

1650829

BOARD OF COUNTY COMMISSIONERS

SANTA FE, NEW MEXICO

REGULAR MEETING

MAY 11, 1999

**Paul Duran, Chairman
Richard Anaya, Commissioner
Joe Griñé, Commissioner
Marcos Trujillo, Commissioner
Javier Gonzales, Commissioner**

SANTA FE COUNTY
REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

1650829

May 11, 1999

This regular meeting of the Santa Fe Board of County Commissioners was called to order at 3:45 p.m. by Chairman Paul Duran the Santa Fe County Commission Chambers.

Roll Call preceded the Pledge of Allegiance and indicated the presence of a quorum as follows:

Members Present

Commissioner Paul Duran, Chairman
Commissioner Joe Griñé
Commissioner Richard Anaya
Commissioner Marcos Trujillo
Commissioner Javier Gonzales

Members Absent

[none]

IV. INVOCATION

The invocation was given by Commissioner Gonzales.

V. APPROVAL OF AGENDA

CHAIRMAN DURAN: Are there any amendments, David?

DAVID WOLF: Yes, Mr. Chairman, Commissioners, there are a couple. There's one on page two, item VIII. C. 1, it reads discussion on a proposed Santa Fe City/County resolution directing City and County staffs to take steps to prepare for the creation of a Santa Fe City/County Regional Planning Authority. And there's two items that we request be tabled. They are items IX. B. 1 and IX. B. 2. The first is CDRC Case #V 98-5660 and the second, #99-5061.

CHAIRMAN DURAN: Okay, do you have any other changes to the agenda?

1650829

MR. WOLF: No, Mr. Chairman, that's all I have.

COMMISSIONER GRIÑÉ: Mr. Chairman, yes, I believe me and the rest of the Commissioners would like to go ahead and bring up item VIII. A. 1 so they don't have to wait.

CHAIRMAN DURAN: This is for the Santa Fe County general obligation bonds? Do any of the Commissioners have a problem with that?

Commissioner Griñé moved to accept the agenda as amended. Commissioner Trujillo seconded and the motion passed by unanimous voice vote.

VI. APPROVAL OF MINUTES:

March 24, 1999

Commissioner Griñé moved to approve the minutes of the March 24, 1999 meeting of Joint County Commission/City Council Study Session on Regional Water and Wastewater issues. Commissioner Trujillo seconded and the motion passed by unanimous voice vote.

April 27, 1999

Commissioner Griñé moved to approve the minutes of the regular meeting of the Santa Fe County Commission of April 27, 1999 as submitted, and Commissioner Trujillo seconded. The motion passed by unanimous voice vote.

[Portions of this transcript are labeled inaudible due to microphone system feedback]

VIII. STAFF AND ELECTED OFFICIALS

A. Matters from the County Manager

1. Resolution No. 1999-59. A resolution authorizing the issuance of and sale of Santa Fe County, New Mexico general obligation bonds, Series 1999, in the aggregate principal amount of \$12 million for the purposes of providing funds to acquire necessary real estate for open space, open space trails, and related areas and facilities within the county to establish "The Wildlife Mountain Trails and Historic Places Program"; approving the sale of bonds to the highest bidder providing for payment of the bonds from the property taxes pledged therefor; providing for the form, execution and other details concerning the bonds; the funds appertaining

1650829

thereto, establishing certain details of the bonds; providing for the payment of the costs of issuance of the bonds; approving disclosure and other documents relating to the bonds; and ratifying action previously taken in connection therewith

ROBERT STRUMOR (Bond Counsel): Thank you, Mr. Chairman, members of the Commission. Robert Strumor from Hughes and Strumor Limited Co. and we've been pleased to serve as bond counsel for your general obligation bond issues. And regrets from Bob Swerdling from Piper Jaffrey who had to leave this afternoon. He wanted to be here to effectively take the credit today for an excellent sale. The twelve million dollars sold for an effective interest rate of 4.94% which is a very good rate and I guess you can compare that to either a homeowner's or commercial loan. Individual can't get that rate but Santa Fe County, which is one of the highest bond-rated counties in the country did very well. The comparable issue today was the Washington State transaction which was a much larger issue, about \$68 million, also rated AA, and that sold around 4.83 and was a much shorter issue.

So the financial advisors are very comfortable with the County's good financial standing and good credit rating have created this very low interest rate. The action before the Commission -- and by the way, the financial advisors recommend accepting the bid of Southwest Securities. And to give you an example of how active this bid was, there were seven bids from financial institutions. the spread between the high end and the low bid was .05%. So the bids ranged from 4.94 to 4.99 and the second highest bid was only a couple hundred dollars off of \$12 million. So there was a lot of interest and that's also a credit for the good financial management and the oversight of the Commission.

So the action before the Board tonight would be to adopt Resolution No. 1999-59, which authorizes the sale and delivery of the bonds, and I stand for any questions.

CHAIRMAN DURAN: Thank you, Mr. Strumor. Are there any questions of Mr. Strumor?

COMMISSIONER TRUJILLO: I'd like to hear the position of staff, including Legal regarding the viability of the bonds.

CHAIRMAN DURAN: This is on the resolution -- do you want to comment on this? Have you discussed this with Denise?

MR. WOLF: Yes, Mr. Chairman, I'll have -- on that, but I just want to comment that I think that the interest rate is favorable. We recently had discussions with Moody Investments for our bond rating and given the financial problems that we had earlier in the fiscal year it would have been feasible or likely that our bond rating would have been decreased. But because of the action that we took, we were able to maintain an outstanding AA-2 bond rating which in part helps us with the favorable interest rates on these bonds today. So I think that's very positive and the bonds are just simple general obligation bonds that were approved in the November election for open space and now this is a formal process to actually sell those bonds and for us to obtain the funds to go forward with the purchase

1650829

of open space. I recommend that the Commission accept the bid with Southwest Securities. And I'll double checked to make sure that -- I can't imagine the need for having a legal issue. Actually Bob Strumor is our legal representative, our legal counsel and they put their name on the line on our bond issues.

COMMISSIONER ANAYA: Mr. Chairman, just a comment. The interest rate under five points, it's an incredible kind of interest rate. It's very favorable.

CHAIRMAN DURAN: Any other comments? Commissioner Trujillo?

COMMISSIONER TRUJILLO: I think that's fine. I think with the position of staff, and Becky, do you have anything to say regarding the issuance of these bonds?

BECKY BUSTAMANTE (County Clerk): Mr. Chairman, the only question I have is the dates. I have June 15, 1999, and I just wanted a question it for legal. Since the resolution or the election says that they were going to --

MR. STRUMOR: Madame Clerk, Mr. Chairman, members of the Commission, the date of the bonds is the date that interest occurs. In this particular case, we're delivering the bonds on the June 15 -- And to give you an example, if we say June 1, the buyer would have to pay interest from June 1 to June 15. It really is, it's when the assessments start. It's really a technical detail of the bond issue and is related to the delivery. Although it's an excellent question, because your assessments are going to be made to pay for the bonds so the date of the bonds is really a detail of the delivery on the sale and not related to the assessment.

I'd be glad to answer any more questions. But it is a good point to bring up.

Commissioner Grifé moved to approve Resolution No. 1999-59 and Commissioner Gonzales seconded. The motion passed by unanimous voice vote.

VII. COMMITTEE APPOINTMENTS

A. Santa Fe County Health Planning Commission

CHAIRMAN DURAN: I wasn't at the last meeting. I apologize for not being there and I guess to complete the task force we're waiting for my appointment. I would like to appoint Rebecca Frenkel as my appointment to the County Health Task Force, and Rebecca, I spoke with you before about it. I congratulate you for wanting to represent the County in this and I know you'll do a good job. I think you offer another element to this task force that brings about a balance. So thank you.

Do we need to confirm that?

VIRGINIA VIGIL (Policy Analyst): Mr. Chairman, members of the Commission, Virginia Vigil, Health Planning Coordinator, for the record. Your appointments to the Health Planning Commission should be done by motion.

1650829

Commissioner Griñé moved to approve the appointees to the Health Planning Committee. Commissioner Gonzales seconded and the motion passed by unanimous voice vote.

VIII. A. 2. Request authorization to enter into an option and purchase agreement with El Siete, Incorporated to acquire twenty lots for the public housing development project

MR. WOLF: Mr. Chairman, Robert Anaya is presenting this item.

ROBERT ANAYA (Housing Director): Mr. Chairman, members of the Commission, [inaudible] in conjunction with the Commission and the County Manager, the Administrative Services Department has been working towards acquiring the lots necessary to build out the public housing units. El Siete, Incorporated has been very cooperative with us up to this point. However, [inaudible] to hold the property for another sixty days so we can get the necessary approvals for [inaudible] That includes sub-clearance, environmental clearance and [inaudible]

COMMISSIONER GRINÉ: Any questions of Mr. Anaya? If not, what's the pleasure of the board?

Commissioner Anaya moved to approve the request to enter into an agreement with El Siete and Commissioner Gonzales seconded. The motion passed by unanimous voice vote.

VIII. A. 3. Request authorization to enter into amendment number two to the agreement with Rick Johnson & Company for additional out-of-state advertising services

DONNA GARY (Finance Director): Mr. Chairman, Commissioners, the Lodgers' Tax Advisory Board received a \$30,000 grant from the Department of Tourism to apply towards out-of-state advertising. The County has a current price agreement with Rick Johnson and Company for out-of-state advertising services and the Lodgers' Tax Advisory Board wishes to increase the level of services provided under this agreement by the grant of \$30,000.

The agreement with Rick Johnson and Associates does allow for such an increase. Therefore the Santa Fe County Purchasing Division recommends that the Board of County Commissioners provide authorization to amend the agreement, #98-0351 with Rick Johnson and Company, Incorporated for an additional \$30,000 for the out-of-state advertising services provided by the grant from the Department of Tourism.

1650829

Commissioner Gonzales moved to authorize the amendment to the agreement with Rick Johnson and Company. Commissioner Trujillo seconded and the motion passed by unanimous voice vote.

VIII. B. MATTERS OF PUBLIC CONCERN - NON-ACTION ITEMS

CHAIRMAN DURAN: This is a non-action item. Any matters from the public? Anyone out there that would like to address the Commission?

VIII. C. MATTERS FROM THE COMMISSION

1. **Discussion on a proposed joint Santa Fe City/County resolution directing City and County staffs to take steps to prepare for the creation of Santa Fe City/County Regional Planning Authority**

CHAIRMAN DURAN: I have something to say. This is an amendment to our agenda. For many months now, the County Commission and the City Council have been talking about the need for regional planning, about the importance of the County and the City working together to plan for this community for the benefit of all our citizens. Today I am pleased to bring forward to my fellow Commissioners this draft resolution. This is a first step towards moving from talking about regional planning to actually doing it. This resolution calls for the creation of a new Regional Planning Authority comprised of four County Commissioners and four City Councilors.

The Regional Planning Authority would be charged with planning the area up to five miles outside the city limits, recommending zoning districts for adoption by the Board of County Commissioners, and the Extraterritorial Zoning Authority for their respective jurisdictions, and recommending an annexation plan for adoption by the City. The creation of a Regional Planning Authority we will have for the first time, a joint City/County body that will coordinate the growth of our community. The creation of this body proves that we are truly on the brink of a new era in City/County government for County cooperation, which I find exciting and vital to the health, safety and welfare of our citizens.

