Oct A.D.,  
1984 at 11:18 o'clock @ m.,  
and was duly recorded in book 501  
page 965-965 of the records of Santa Fe County.

  
Deputy