Let's take this first step, keeping in mind our vision and hope for a safer, healthier and stronger community. Finally, I'd like to thank members of the Land Use Resource Center, Lynn Canning and Craig Barnes for their tireless efforts in making the idea of regional planning a reality. I think you guys have done a great job. I know you've worked with both the City and the County officials to bring this resolution to where it is today and I thank you.

COMMISSIONER GONZALES: Mr. Chairman, I'd like to also commend you also for your efforts and leadership in this area. I know it's taken enormous amounts

of time of the Land Use Resource Center taking this issue forward and I know all the Commissioners are committed to this authority working. I think we've all made that commitment. But I do want to commend you and thank you for your efforts in that effort.

Mr. Chairman, I'd like to with pleasure move for adoption of Resolution 1999 -- there's not a number?

MS. BROWN: Mr. Chairman, it was originally up for adoption and it was moved to being for discussion. This was only for discussion purposes.

CHAIRMAN DURAN: So when do we adopt it?

COMMISSIONER GONZALES: [inaudible] in discussions with the Mayor in coordinating between the Commission and the City Council and at that time we would adopt collectively as a whole this resolution, so that we would all have a public hearing about the authority and bring it forward at that time. I apologize. I forgot it was changed. Instead of individually adopting the resolution we would do it as basically one group, one unit.

CHAIRMAN DURAN: I don't have a problem with that but I thought in the last discussion we had, I thought there really was a mechanism in place to have a --

MS. BROWN: Mr. Chairman, each body would have to vote separate from the other body. It would be all -- not all fourteen voting. I can be however you would like it to be, just so it's properly noticed and the City is under the same restrictions that we are. We could do it as a joint body, we could do it at your next meeting. It's really up to you when you like to do that.

CHAIRMAN DURAN: The reason we didn't want to do it at this meeting was that -- I think this document has been circulated to everybody. I'm only concerned if we go into a joint City meeting and then it's open for discussion again. We've beat this thing to death and I think we need to have something in place so we can start.

COMMISSIONER GONZALES: Mr. Chairman, I agree with you and the way I would envision how this joint meeting would work is that the Commission -- it would give the Commission and the Council an opportunity to sit across the table and discuss this resolution without us adopting it tonight and us listening to the discussion of the City Council and their view. But in the end, the Commission certainly has the ability to adopt as one body this resolution in the manner that we would like for it to be. And when the Council, if they choose to adopt this, which we hope they will, or not. But I think the goal when we originally talked about this would allow us to sit down with the Councilors to discuss this resolution collectively. I think the concern that I have is that in the past we had lots of new resolutions that have been adopted individually by the bodies and have never went anywhere because there hasn't been any type of discussion between the two bodies.

So hopefully, if we were able to meet together to discuss this and take our votes I think that that would be real helpful. But I suppose too we've been able to talk collectively as two governing bodies on these resolutions.

COMMISSIONER TRUJILLO: Mr. Chairman, Who developed this

1650829

resolution? Was it developed by the Resource Center?

CHAIRMAN DURAN: Well, let me answer that. The resolution was prepared out of many meetings with the City Councilors, County Commissioners, in the last six months and recommendations from the Land Resource Center. And from our attorneys, from Denice's office and from the City Attorney's office. It was really prepared by a lot of people and -- but the other thing is the resolution in the form it's in today has been essentially run by every County Commissioner --

COMMISSIONER TRUJILLO: This is the first time that I've seen the resolution. I have talked with the Resource Center various times so I conjecture that my input is included in here and everybody else's input is included.

CHAIRMAN DURAN: So the resolution was prepared, the last changes to the resolution were made just ten minutes ago, but this resolution was put together by our staff and the City staff and with the Mayor's blessing and everyone else's. What I was hoping to do was to bring this resolution forward this evening so that the Board of County Commissioners could discuss, to hash out amongst ourselves so that when we went to a joint City/County meeting that we as a governing body were of one mind. Because we typically, on issues concerning our community, seem to be of one mind. I wanted to go over all these things this evening so that we didn't have to go to a joint City/County meeting and have differences amongst ourselves.

So I just have one question, Denice. Is it possible for us to approve this if we decided to do this tonight? Why don't you look that up and I'll defer to Commissioner Anaya.

COMMISSIONER ANAYA: Okay, Mr. Chairman, a little background on this particular resolution goes back to Portland days and the tendency in those days was to establish a brand new elected body, a regional planning body, which was almost a consensus coming out of that particular gathering in Portland. What occurred in the meantime seems to be due to the efforts of Craig and Lynn and how they put this composition together. There was a correlation of ideas between Councilors and County Commissioners and they correlated our ideas and the input, rather than going through the whole brand new process of creating a Regional Planning Authority. What surfaced out of this is a combined effort between the two elected bodies that exist today and probably in perpetuity to create a regional planning body from the two bodies that are now in power to take charge of City and County governments.

So in this particular resolution, [inaudible] to second Commissioner Gonzales' motion to go ahead and approve it and I think we have a third on our side here -- it would be feasible. But anyway, it's been a long effort and I think it's really great and I think we're really heading in the right direction and I think it would behoove us to take the first step and move forward, telling City Hall that we do accept them and we welcome them in this particular scenario.

CHAIRMAN DURAN: Denice, did you find an answer to that?

1650829

MS. BROWN: Mr. Chairman, I'd generally say that when we were going to adopt a resolution that we put it on for adoption, although I think the caption is comprehensive enough that if we wanted to adopt it tonight, I don't think there's anyone who wouldn't have showed up based on the caption that would have showed up if it had said adoption instead of discussion. So I think it's probably comprehensive enough to go forward if you chose to do so.

CHAIRMAN DURAN: What I'd like for us to do is to make the right decision on this, whether we adopt it tonight or we adopt it at the joint City/County meeting. I don't think it really matters. What I'm really more concerned about is that all of us up here -- because this changes our ability, not our ability, but our right to plan the county. We are now allowing the City to have some input into that and I think that's good. I just want to make sure that we're all of one mind on that.

COMMISSIONER TRUJILLO: I think that it's a direction that's timely, not only for the City of Santa Fe and the County of Santa Fe, but this can serve as a symbol to give impetus to joint planning with the City of Española, with the Native American community, with the southern part of Santa Fe County, the Moriarty area, Edgewood area, things like that. It's right. It needs to happen. Regional planning is something that needs to take place and I support this and I commend also the Resource Center because it was really hard to correlate the positions of the Councilors and the Commissioners. I don't have a problem voting on this today.

COMMISSIONER GRINÉ: I move for approval.

COMMISSIONER ANAYA: Commissioner Gonzales has already made that motion. Would this preempt the EZA as it exists today.

CHAIRMAN DURAN: No, no it doesn't.

COMMISSIONER ANAYA: It has the tendency to preempt the EZA as it is today and also a lot of conflicts specifically between the City Council and the County Commission as far as planning. And this particular resolution, the direction of this creation tends to resolve all that that's been going on between us and look at this with nothing but favoritism at this particular resolution. And I get the feeling from the comments made across the board here that there is substantial support.

COMMISSIONER GONZALES: Again, we all support this resolution and if the Chair calls for a vote tonight I'm going to support this resolution but I think what we had originally talked about is having the ability to sit down in chambers with the City Council to discuss the resolution and then take it to a vote so that we could at least, sitting across from our peers at the City listen to their concerns with it. More than anything else, Mr. Chairman and Commissioners, we all support this resolution but I think that the public needs to understand that we are fully committed to working collectively with the City Council and what better way to demonstrate that than to be in the same meeting and be able to adopt this resolution together. And I think that in many ways is symbolic and really sends out the right message to the community that collectively we're going to start working

1650829

together to address regional issues and regional problems that have occurred.

The only reason why I was concerned with that is again, we've had so many resolution that have come before this body and the City Council over the last several years that have never really amounted to anything but this would be an opportunity to actually act collectively. I just feel it would have been nice to have done it collectively with the City Council and as Commissioner Trujillo indicated, this is a symbolic message that we're doing this together as opposed to us jumping up first and then the Council following along, that we're really in this all together. That's all it would do basically by doing it together.

CHAIRMAN DURAN: Well, let's hear what Mr. Barnes has to say.

CRAIG BARNES: Mr. Chairman, Commissioners, if the whole commission is in favor of this approach, seeing that we have a place in time where we can move forward, where we can cooperate with the City, where we can create a joint conversation on these fundamental and vital issues. To achieve this kind of unanimity here on the Commission is extremely heartening. There is a kind of a compromise position between your desire to solidify your position as a Commission tonight and to have a joint meeting and a joint discussion, and that compromise position might be this. You might resolve tonight to present this resolution as your proposal to the joint session.

If it is adopted as your proposal, then it is a document not subject to any further amendment from this Commission so you don't have to worry about people getting their heads together and trying to figure out between now and then and you can see what happens between now and whatever date the joint meeting occurs. So you could go on record as favoring this and sending it forward for a joint discussion. Then the benefit of that, Mr. Chairman, would be that while the Commission may be in a fully unified position tonight, we don't know if the Council is and the Council I think would profit from any joint discussion with you where you evaluate together in a way which has some flexibility, some real resilience, some real ability to compromise if it's necessary when you get together with the Council.

So if this is just a proposal rather than your final position, this is what you present to the joint meeting and say this is what we recommend because we think it's good. You still then can join in a genuinely open discussion with the Council and be available for give and take, which is a pretty important thing on this issue. So that you don't give in a finished product which they feel leaves them out of the debate and discussion. And there's no one saying that someone did it first.

So there might be some advantage also in allowing this to come up tonight. It becomes public tonight. The public can talk about it so you get some input in a reasonable amount of time before the joint session. That's a good thing. Because the public can now react to this as well and so you do not make a decision until that happens. So there are a couple of tactical reasons why you might want to prolong the final decision until the night of the joint meeting. But if you make a decision to vote tonight and resolve to present it to the City Council you will have taken a position in favor of it, in support of it, of the

1650829

underlying principles and you can say we've done it. We've made progress. We've got a specific, concrete proposal. It's a middle ground between doing nothing tonight and simply saying we're talking about it, and adopting it finally. So that's a possibility.

CHAIRMAN DURAN: So your suggestion is rather that adopting it, we make a strong statement that we are in favor of this?

MR. BARNES: No, it's stronger than that. Mr. Chairman, I would adopt it, I would draft a motion which adopts this resolution as the proposal for the joint session. This is the County Commission's proposal to the joint session of what this should be in the way of a joint City/County Regional Planning Commission. And your own efforts. It's not just we talked about it; we like it. This is our concrete proposal. And you don't have to spend the next three weeks or whatever time it is between now and that joint session rehashing it, because you've made your concrete proposal.

CHAIRMAN DURAN: Well, you know how many meetings it's taken us to get to where we are right now. I really want to have something in place so we can start building. Approving this doesn't mean that we're not going to be able to amend it or we're going to have a desire to amend it once the City Council and County Commission has found a flaw in it as it's been adopted.

MR. BARNES: You really can't go wrong. If you approve it tonight, you've made a substantially strong statement, but if you approve it as a proposal to the joint City/County discussion, you may strengthen your position in your discussion next week, or the next session.

CHAIRMAN DURAN: I'll entertain a motion to adopt it as a proposal.

COMMISSIONER GRINÉ: So moved.

COMMISSIONER ANAYA: I'll second, Mr. Chairman.

CHAIRMAN DURAN: There is a motion and a second. Any further discussion?

COMMISSIONER ANAYA: We're adopting this resolution as a form of a recommendation to present to the City Council? Is that the policy of the motion?

MR. BARNES: This would be the County Commission's proposal for a joint City/County Regional Planning Commission to be considered June 2 at a joint meeting.

COMMISSIONER ANAYA: Okay.

CHAIRMAN DURAN: Any further discussion? Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries.

Any other matters from the Commission?

VIII. D. MATTERS FROM THE COUNTY ATTORNEY

MS. BROWN: Mr. Chairman, there is one item for executive session. It's a pending litigation involving Mansal Gravel that I need to update the Commission on, events

1650829

that happened recently.

COMMISSIONER ANAYA: Denice, perhaps this would be the opportunity to introduce our new person on board.

MS. BROWN: Is Barbara here? Barbara Mulvaney is the new lawyer in our office.

CHAIRMAN DURAN: Welcome. I'll entertain a motion to go into executive session.

Commissioner Griñé moved to go into executive session and Commissioner Gonzales seconded. The motion passed by roll call vote with Commissioner Anaya, Commissioner Gonzales, Commissioner Griñé, Commissioner Trujillo and Chairman Duran voting in favor.

[The Commission met in executive session from 4:20 to 4:30.]

Commissioner Anaya moved to come out of executive session having discussed only the pattern of possible litigation. Commissioner Griñé seconded and the motion passed by unanimous voice vote.

[The microphone system malfunctions at this point in the hearing]

IX. PUBLIC HEARINGS

A. The Planning Division staff will present the rural district and Estancia Basin district portions of the Santa Fe County Growth Management Plan, Part II: The Districts, including an official map. Planning Division staff will request the following:

- **Resolution No. 1999-61. A resolution adopting the introductory sections of Part II (pages 1-22) including the land status map, and the land status and zoning map; the rural district and Estancia Basin district (pages 23-43) including the basic planning districts map; and the traditional and contemporary communities sections (pages 44-52) including the community and neighborhood planning areas map**
- **Request direction to amend the Land Use Code for adopted modifications in the rural district**
- **Request direction to prepare an Estancia Basin district plan and zoning ordinance and to create an Estancia Basin district steering committee**

1650829

JACK KOLKMEYER (Planning Director): Mr. Chairman, members of the Commission, ladies and gentlemen, thank you. We're happy to be back with Part II of the County General Plan. We'll be going over the presentation with you and then open it up for public hearing.

We feel that the resolution that you just passed to work together with the City is enormously important, an important piece of the work that's now before us, reminding you of course that the City has already passed its general plan so it becomes extremely important for the County to finalize its general plan so we're all on a level playing field and everybody knows what everybody's position is.

So that's what we are prepared to begin today, a process so that we will be able to adopt the County's general plan. And I'd like to take just a moment to reiterate the goals of what we had suggested to you at the April 13 BCC meeting about how we are structured to move forward. On April 13 we stated that what we wanted to do with the growth management, Part II, and that we would set up public hearings at the BCC meetings, scheduling them earlier to have the opportunity to go over each of these sections so that it was real clear to the Commission and to the community what the issues were and what we were requesting.

What we were talking about at that time was that the meetings, the ones like today, would be [inaudible] as well as the introductory sections, and in the booklet that was pages 1 through 52 of the County General Plan -- Then what we had asked was that at the June 8th meeting, we go over the Santa Fe Metro Area Highway Corridor District, the Community College district and the Airport Development District at that meeting, June 8. In the July meeting, which could be July 15, what we would go over with you would be the growth management concept which would be the urban area boundary, the designation of future growth areas, the adjustment of the two-mile Extraterritorial boundary as well as a discussion of a joint City/County transfer of development rights program.

We didn't have anything scheduled in August to allow an additional amount if we needed to have any additional meetings, we could come back in the month of August with appropriate changes and then the Santa Fe County Growth Management Plan would be adopted in September. -- as you notice from the resolution that we have today in the memo directed by the County Attorney to recommend to you -- July would be adopted by you by resolution and then we would come back and do a compilation resolution that would supersede all of those and we would adopt the entire General Plan. So that's the way this is laid out with our resolution today.

[Tremendous feedback occurring from the microphone system and inaudible portions]

CHAIRMAN DURAN: It just seems to me that if we're going to be amending land use patterns out in the county that the people that are affected should have the ability to have some input into those issues.

1650829

MR. KOLKMEYER: But we're not amending land use patterns. People are going to do what they do right now.

CHAIRMAN DURAN: That's what I asked you before. If by adopting the Estancia Basin as a rural district, are people's property rights, or their perception of what they can do with their property going to be changed? Because that's why they want to have some input into the plan, is if you're going to dictate a certain way that they can use their property, other than what they have traditionally been accustomed to, then they should have the right --

MR. KOLKMEYER: My response to you is that we do not agree that we are changing those rights of those individuals.

CHAIRMAN DURAN: The reason I'm asking is that I really believe we need to have, we need to adopt our general plan as soon as possible and my understanding is that by adopting the districts that it just gives us -- the next step would be to adopt ordinances and land use patterns that would be open for public discussions that would be developed with the public input.

MR. KOLKMEYER: That's absolutely correct.

COMMISSIONER GONZALES: Mr. Chairman, again, I agree. This is exactly the direction that we needed to go. We're going to create the districts and within the districts we're going to pull together the communities so that they begin to develop community plans that are in conformance with what the districts are calling for.

MR. KOLKMEYER: That's correct.

COMMISSIONER GONZALES: Whether they're the Estancia Basin, traditional communities, contemporary communities or rural districts. The only thing we learned the last time, and I just want to make sure we do it again this time, and we started last night, is that we do go out to the communities before we adopt the district. Now tonight, I'm prepared as we go forward and assuming things go the way I think they're going to take a vote on the Estancia Basin District. Am I prepared to do it on the rural district? No, just because we haven't had a public hearing in any community in the rural district. I'm not saying we have to go to every community in the rural district but I do think that that is something that we do need to do to give those non-appropriate communities that find themselves in rural districts, which we've stated very clearly in here that we want to really limit development, that we give them an opportunity to speak to the district prior to us adopting it. That's the only thing I'm concerned about.

I think we should continue the plan we've talked about and Chairman Duran is right, we need to accept that they've worked very hard to get this general plan done. But the reason, we have 2,000 square miles and we have lots of communities out there that have ownership in this plan, which means that we need to go out there and make sure that they have an opportunity to participate in the designation of the district. And so, that's all that I'm asking you tonight. I'm not prepared to go forward on a rural district, because we haven't had a hearing on the rural district. And exactly what do you mean by rural district?

1650829

Are you saying that's there no one out there that will be affected by the designation of a rural district? Don't we need to go out there and listen to them? That's the only thing that I have an issue with.

MR. KOLKMEYER: Mr. Chairman, Commissioner Gonzales, that's why we're having this public hearing tonight. If we need to go out to other places we could do that at your direction, but again, my question would be which would communities and where would you want us to go?

COMMISSIONER GONZALES: I think the last thing that we had talked about having a meeting in the south, a meeting in the north and one in the original area of the city.

MR. KOLKMEYER: Mr. Chairman, Commissioner Gonzales, we talked about that -- Commissioner Trujillo, prior to going down to Edgewood. But if you go up to the north, it's kind of a funny thing because there are really only two pieces of property in the whole northern area. One being the Jacona Land Grant and the other an area east of Arroyo Seco as well as a few other smaller holdings. If we go to Pojoaque and the people from Pojoaque come there and this doesn't affect them at all, I'm not sure why we would want to have a meeting, for example in Pojoaque, let's say. And this is what I communicated to Commissioner Trujillo, to be able to resolve some of those things here.

COMMISSIONER GONZALES: -- to go forward with the rural district then I'm prepared to do it, but we've gone down this road before and we've been burned very badly when we've gone and we've made decisions without going out to these communities first. Now, if you tell me in fact that you feel comfortable and we don't have to have any public hearings outside of this courthouse to discuss the rural district then I'll go with your recommendation. But that's something that I want to hear from you that you feel absolutely sure that there aren't people out there that are expecting us to go out to their communities to talk about a rural district.

MR. KOLKMEYER: Mr. Chairman, Commissioner Gonzales, I haven't heard that from other people in the traditional communities that we've discussed this with.

COMMISSIONER GONZALES: I'm talking non-traditional communities.

MR. KOLKMEYER: I think there are a lot of people who are south of the City of Santa Fe and between Santa Fe and the Estancia Basin District who in fact are in that community and I think it would be real helpful for us to listen to them and perhaps we could decide if there are some other communities that we need to have additional meetings in. But I think that there are quite a few people in the audience who can help you with that decision to determine that.

COMMISSIONER TRUJILLO: But even with the rural district in place, it does not stifle public input. That continues from now to when the plan is adopted. Until we have the ordinance. And that will continue. But this will just be putting the districts in place.

CHAIRMAN DURAN: The ordinance is a restrictive document, right? It's

1650829

the one that really is going to guide development specifically in the direction the General Plan. The General Plan is actually dictating us to adopt these districts.

MR. KOLKMEYER: That's correct. That's the other thing. The Part I, Policies is -- we look at those policies that we put in place to do this it says [inaudible] appropriate districts, the Estancia Basin and rural preservation. We've made a change in that so we don't want to call it rural preservation, just rural district.

CHAIRMAN DURAN: And haven't we fine-tuned it a little bit more by creating the other districts, right?

MR. KOLKMEYER: That's correct. The new community district, the highway corridor district, the urban area boundary and the proposed growth area. And you notice that we do it separately because there is a broader setting for the whole county. And the other ones are primarily involved in our relationship with the City.

CHAIRMAN DURAN: I honestly don't think that by adopting these districts that we are taking anything at all away from the public. They still have the right and the ability to come before us. I think until we adopt the actual ordinances --

[Highly inaudible section]

MR. KOLKMEYER: But Mr. Chairman, are you in agreement with me about some of the people that are here in the audience? As I said earlier, -- we agree with you. -- express differences of opinion that they may have. And I think that that's a legitimate reason and that could also help us to resolve some of these issues if we need to have meetings or other input.

CHAIRMAN DURAN: Does anyone have anything else to say? I'll open it up to the public.

MR. KOLKMEYER: [inaudible] that we all understand is to get to a series of meetings so we can go over all the districts listed in this kind of form with different people coming and going to testify. Just to make sure that we're in agreement that that's what we want to do. That we don't want to elongate it or make it shorter, that you as the governing body are in agreement with the manner in which you'd like to proceed.

CHAIRMAN DURAN: Okay, do we need to have public input before?

MR. KOLKMEYER: We'd like to spend about fifteen or twenty minutes explaining to you the rural district and the Estancia Basin and what we're asking you to adopt and then we'll open it up to public hearing. We'll do it as fast as we can. I see some of you were here last night. I know there are other people who weren't so we'd like the opportunity to go through what we're asking you to adopt.

And there are some things that we did not go through last night.

CHAIRMAN DURAN: Just wait for one moment please. We're going to wait for Commissioner Gonzales to come back into the room. Okay, Jack, whenever you're ready.

MR. KOLKMEYER: Mr. Chairman, what we're asking [inaudible] to be adopted are pages 1 through 52 of Part II of the General Plan. So I just want to briefly go

1650829

over some of the introductory material so that we know what it is that we're looking at. On page 3, we define the rationale and objectives [inaudible] Pages 6 and 7, so that we have some sense about growth change in this county, we have included some projections that were done by the John Prior study and the next page is a map showing the current land status and zoning of Santa Fe County, including the hydrologic zones as they are today --

Pages 9 and 10 -- are about what areas are zoned and what areas are not. We wanted to make it really clear up front that there is a zoning plan involved here and the zoning would apply to the planning districts. Once we get through all of this there will be a number of planning districts that will have zoning. The rural districts, the Estancia Basin District, the traditional community districts, the contemporary community districts, which could be the community college district, the highway corridor district, the first one you have is the metro area highway corridor district, that plan will be forthcoming to you at the next meeting. One new item, the airport development district, which comes out of the work that the highway corridor district did after the City's General Plan. We need to designate that area and create zoning for it and finally, the urban growth area, that would be a plan between the City and the County. So this is a discussion of what that means in those areas.

Page 11 through 14 are a continuation of the debate about what is sprawl and the cost of it. A number of things that we learned last year, many different people had different opinions about what sprawl is and what it means. And to many people it's negative and to others it's a development pattern that they prefer. What we want to point out is that however we want to look at it, there are costs to development. There are costs to the developer and there are costs to the County. And there are costs to residents of the community. And this is an issue that we want to continue to make clear, that going forward with certain development patterns has a cost to it and that we need to be aware of what those costs are as we continue to try to make changes.

Pages 15 through 22 is also in part a new section, but one of the criticisms that we got from our first go-round was that we didn't put the whole county into some kind of perspective where we talked about how different sections of the county are different from each other and what kind of plans are used throughout the county. So we've derived this section from factual data about building permits, lot splits, and information on the geology and the physical characteristics of the whole entire county, based on facts we've had from zoning, building permits, subdivisions and lot splits and land changes to give us some perspective about where we're at. We began a discussion about the basic planning districts of the county. Some of this you'll see in the introductory section is new but -- based on factual information to set up the discussion, for example for the planning districts.

The next session is the planning districts, the rural district, the Estancia Basin District, traditional and contemporary communities, and I'd like for Judy to present that to you.

JUDY MCGOWAN (Planner): Mr. Chairman, Commissioners, I'll try and be very brief but as clear as I can be to get the points across. I know you heard it last night

1650829

or are the experts on it and don't need it. I'd like to just point to the maps real briefly and there's one map here that [inaudible] But the districts that we're talking about in this section, the planning districts are the rural districts, the Estancia Basin District and also to a certain extent the traditional community district and substantial contemporary community districts. Very brief discussions.

The rural district is basically that area in the central and north central part of the county that surrounds the community including the City of Santa Fe and its urban area. And it's the context for the county. It's what we think of as being the county to a large extent and the communities of course are kind of unique areas [inaudible] So the western rural district is the land around the communities --

The Estancia Basin District, the line that is on here right now follows essentially property boundaries and section lines where we could. The ridgeline is here and then follows a boundary along the water basin, essentially. There's one area we will be talking about in a minute. [inaudible] the San Pedro planning area because we had early indications from the San Pedro community that they did not want to be in the Estancia Basin. They preferred being in the rural district. And there's also some physical reasons why they would not be there. They're really not in the same water basin to a large extent.

We understand now that they may want to take some more time to reconsider whether or to decide formally whether they want to be in or out of that district and we're open to having them consider that and make a change if they need to. [Highly inaudible section]

What we're trying to do with this district is carry out the vision and the policies that have already been adopted. And the entire staff has spent a lot of work, the steering committee, and an extensive public participation process. Another thing -- in the zoning plans is the balance between -- the setting, the context, which is the land, and the environment that you're in, which is a very precious commodity, it basically what you're selling in this county. [inaudible] have their own needs and desires and the individual rights of property owners. So what we're trying to seek here is a balance between those three.

The rural district is specifically the areas that have been set aside where ruralism is a dominant theme. And as we talked about in the past, there are lots of different opinions on what rural means. It means a lot of things to people. Some people have large ranches and working ranches and for other people [inaudible] What we'd like to do basically in the planning process is have that defined by the people that live in those areas along with the overall goals and policies of the County.

Within the district we're trying to accomplish two basic goals. And one is to emphasize and encourage -- traditional in that area and the other is restricting uses that are really not rural. So both of those things are in the description in the text. Emphasizing the rural is tied to the section in the plan, I believe on page 29 where it talks about preferred land uses. We are seeing here, although this is not the final detail by any stretch of the imagination that the preferred uses are agriculture and agriculture-related business. That exists now. Rural residences and family development, that also exists now. Those are not

changes, along with small businesses and home occupations which allow residents to maintain their land and rural lifestyle.

Those are also available now but there is a change in emphasis in the plan we believe in that we would like to ease some restrictions on home occupations and small businesses to make them more available in the rural communities. We've heard this from our public meetings, some of the research we've done also emphasizes that if you want to maintain rural, this allows people's ability to make a living and make some income off their rural land.

There's no detail in here yet as to what kind of performance standards would have to be in place. That would have to happen in order to protect the neighbors and the community. But that would have to be worked out at the ordinance phase and that is an area which I would strongly suspect that we could do a lot of work with some of the communities in developing before the ordinance starts forward. We have to be more supportive of agriculture as a business. And that means that things that are truly agricultural business, that are tied to land, should be happening on the land and not be required to be in a node or be zoned for commercial use and that's something that's come up from the communities.

The restricted land uses are those that have some special impact -- such as mining or that are really more urban in character. And what the plan is proposing is that those uses not be encouraged in the rural areas. That they be more encouraged in the areas that would have an infrastructure to handle them. And I believe the airport development district is one of the proposals we are making for handling some of those industrial uses.

We're proposing that, and this goes along with some of the policies that were adopted, that the densities within the rural district continue to be based on the hydrologic zones and that includes the basic densities plus some incentives and we're also proposing that the standards in the Code be looked at to make sure that they're truly reflecting rural character that will not require any engineering standards for roads, for other things that are more suburban or urban in character. I'm not saying we're going to do that right now but I think we need to look at that when we get into amending the Code very carefully to make sure we're carrying that forward.

We're also anticipating that -- for the traditional communities and the contemporary communities, that those communities may come forward with their own ideas as what really fits as far as development standards in their communities, because they vary from place to place in the county.

CHAIRMAN DURAN: Judy, I have just one question. In the rural districts, is there still, obviously there's a need for economic development within those boundaries. Because I know we're trying to maintain the traditional rural character of the area. I also think that we need to incorporate some planning for economic opportunities within the communities that we're designating as rural, that will fall into the rural district.

MS. MCGOWAN: Yes, I think with some restrictions. I think that the plan and the policies that we're trying to carry forward is that one is the way to control

1650829

development and to direct large facilities to areas where we can handle the infrastructure. So supposing that those large facilities could be directed to the new community districts, to the airport development district, within highway corridors where they've got plans. To those areas where you're planning infrastructure. Now, if communities come forward with their plans --

CHAIRMAN DURAN: -- So communities have that right to make that kind of recommendation.

MS. MCGOWAN: Yes. But the reason also that we're suggesting that some of those small businesses -- most of the employment, most of the main employment growth that will happen in Santa Fe County is in small business -- people working more out of their homes and developing businesses that way and we'd like to accommodate that and encourage that. So that's why we're recommending the easing of restriction on small businesses everywhere in the rural zone.

COMMISSIONER GONZALES: I'd imagine, Mr. Chairman, in this rural district we're seeing the type of landscape that they describe as grasslands. Is that the kind of landscape out in these areas?

MS. MCGOWAN: A lot of it is grasslands. There's also some foothills.

COMMISSIONER GONZALES: One of the things, in discussing with the Land Use Department, as we have growth in the community that start to border these grasslands or these farmlands. I think one of the goals in this rural district is use of transfer of development rights and encouragement of these economic zones, to deal with the growth of our community but to focus some of this economic activity into the other areas, to these traditional rural uses. That's why we have rural districts. We're talking about it for a reason, that's the preservation of what we see there today, we want to see there twenty years from now and that's why we're here acting on this. Is that right?

MS. MCGOWAN: Yes, if we weren't proposing some growth areas in the new community districts and the urban areas. That's the other side to the coin. And also one of the goals in the plan was to keep some separation between the separation between the communities so they don't start growing together so they can maintain their identity. And that's the kind of buffer that the rural district helps to accomplish --

COMMISSIONER GONZALES: -- where we talked about individual rights to develop their property, the personal property rights issue and how we achieve that objective at the same time we're achieving this community objective. It's a very fine line and can be often difficult. We've got to make those choices in how we want that. But that is something that we all need to remind ourselves in the community that we do need that statement in Part I of the plan, that we recognize the individual's right to develop their personal property. But there's that balance that exists with what's happening in the communities.

COMMISSIONER TRUJILLO: I'd like to say just that the key to all of these community districts is community driven. That is master planning, self-determination by

1650829

communities. I'm in favor of the preservation of rural character and rural districts and things like that, but the community decides what direction they want to go.

MS. MCGOWAN: I want to emphasize a couple of things. First of all, this is not rezoning. It's proposals that might be incorporated into the zoning ordinances and amendment to the Code when it's finally accomplished. We're not accomplishing that yet.

COMMISSIONER GONZALES: This will be provided to the community before they actually start suggesting the type of density in those guidelines?

MS. MCGOWAN: Yes. And also when -- Code amendments. One of the things that we heard loud and clear -- that people wanted choices and options. So that is what we're trying to do in this is lay out a whole new range of choices. Some of these choices I think are already available in the current Code. Some of them are new -- That's the main thing we want to emphasize. Also that they're all voluntary. The landowners or the communities makes the choices. [inaudible section] Also if possible to incorporate it into transfer of development rights program. We don't have one yet, but these are options --- in particular density incentives if the Board specifically adopts such a program. There's also a -- new development. They'll only apply after adoption of an ordinance and only to land that is proposed for development and not land that is already developed now.

The first one is just the rural base and that's just your density based on your hydrologic zone. One per ten, one per fifty, one per eighty or one per 160.

CHAIRMAN DURAN: One per ten?

MS. MCGOWAN: That's the basic zoning that exists right now. Rural compound is another option that we're proposing. It is also available under the current Code but it's kind of hidden in there and that would mean you could put up to four dwelling units on your lot -- in a family compound.

CHAIRMAN DURAN: Excuse me, the one per ten, does that have anything to do with the, if you have ten acres --

MS. MCGOWAN: The basic zoning is one per ten.

CHAIRMAN DURAN: And the next option is compound.

MS. MCGOWAN: Rural compound. And that would be land that you could put four units on your lot per basic density.

CHAIRMAN DURAN: You're saying one unit per minimum lot at the rural density and the only other way you can get to four units on a ten-acre piece would be to do a compound?

MS. MCGOWAN: No; the only thing that would tie on to that would be the designation of a building envelope. Private individuals would have to designate that part of the land is for building and the parts that are going to be built on should be designated also.

CHAIRMAN DURAN: So you're saying that the County would have the right to designate where the building sites are?

MS. MCGOWAN: No, the property owner would. In parts of the Extraterritorial Zone that that happens right now.

1650829

CHAIRMAN DURAN: I think I need some clarification on that.

MS. MCGOWAN: Family transfer is also an option that's available right now and we're proposing to continue that. What we're proposing is that there be a density bonus for property owners that leave land in agricultural use -- you give incentives to the developers and you never give incentives to the people who hold on to the land and use it for farming. And so we tried to respond to that. And that's just the outline of the proposal, not final details.

Open space protection incentives, there's a similar proposal for a small density bonus for lands that would be set aside that are part of the County open space plan or that meet the criteria for open space. We would have some kind of development restrictions on them that would be either a conveyance for a private non-profit, -- or conveyance to some other public entity for open space. The other categories that are laid out generally here are special use permits in the rural, and this would apply to things like mining -- and also to other specialized uses that are resource based and possibly located -- And finally the non-residential districts. We're proposing that those remain but we're also proposing that through highway corridor plans and through community plans that the residents in the area along with the County determine which intersections in which areas should be commercial and which should not be commercial. In other words, some more detailed planning.

There's been a lot of concern expressed by residents in certain parts of the county that there's starting to be [inaudible] that doesn't look like a community anymore and they're threatened by that. We would like to resolve some of that through the community planning process.

CHAIRMAN DURAN: Excuse me, Judy. What you're asking us this evening if we adopt this rural district that we would be adopting these two, the rural district development choices? You would be asking us to adopt these choices?

MR. KOLKMEYER: Yes sir. That's correct.

CHAIRMAN DURAN: It just seems to me that these choices, I think they need more discussion and we need more public input. Would it be possible for this community to adopt the rural district without these, and have these choices available for more public input. Because I really do think that it's restrictive in nature. We haven't had the opportunity to discuss these with the public and see how they feel about them.

MR. KOLKMEYER: Mr. Chairman, of course that's always a choice, but in fact we've been discussing them for two years. For example, the feedback on the original open space ratio options was on the books when I came here as the Planning Director. We've now abandoned that, to be completely voluntarily in this proposal. So you can say that the discussion about that choice has been going on for two years. We've had lots of public hearings on it. We've passed a bond issue to resolve part of that and we've put it on a completely voluntary option. We can probably hear some feedback on that tonight but in our opinion, it's a result of public input already.

CHAIRMAN DURAN: It seems to me that these are issues that come up in

1650829

ordinances and we're not adopting ordinances this evening.

MR. KOLKMEYER: That's correct. But this is not an ordinance. These are development options that can be used to create ordinances at a later date. But these are the options that have told to us, don't mandate open space, for example. We're not mandating open space, but open space continues to be an issue that's discussed in the county vigorously, pro and con, both sides. But there needed to be some response to that in this document and the response has been two-fold, regarding open space anyway, passed the bond issue to buy open space on private property. [inaudible] create a mechanism for that -- a voluntary way so if somebody does want to provide open space on that property it can be done voluntarily and if any of those don't work, they can develop their property according to the regulations that exist where they don't have to provide open space.

CHAIRMAN DURAN: Before we move forward here I would like for the Commission to consider not adopting these choices and have them part of the ordinance process when we begin.

COMMISSIONER TRUJILLO: Mr. Chairman, to give your comment a different slant, by adopting these choices does not mean that they're set in concrete. We still are open to public input. The choices can change and ultimately we might have new choices in here when the plan is approved. So by approving the rural district tonight we're not approving verbatim what it says in this document but we are approving the districts and opening it up to public comment and these choices can change.

MR. KOLKMEYER: Mr. Chairman, Commissioner Trujillo, yes that's correct. And again a good example of that is the agricultural situation. We have heard from people in the north, from people from the south. Radical differences of opinion. Some people say they are no longer farmers, they want to subdivide their land and develop it. Fine. We've heard some other people, particularly in the northern portions of the county who say you do nothing to help us preserve the agricultural land that we have. So we've made an attempt to really try to create an option. We don't know what the answer to that is yet. But we do know that there should be an incentive for someone who wants to keep their land in agriculture just as much as there should be an incentive for someone who wants to develop that.

So Commissioner Trujillo, you're right. These are voluntary. They are only incentives, they are not ordinances. They are to help us to try to find our way through to be able to establish ordinances that satisfy again this balance and the needs that have been expressed to us.

MS. MCGOWAN: I want to point out that there were specific - some of which have made it into the Code and some of which did not [inaudible] -- and also a balance between those areas where we're going to encourage growth so that we can minimize the infrastructure and service problems in those area where the County -- we don't have the resources to deal with a lot of growth in these areas right now. When we get into discussions of regional planning with the City, those same issues of resources will come up.

1650829

CHAIRMAN DURAN: If we adopt this map with the rural district, it does away with the map we've been using relative to development and density like the basin fringe, the basin?

MS. MCGOWAN: No. We're proposing to keep those. And in fact for many development purposes there would be no effect until the actual ordinances went into effect. I'd like to move along here so we could get through some of this. The next section is the Estancia Basin District and that's fairly simple. This was created in response to the hearings we had in 1996 and 1997. We have gone forward as the policy directed and gone with a map and said this is our proposed Estancia Basin District. We're proposing that they create an Estancia Basin planning committee and that would happen through a resolution where you decide how many members, comparable to what happened with the highway corridor planning committee. The will be appointed by the Board of County Commissioners.

[inaudible] -- out of that plan would come any proposed zoning changes or ordinances. Once those are adopted we are proposing, and I think this comes directly from the policies that were adopted -- that would be appointed from residents in the Estancia Basin District that would make recommendations and play the same role that the CDRC plays now. -- until they come forward with their own proposals at the end of their planning process. I mentioned earlier the San Pedro issue where they might want to act specifically on whether the boundary is appropriate for their planning area. We previously approved their planning boundary and we're perfectly amenable for them to come back later and change that if they would like to.

The next section is the traditional and contemporary communities. And this really is not proposing differences, things that are different from what you've previously adopted in the policies or through the community planning ordinance. But we felt that because the traditional communities are such an important part of the county that we need to have a discussion of them and what they are, why they are, where they are in the planning document and carry that forward into the future. We didn't want that section to get lost. So this section is straightforward.

Some of the discussion is about what are traditional communities. We put in an explanation of what they are and who they are. We tried to clarify some of the differences between -- what is a traditional community zoning district and what is a traditional historic community. It's a pretty crowded field. So we have the basics. You can be appointed a traditional community. Only those communities that were -- in 1980 are traditional community zoning districts right now and we are carrying forward the policy that the zoning in those areas will stay the same as they are right now under the current Code until those communities come forward with plans and proposed changes to that.

In other words there are some communities out there that were not originally named traditional communities that might come forward and do their own plans and come forward with their proposal. There is some discussion of -- issues that relates to the planning process which you've already adopted -- how we're going to preserve their unique character in the

1650829

face of growth. This is important because the northern part of the county is not being subdivided in large developments. It's being done in family transfers and small developments and that is the one area of the county that the projections that were done for the plan, land development is not keeping up with potential housing demand. And that's going to create some intense development pressure up in that part of the county.

COMMISSIONER TRUJILLO: Judy, right now the minimum lot size outside the City of Santa Fe and outside a traditional community is 2.5 acres. That's the minimum lot size. What will the designation of rural district do to that?

MS. MCGOWAN: We're proposing to leave that option and not change that option.

COMMISSIONER TRUJILLO: Except with the transfer of development rights and density augmentation and things like that, right?

MS. MCGOWAN: Correction and you wouldn't have the option of developing.

CHAIRMAN DURAN: And that comes from the fact in keeping with water?

MS. MCGOWAN: There is also a brief discussion of the contemporary communities that expands upon what those are -- based on subdivisions rather than a more traditional land use pattern. We're encouraging those areas to come forward, get designated and do community plans so that they can plan for their future needs.

Contrary to the traditional communities -- because they were developed -- it's harder to develop connections and harder to develop centers where they can provide some of their own means for their own needs on-site for commercial and for public services.

COMMISSIONER TRUJILLO: Refresh my mind. The designation of a rural district and the northern part of Santa Fe County will impact three properties, the Jacona Land Grant and a property in Arroyo Seco.

MS. MCGOWAN: There may be a couple more in either federal or Indian Pueblo. There is little private land outside of the traditional communities. ---

COMMISSIONER TRUJILLO: Didn't we agree during the last public process that traditional communities, status quo? Land use and regulations would remain the same, no impact, no change whatsoever, and that will continue.

MS. MCGOWAN: That's correct, it's a process and that's going forward. There's a section in here that tried to explain traditional historic communities because we are trying to see what's happened -- created by the state legislature for communities that are over 100 years old and have historic properties. In other words, communities near municipalities that are concerned about annexation and being absorbed by the municipality. And we have some of those already, Agua Fria and I believe several other communities are considering applying for that also. That's the end of my presentation. So what we've tried to lay out is in responding to the public hearings and public comment we got in the past and to provide choices and options for people in their land use and provide more local control for the communities.

1650829

CHAIRMAN DURAN: Thank you, Judy. How many of you out there would like to address the Commission on this issue? Okay, that's not too many. Let's try not to be repetitive. Who wants to go first?

WAYNE NICHOLS: Mr. Chairman, members of the Commission, my name is Wayne Nichols. I'm a county resident. I live in Seton Village. I would just like to comment that I think the growth management plan as presented is an important step. The whole concept of the rural districts is a very important first step in moving towards trend of planning that we were exposed to in Portland that has been talked about the past several years and that the rural district concept is really a first step in that process and as Paul said we're back where we began years ago. So I would strongly recommend the adoption of this growth management plan.

Also, I have one additional comment. As a member of Seton Village I represent many of the residents there and I would like to petition that we be made a traditional village in this plan. We are on the national historic register. It was settled in 1930, sixty years ago and it's a very important historical community. Thank you.

LYNN CANNING: Thanks. I'm Lynn Canning. I just wanted to say congratulations to the staff and the Commission, not only on the plan itself but on the process that you all have gone through to get to this moment. You have gone out into the community and honored the wishes of the various communities which are very diverse in this county. I know people in Santa Fe sometimes think it's funny -- something else going on out there, but the reality is you all have gone out into the communities and you have honored within your plan the diversity that is this county, both through the traditional communities and new community districts, the rural districts and I just want to say that I think many of us out here who have been watching this process and the City's process over the last couple of years, ten years, know we appreciate the process that you've gone through and just want to honor you for that. And we hope that you will adopt this plan.

Not every body's going to be, not any plan is exactly perfect and not everybody is going to be exactly pleased with everything, but this plan relies on small planning, neighborhood planning and that's a very important step that you've all taken. So anyway, I just wanted to say thank you and congratulations for all the hard work and I hope you continue to go out and have more public hearings and all that and this is the first of more of those steps this evening. But thank you for all of the time and effort you have put in and will continue to put in and congratulations to the staff as well who have done an awesome job. Thank you.

CHAIRMAN DURAN: Thank you. I'd just like to say that Commissioner Trujillo has convinced me that by adopting the choices it really doesn't take away from the public's ability to continue to have input and recommendations.

CAROLYN SIGSTEDT: My name is Carolyn Sigstedt and I've been a long time resident out in many areas of the county as well as now a resident of Santa Fe. And I too want to commend the staff and the Commission for the work over the years that have

1650829

gone into this planning effort. I think it's very, very important and I also think it's important the timing of it with the City's plan. -- you and the City sitting down together and dovetailing these two plans which at that moment they don't actually do quite yet in a number of areas, Agua Fria being one. But I'm not looking for the problems. I'm actually looking for the solutions and I think -- is to sit down with the City and come to some kind of agreement or common ground and then begin to work on the areas that are more difficult.

I also, I must admit I'm an advocate for the City and the County working for [inaudible] so I'm really happy to hear this. I must admit I thought it was going to be a City/County Commission rather than a City/County Authority and I question actually [inaudible] whether an authority would have the jurisdiction to work or make decisions that would affect the county. It's just a suggestion, but I think it should be discussed. I throw that out. I'm totally in favor of the effort. The other thing is I also thought it would be made up of citizens from the county and the city that would [inaudible] and then also Commissioner Trujillo, I agree with you that this is a first step, this City/County effort. They call it City/County Regional, but it's a first effort and the next effort is beginning to welcome the Pueblos, welcome Los Alamos and other areas such as Española. Anyway, I think the whole idea is very good.

In terms of the City plan, you mentioned today, there are a few factors. There's the environment, there's the community and there are the landowners. And all [inaudible] have to be taken into consideration. I know that looking at the problems between the communities and the landowners is difficult but the environment -- and we have to remember this. Especially in the rural district. I'm not opposed to development but I'm opposed to proving water where it doesn't exist. Proving 100 years of water because somebody has deep enough pockets to pay for a hydrologist after months and years of work can do that and I think that's where we give ourselves some trouble. And I would hope that once you zone this area, a basin, I know for instance out near Lamy or Ojo de la Vaca, that was zoned years ago at forty acres because of the shallow water, because of the minimal water, because of sulphur wells.

Everybody is now down to five acres at this point. So I don't know how that happened, but it did and the water hasn't changed. It's interesting. The last thing that I just want to say in closing though is that the City plan is excellent and the County plan is excellent. I think the County plan is more user-friendly and I think making it broader and then taking it back out to the communities to rework and -- is an excellent way to go. It's not the plans, it's really creating a consciousness in the county and the city to change to some simple habits that are environmentally more sound.

CHAIRMAN DURAN: Thank you.

RITA LOY SIMMONS: Mr. Chairman, I want to thank Commissioner Trujillo and Commissioner Griñé and Commissioner Anaya for coming to Edgewood yesterday. It helps you understand our problem of getting to Santa Fe because I know it was two hours of your time spent in travel. That's caused a lot of dissention in our end of the

1650829

county and the fact that we don't get the *Santa Fe New Mexican*, makes it a little thought. The fact that you all [inaudible] It would be helpful if it came out with articles of explanation as much as in the legals.

Your staff is April 13, 1999 and it's now May 11 and the people in our end of the county have developed a considerable sense of suspicion, as you know so I don't know that my community is satisfied at this point that in fact -- the basin of the district and not incorporating everything in here -- Now going through this, it brought a number of questions up. One of them is the length of time -- they might take six months to say no. The process is arduous.

In the COLTPAC meeting the other night it was suggested that if we don't get our mission statement down correct this year, we can always revisit it next year. As you know, we've already spent two years on this issue alone, but from the consumer or user's side of it, we need some understanding of what the rules are. So I would like to see limits on how often a term can be revisited and changed.

We find rules shifting so quickly and without much understanding or notice that they've shifted in time. We're still operating under the rules that we understood three years ago. There are some words that concern me: protection, what does that mean?

CHAIRMAN DURAN: Where are you reading that please? We need a place to --

MS. SIMMONS: Protection is in any number of places. You have to protect the farm land. You have to protect the farmers. And we don't know what that means. You're protecting the farmers from what? You're protecting our agricultural land. What sort of protections. In so many sentences in there. Let me see find one.

CHAIRMAN DURAN: Well, I think it's mentioned in the context of the vision statement that's been made.

MS. SIMMONS: Okay, where's the vision statement.

CHAIRMAN DURAN: I don't understand -- I'd appreciate when you're up here, really we're here to address whether or not this Commission should adopt the rural districts and the Estancia Basin District and I'm having a hard time, the last person that was up here was talking about the Regional Planning Authority. We're here to talk about the specific issue.

MS. SIMMONS: Okay, let me say -- and now you're to adopt it to go without the community understanding that it's not as threatening as they perceive. And that's my caution today is to adopt it so immediately without satisfying the community what's really intended by what you said. And that's why I brought up the length of time to do things in county -- [inaudible]

There are a number of things in here, such as density transfer. I don't understand that because there's no examples, but that can wait for another day. It's just a question of are we satisfied completely that [inaudible] the districts we're seeing adopted here today. And is my community satisfied that there are no hooks or hidden agendas.

1650829

CHAIRMAN DURAN: If you were here at the beginning of the meeting you heard staff say that adopting these districts were not going to affect land use patterns as you know them in your community.

MS. SIMMONS: We heard that last night. I don't know, 150, 100 people, that's only 100 in my community. That's all who heard it. This has not been disseminated widely. Thank you.

CHAIRMAN DURAN: Next please.

TOM TERWILLIGER: My name's Tom Terwilliger. I'm from Puesta del Sol, representing the West Santa Fe Association in place of David Gold. I'd like to reinforce what's been said before about lack of adequate time. The reason I'm representing myself in that position and not the whole west side is because we haven't had time for our association to get together to go over this document --

So the thing I would like to say, it's important is that delay would give us more time to study this and come back to you with their recommendations about this plan.

COMMISSIONER TRUJILLO: I'd just like to make one thing clear about adopting the districts. It is not going to stifle the opportunity to come forth and make comments. It's a continuous process. It will continue.

MR. TERWILLIGER: I'd like to make my next point. The way I read it, it confuses the issue of overall planning and zoning. I'm reading on page 9, Part II, which is I think what we're discussing. The planning districts uses zoning and the proposed districts to further the visions, goals and policies and preferred development scenario to the Santa Fe County Growth Management plan, top of the page. At the bottom of the page it says it is the goal of this plan to design the zoning plan for each district in Santa Fe County, etc. etc. This is going to have some impact, the specifics of this plan will have some influence over this forthcoming zoning. The point I would like to make is that the specifics in this plan, for example the option of a density bonus of 10% for 50% open space, a particular number that's being planned. Either those numbers have significance or they don't. And if they don't have significance, they shouldn't be in here. And if they do have significance, we should discuss them enough so that you know enough -- to make a decision. So I believe it's very importance to discuss them and in some detail before you adopt this plan. Even though, as you point out, Commissioners, there will be further opportunity to change this thing, I believe that once it's adopted it will have an influence on later ones who will be able to turn back to this and say, Look. In the older document -- it was agreed to this, therefore [inaudible] go ahead with this number later.

And if we accept that, why should we have the numbers in here? That's my only point.

CHAIRMAN DURAN: Sir, in all fairness to all of us, the entire sentence should be read. If you continue to read it, it says that the zoning plan for each district in Santa Fe County so that land developers design and build in a manner that provides long term benefits to all residents of the county, old and new, and it prevents long term budgetary

1650829

shortfalls. You were reading a portion of the sentence to justify a concern that you have. You need to read the whole thing, because we're dealing with all of our concerns. We're all to benefit from this. It's not just -- we're not trying to adopt something here that is void of public input.

COMMISSIONER ANAYA: I think there's a misperception out there that we're requesting to take action on tonight is the entire plan. This is just a small little portion of districting -- master plan, the different districts throughout the entire county. And that's the only request of action tonight. There has been a request from the San Pedro people whether they want to be in the Estancia Basin District or they want to be in the rural district. So we need a format and some way to proceed and this is a basically rudimentary level on the adoption of a good plan for this community.

MR. TERWILLIGER: Chairman Duran, I agree completely. In fact I actually believe that the plan as written right now is very good and that the residents of the west side are going to like the plan as it is now. But I believe that we need more time to come up with specifics in this plan because I think we could -- for what's going to happen later. I think that what you're being asked to approve, pages 1 through 52 of this document includes all these numbers. And as I said, either these numbers have a significance or they don't.

CHAIRMAN DURAN: We need to get this plan a life so that we can start nourishing it and we need to do that soon. And I think that by adopting this plan that's been requested for us to adopt tonight is part of that and when we adopt the rest of it, it completes the life that this plan needs. And then as a community we start nourishing it and making it more alive and making it grow so that it's something that we're all proud of. I haven't seen how we go through this process without dealing with everyone else's input. We need to get it in place so we can start doing that.

COMMISSIONER GONZALES: Mr. Chairman, you indicated what I say again. I think all of us really want to ensure this plan is totally community driven. There is, I believe, in every aspect of the districts, we rely on the communities. When the communities come up with the plan and it's up to you and you and your neighbors and the future of your community. And I think that as Chairman Duran indicated tonight [inaudible] the Estancia Basin District and a rural district and proceed to move on, we have the districts by which the community plans [inaudible] and the numbers that we're indicating tonight. They're suggestions, they're merely what staff is highlighting as a guide, hopefully [inaudible] when they begin the process.

I can understand that people are concerned that we're adopting the plan tonight that has zoning in it, that deals with densities, with how growth is going to look. I can understand why you would come up here and say, hey, wait a second. We need more time to see it. But we're doing now, as Chairman Duran indicated is a first step to [inaudible] developing community plans within these districts. [inaudible] and go through that whole public process. [inaudible] to create these districts so the communities within these districts

can begin their work to establish what their communities are going to look like five years from now and on down the road.

I know you represent a lot of people on the west side and I hope -- we rely on people like yourself who are involved to go back so that people understand, this is just the beginning of a long process [inaudible] to start developing the plans so that they can come back to us and we can start going through the debates on the whole issue of density and what these communities are going to look like in these areas. So if it's not worthy or presented in that manner, there are many ways to consider how the presentation has occurred but I think everyone is in concert here [inaudible] let us determine what our communities are going to look like. Give us the tools to plan our communities and then we'll do it. So I think there have to be the guidelines. [inaudible] This county is very diverse and with the diversity comes communication about what can happen.

So I just want to, hopefully, maybe we can work on talking about it over and over so people will really understand it, but [inaudible]

PETER FRANKLIN: Mr. Chairman, members of the Commission, my name is Peter Franklin. I'm with the Modrall Law Firm and I represent the South Mountain Ranch, which is a subsidiary of Campbell Farm, and Campbell Farm owns about 7100 acres in the southern part of the county. I'm here to ask for you to consider a series of what I hope are specific modifications to the district boundaries and the plan as it's now stated.

Our understanding that the intent of the County in defining the districts boundaries was to follow the actual boundaries of the underground water basins, rather than to arbitrarily draw the line. And if that is the intent, the boundary between the Estancia Basin District and the rural district should be located along the northerly edge of the Estancia underground water basin. At least in the area just below Golden, which includes my client's land, that's not the case.

The area we're talking about is essentially here. I don't know the exact dimensions but according to the hydrology the State Engineer has, it shows that the actual boundary northeasterly edge of the Estancia underground basin comes out just about to Golden. Actually Jerry may have more specific information on that.

COMMISSIONER GONZALES: Do you have a modified map or an adjustment that you're asking for the amendment for your client? Does your client want to be included in the Estancia Basin District? Have you prepared any type of map that you could show us?

MR. FRANKLIN: I was given a map today and the map I don't think clearly shows what we are trying to show. I know that the State Engineer has defined the boundary in such a way that we believe is consistent with our map. If you'd like, I will submit the map but I'd like to reserve the opportunity to show where the boundary is a little bit better.

COMMISSIONER GONZALES: I'm sorry, have you prepared a map? Have you submitted an amendment that would include your client's property?

MR. FRANKLIN: I actually have that map here. What I would like to do

1650829

though is submit a map in the next day or so.

COMMISSIONER ANAYA: Mr. Franklin, last night in Edgewood, and Ms. Waldron, I think brought this forth, for us to know the pros and cons if the San Pedro area, whether it would be beneficial for them to be within the Estancia District or within the rural district.

MR. FRANKLIN: Right.

COMMISSIONER GONZALES: Mr. Chairman, I'd just like to say just real quick for the record and I apologize if staff made this comment and I didn't hear it, but Jack, for individuals who are still trying to decide do we want to be in, do we not -- if that option remains throughout this process. Is that staff's intent to leave those options open to adjust the district boundaries?

MR. KOLKMEYER: Commissioner Gonzales, that's exactly right. What was said about San Pedro last night was really right. They did not have the opportunity as a group to have a formal, to make the formal decision. But in Estancia the issue has been going on for a year, so I do know what their boundaries were and the sentiment that had been expressed to us during our year working with them on the community plan was they did not want to be a part of the Estancia Basin -- the boundary as it is because it was drawn with respect to their community, but if they decide they want to be in the Estancia Basin, we would certainly change that.

I would also point out that the rest of the boundary lines there were drawn almost entirely to the suggestion of the map that was submitted to us over a year ago by the landowners' association and the community plan that they had worked out together. We made some alterations more to follow grant lines, property lines and section lines because the hydrologic lines get to be a little bit ambiguous. That's not a real precise plan.

On that, you can see that in fact if anything they're a lot easier to read where the lines are and where the properties are because they follow property lines, section lines and in fact some places ridge lines around San Pedro -- and we'd be happy to obtain any modifications.

COMMISSIONER GONZALES: How would the process of amendments to this occur? Would they just occur at any point during the summer? Would we wait until the very end and wait for the exceptions to occur? Or as we progress forward and the people of the Estancia Basic go back and [inaudible] means to the community. At what point do we have a process for them to come back and petition the Commission to either alter the boundary, to support them, or

MR. KOLKMEYER: Commissioner Gonzales, that's why I wanted to have the discussion as we began this evening, to say that [inaudible] we had two sections that we want to get through. And we do want you to adopt them. We have no hidden agenda about that. We want you to adopt them. But it's also why, as I mentioned, we left August open. I believe that we could come back in August, prior to the adoption of the whole entire plan in September, and go through a series of amendments, recommendations from citizens - -

1650829

COMMISSIONER GONZALES: --- call a specific meeting in August to go through amendments and boundaries.

MR. KOLKMEYER: That would be our recommendation.

COMMISSIONER GONZALES: They can come at that point and say this is why we want to be included and petition the Commission.

MR. KOLKMEYER: And if people want to meet with us, we'd be happy to do whatever we have to do to work through this with community groups, representatives -- designate a time. We could adopt this and say yes.

COMMISSIONER GONZALES: Even tonight if we adopt this the current Code Land Use Code still remains in effect until that community out there proposes something other than what the County Land Use states. Is that right?

MR. KOLKMEYER: Commissioner Gonzales, I don't think we can say that enough.

COMMISSIONER GONZALES: -- what the future of the Estancia District is going to be and whether they want to participate in that or be left in the rural areas.

MR. FRANKLIN: Members of the Commission, holding open August for that purpose, that would be very helpful. I have two more points to make, which I'll try to make as quickly as I can. One of the concerns that we have, it's not clear how the contemporary communities are to be identified, who identifies them. It's important to my client and many of the landowners who own larger tracts of land that would be part of the rural district, that this plan include some kind of process for landowners with specific land area and -- resources to deal with community plans or master plans that would not be subject to the restrictive zoning of the rural district.

And that would be where those plans can meet the development goals and the performance criteria that your plan, the County plan, contemplates. And we ask that you modify the provisions of the rural district section of the plan to give owners of -- what I've got here in my notes are larger tracts, although we could define how large or small you want the minimum tract size to be. It could be 50 acres, 100 acres, it could be 1000 acres, but to give those property owners the opportunity to submit community or master plans which the County would review and approve based on findings of sufficient water resources, and the ability to provide sufficient infrastructure and to otherwise meet the performance criteria of the proposed plan. And we ask that that modification be included in the provisions concerning restrictive land uses on page 30 of your draft plan.

We also ask for a related modification to be made to the provisions concerning water availability at page 31. It became clear after last night's public meeting and this hearing as well, that one of the basic features of the County planning effort is to tie development density to water resources. Obvious to anybody who lives here. Your staff stated that with a demonstration of sufficient water, a landowner in the rural district would not necessarily be limited to the maximum density specified for that district, and similarly an owner in a less restrictive district, a basin district, with insufficient water would not be able to develop

1650829

the full density that is theoretically allowed in that district.

Well, this is sensible and we ask that the proposed plan be more explicit about that policy. So we've proposed the following clarification. This would be at page 31 in the water availability section. We'd ask that the last sentence at the beginning of that section would say, "A central factor governing development density is the availability of water." And at the end of that section we'd ask that you include a sentence to the effect that "new community plans or master plans with higher development densities may be proposed and approved where water resources are demonstrated to support greater density."

With your permission, what I would do is submit a letter, I haven't had a chance to prepare that letter, but to send you a letter in the next day or so outlining those proposals.

COMMISSIONER ANAYA: It will be taken into consideration, Mr. Franklin.

MR. FRANKLIN: Thank you very much.

COMMISSIONER GONZALES: There are a lot of large landowners that exist in the rural area that if we should submit -- in creating an infrastructure to support a [inaudible section]

MR. KOLKMEYER: Commissioner Gonzales, well, first of all there are two issues about this. One is that there are other areas right now that clearly need [inaudible] to be developed because the infrastructure is there or is moving there. For example, Rancho Viejo is one. So we think that there is a series of priorities here over time. But if we're going to look at the development of new communities then there are some that are available to develop now. So that's why we get into the next step of the community college district. The question that we pose is -- we don't know is until someone comes forth and says it is not just water. It's roads, it's electricity, it's schools, it's public services, it's a whole lot of things. It can't just be with yes, there is water availability -- So we think there are the provisions to do community planning if somebody could come forth with a community plan and say, we'd like to propose a community plan to you, for a whole new community in the Lamy area.

And lots of people have been and said that could be made. But the priorities right now have to be on what is the structure that's there right now that we can use that doesn't burden or cause problems now that we're capable of dealing with.

COMMISSIONER GONZALES: Right. There's nothing that prevents large land holders from getting together to petition for a new community district.

MR. KOLKMEYER: New community districts can be created elsewhere. Yes.

MR. FRANKLIN: I guess the think I'm somewhat unclear on as a land use lawyer whose been around these kind of plans for fifteen years is what is the process for doing that? Maybe that's in some other -- maybe that's in your development code, I'm not sure.

COMMISSIONER GRINÉ: It's in the policies, isn't it Jack?

1650829

JUDY MCGOWAN: There's an adopted ordinance for a community planning process that sets up the ability for contemporary community to move forward. I believe the situation you're talking about is not really a contemporary community. That's just the places that already exist. But what would be a new community -- that it would be a request to, it would be an amendment to the plan and an amendment to the zoning ordinance.

MR. FRANKLIN: And that's really what we are driving at is we'd like to see something in this plan that at least lays out in real general, rudimentary detail what the process would be for landowners to get together who want to build a community.

COMMISSIONER TRUJILLO: Is that in the Subdivision Regulations, to build a community to subdivide? That's already under the Subdivision Regulations if you want to establish a community.

COMMISSIONER GONZALES: But that designation doesn't exist in the Subdivision Regulations the way we're talking about.

COMMISSIONER TRUJILLO: -- but it can happen through the subdivision process.

COMMISSIONER GONZALES: -- creates the designation of a contemporary community. Maybe we need to go back and revisit it and allow for an ordinance process to create all the districts, that there's a process where you would be able to create a district that's contemporary, a new community, a rural preservation, a traditional community, so we don't just have a very limited vehicle in how to proceed -- I think it makes sense that we have the ability to have a process that creates every district out there. So maybe we could send some direction on this in terms of the Commission to actually prepare an amendment to that ordinance that would allow for all a particular process to take an ordinance forward.

MR. KOLKMEYER: Commissioner Gonzales, yes. Last night they came with perhaps some other districts in there as well. But there still has to be a priority of how we want to go through, which ones would come first and which ones are 20 or 30 years down the pike. There is also on page 30 there's a comment in there for example that says, Proposed developments which exceed 300 units would need to seek zoning for a new community district.

It's correct that there's perhaps a step missing here about exactly what the process is and I think that's a very good point and we can work on that and be happy to do that because we know that there are other possibilities out there for other developments. Yes.

COMMISSIONER GONZALES: -- we can't walk away from that responsibility and that's the tough thing on how we take the responsibility for moving this forward, but there should be a consistent process that's available for everyone and it's underlining the ordinance however we communicated that. That they would be subject to a clear priority setting by the Commission and how we would do it.

MR. KOLKMEYER: Commissioner Gonzales, one final thing too. And we don't bring this up enough or talk about this, but there is a market factor out there. If we build 400 new community districts somebody is going to fail because there probably aren't

1650829

enough to buy all the housing that would be created. So we want to make sure that we also pay some attention to the market as it exists right now and when things are favorable to developers. There's a reason to do this that has a market orientation to it as well.

COMMISSIONER GONZALES: I agree with that -- so that our processing and the idea of petitioning is inclusive to everyone. You're right, the market is very important but we just don't want to prohibit any landowner out there from being able to participate in the process.

COMMISSIONER ANAYA: Mr. Chairman, I'd like to recognize the presence of Representative Rhonda King who is in the audience.

RHONDA KING: On the subject of the legislature, -- Public Safety. We have passed the budget. However, the Governor hasn't acted on that as of yet and we did pass that this afternoon around twenty minutes ago -- last session so we'll just have to cross our fingers and hope the Governor signs the capital outlay bill so that many important projects to the County, Santa Fe County as well as other counties throughout New Mexico and the cities and municipalities can certainly address many of those concerns that are not really -- that are related to the health, welfare and safety of those communities. ---- the capital outlay bill.

COMMISSIONER GONZALES: I can't understand why the Governor call something pork in a process where there's a water system that's addressing contaminated aquifers and things of that nature. That doesn't quite fit the definition of pork to me.

MS. KING: The legislature would wholeheartedly agree with you.

COMMISSIONER GONZALES: -- some of the senators are considered pork either.

GENE THORTON: My name is Gene Thorton. I'm from Lamy, New Mexico. I'm from Commissioner Gonzales' district. I appreciate the opportunity to visit with you folks tonight. I'm in the group that you're talking about, I guess the Galisteo Basin area of land holders, mostly ranches. And we seem to kind of fall through the cracks. We're not in the Estancia Basin District although we did request to be in it and my understanding is that they submitted that on the map and if your planner says otherwise I don't know who to believe. We would like to be in that district.

Anyway, the area I'm talking about goes from Lamy to over here to this area. We're talking about the Cook family, the San Cristobal family, Sanders is over here, and Mr. Miller's got a place here. [inaudible] there's about 350 to 400 square miles and they're owned by six or seven people. And I think there's a whole lot of people in this area --- this plan. I know what they're saying --- but I've never seen government give anything back. And I don't think you all will be any different.

[inaudible] And I very strongly recommend that you please do not adopt these articles tonight. [inaudible] Please do not adopt this resolution. [inaudible] We have gone to the County Attorney to identify and define what is a lot of a large land holding. [inaudible] according to her, that a lot was one patent square lot. [inaudible] We have one patent that's

1650829

made up of eleven parcels from nine different sections. Some of those are four acres, some are twenty acres. Right now they remain lots although they're not platted. [inaudible]

I think we need to time to find out before these resolutions are passed or the final ordinance is passed, those new lots are going to have water restrictions. They don't now. I may be wrong, but I think we need time to look at that before you adopt this resolution. [inaudible] But we would like to ask that you form a Galisteo Basin, I guess you would call it, planning district. And I would personally volunteer to work on that [inaudible] landowners that feel the same as I do. [inaudible]

Do not adopt this and please form that district and let us have the same opportunity as everybody else. Thank you very much.

COMMISSIONER GONZALES: You bring up a good point. You look at the sections and there's a lot of sections of private landowners out there. [inaudible]

MR. KOLKMEYER: Commissioner Gonzales, I've said to Mr. Thorton before and you've said it, that I'm in agreement with him. We think that there may be several other districts. The Pecos Trail District for example, would be allowed to go with all those communities up and down there. The Galisteo Basin. The reason [inaudible] proposed over a year ago, the south central district.

MR. FRANKLIN: Actually when it started, we proposed the entire area as the Estancia Basin District as one district. But then later on I think with some feedback from some of those early meetings we had, the staff thought it was more appropriate to cut it into two districts.

MR. KOLKMEYER: Yes. And that one district was called the south central district if I remember. To refer to Mr. Thorton again, our thinking on this as well we thought it should not be part of the Estancia Basin District for two reasons in particular. One is it is a discrete basin, the Galisteo Basin and therefore [inaudible] a possible district in and of itself. And then there's a difference in orientation of is Galisteo oriented towards itself, towards the City of Santa Fe or towards Edgewood. So there's those kinds of things that need to be resolved. But I suspect that as a starting point we could offer the same consideration that was given to the Estancia Basin. If they would like in a district, they could do the same thing that that group did and you [inaudible] You do a plan. You do a plan. The same exact procedure that was made for the Estancia Basin. That's what you could consider and give us direction on.

COMMISSIONER GONZALES: Mr. Thorton, is that a process that you and several large landowners are prepared to undertake?

MR. THORTON: Yes sir. Very much. And I'm not commenting on the [inaudible] I work at Sanders, I work at Woodys, I work at Post, which is the Cook Ranch. We're all a part of a cohesive ranching community for a long time. [inaudible] the same as the western part of the county. In the northern part of the county there's rural areas [inaudible] very few of us would be part of that planning district. [inaudible]

COMMISSIONER GONZALES: [inaudible] if this is something you want to

1650829

take on to organize and be representative [inaudible] the large landowners and our staff. [inaudible] We'll follow up on that.

MR. THORTON: I'm waiting to hear from you.

COMMISSIONER GONZALES: And we need your help in pulling together the other large landowners.

MR. THORTON: I'd be glad to help.

JERRY POWERS: Mr. Chairman, members of the Commission, my name is Jerry Powers. I'm president of the landowners association and I'm here to address comments about the adoption of the Estancia Basin District and the rural district. Our membership includes residents of both areas. I was at the meeting last night in Edgewood and members of our association signed petitions asking to delay adoption of the plan, so I'd like to deliver those to the record. [Exhibit 1]

I'd like to address comments regarding the Estancia Basin District first, and I have a copy of the proposed changes for the Commission members if I could deliver those as well. [Exhibit 2]

CHAIRMAN DURAN: Has the staff had an opportunity to look at these?

MR. POWERS: [inaudible] These are actually very simple changes with regard to the Estancia Basin District. There's a first page right after my letter. The changes are minor [inaudible] they were discussed last night. [inaudible] with regard to this and you seemed to be amenable to the changes. The first change is in paragraph three, the Estancia Basin District will be allowed to establish its own zoning criteria. The other change is in the paragraph, The Estancia Basin District will adhere to the existing Land Use Code as the code was written May 11, 1999. Originally it said the existing code. The problem with the existing code is if the rural district code in the near future that the ordinances in the code will change to reflect the zoning standards in the rural district. So if we don't change to code the Estancia Basin District will be subject to the rural district as well and the purpose of having our own basin is pretty much moot.

The other thing, in the fourth paragraph, Once the Estancia Basin District has been legally adopted, a district planning process could be initiated by residents of the district by petitioning the Board of County Commissioners for a public hearing to be held within the district to determine the need and interest for a plan. Once the residents' desire and need for a plan has been established and the Board of County Commissioners has approved initiation of a planning process, an Estancia Basin planning committee should be appointed by the Board of County Commissioners to begin drafting the plan. So essentially the only change there is is that we would like to have a hearing to initiate the process to establish the need and desire of the residents to begin the planning process.

COMMISSIONER GRINÉ: If there are any amendments or changes in it, we can talk care of it in August, so you've got plenty of time to have these meetings in your area and bring those to staff and staff will look at it and we'll deal with it in August.

MR. POWERS: Okay. I just wanted to present these this evening because

1650829

these were fairly minor changes that were brought up last night at the meeting and didn't seem to really be a problem.

CHAIRMAN DURAN: Okay, thank you, Jerry.

MR. POWERS: [inaudible] with regard to the Estancia Basin District, however, I have a couple of comments with regard to the rural district. As I mentioned, some of our members actually live in the rural district. The other comments are, I discussed with both Jack and Judy McGowan the options for development in the rural district. On page 41 there's a density bonus increase that's proposed for agricultural protection and there was some clarification with that that was needed with regard to what density that actually is. [inaudible] for every 140-acre parcel maintained in agricultural use owner gets base density plus two units. And actually, in my discussions with Judy it was determined that that includes the maximum base density, which is actually times four, which makes a significant difference is whether this density incentive will actually be an incentive and whether it will actually work. We're proposing these changes to clarify that issue.

COMMISSIONER TRUJILLO: Judy, is that coherent? Is that congruent with the existing -- is that congruent with what Jerry's saying? The existing regulation -- what does it mean, times four?

MS. MCGOWAN: Essentially, [inaudible] under the agricultural protection incentives [inaudible] to look at the notes we had when we developed this table. [inaudible] you could also do the water conservation incentive and agricultural incentive. So we probably could clarify that quite easily.

MR. POWERS: The last change is actually with regard to the issue Mr. Franklin brought up which was that in the rural district, where it's established now, the way the code is now, that if you find sufficient water resources you can have greater density. We would like to see some clarification of that with regard to the rural district as well. As Mr. Franklin outlined for master plan [inaudible] and also for smaller areas. The reason being two-fold. One is that if a large area of water resources are discovered other than wells drilled in some of these large areas in the rural district, and if by drilling these wells it's established that there's actually another basin or another aquifer out there that seems to be very prolific, it wouldn't be wise use of the resources of the County to not use and allow use of those resources for residential use.

The reason being is that if those resources are not used, it will further strain the water availability around the City of Santa Fe or wherever the density of growth is permitted to happen. It would have to be imported down the Rio Grande or from the already strained basin around Santa Fe. Allowing a change to that effect would allow wise change of any newly discovered resources out in the rural district.

The other comment I have about that is that with regard to costing our infrastructure, I believe that when these things happen out in the rural that there's really no strain on the County infrastructure because it's all provided by the landowner or the developer as the case may be. They're required to build and maintain their own roads. They're required to put

1650829

in their own water infrastructure, power, natural gas, phone cables, all of that's paid for within the subdivision. By allowing the free market to work and allowing the opportunity for efficiencies of the market [inaudible] a more regulated or controlled environment and would prohibit opportunities for affordable housing.

I have some proposed changes. On the last page -- 32 and 33 of the plan, we would propose to add after the hydrologic systems density. In the event that actual subsurface aquifer conditions are found to be different than the aquifer system area zoning in which the surface lies, the actual subsurface aquifer conditions shall govern density. For instance, if actual aquifer conditions on lands in the mid-county hydrological systems area, or homestead, are found to be more like the aquifer system area of the basin, then the aquifer system area base density shall apply to those lands. If permitted, water rights, meeting the 100-year proof of supply criteria are imported or become available to lands in the rural district, the aquifer system area density would apply to those lands.

This would allow us the wise use of the potential for new discoveries of aquifers within the rural district.

CHAIRMAN DURAN: I would like our County Hydrologist to analyze, not to tonight, but analyze this statement and give us some advice on that.

MR. POWERS: Okay, so basically what Commissioner Grifé is saying I guess is we'll have the opportunity to have these submittals reviewed and adopted and incorporated into the plan in August?

COMMISSIONER GRIÑÉ: In August. All the amendments [inaudible] you've got plenty of time to come forth with your recommendations. Or meet with us or staff.

MR. POWERS: One other minor point of clarification. I noticed that the line is different on the map of the Estancia Basin District. On this one it's clearer than it is in the plan. And that one has a different date, it's April 2. The one in the plan is dated April 12. So I was just wondering if the one dated April 12 is the one that we're going by for the beginning point of the plan.

MR. KOLKMEYER: It would be the most recent date. Yes.

MR. POWERS: Okay, thank you very much.

CHAIRMAN DURAN: Thank you, Jerry. Anyone else out there that would like to address the Commission?

JOHN CRAWFORD: I'm John Crawford. I'm director of the [inaudible] - in Stanley. I'm here to recommend not adopting the resolution tonight. My reasoning is as follows: We are very close to a workable plan. It's flawed -- but the process is going to take some time. It is possible to do all the amendments in one meeting in August but it would be as [inaudible] as it was last time. I'm sure you all remember that also. Some of the examples of what I consider to be flaws include [inaudible] You don't want that and we don't want that.

Page 8, it refers to everything done by choice but the only choice left is not. It's one

1650829

of those statements that don't quite mean what means. [inaudible] but there's only one small section that it clearly states that it's just a proposal and is not binding. In Oregon and now in Arizona, organizations like Thousand Friends, they've taken documents like this that have become ordinances [inaudible] part of them is an ordinance. [inaudible] not binding on the Commission [inaudible] then you may wind up in court[inaudible]

The other considerations I had is just in terms of time [inaudible] at one meeting per month, every month being dedicated to passing ordinance sections as resolutions, there will be an enormous amount of consideration on what needs to be amended and how it can be dealt with in one meeting. It might be easier to deal with it in a series of meetings. [inaudible] you could have a meeting in two months to consider such an amendment, proceed with the process and have another meeting [inaudible] The public input is difficult to handle under this specific method. If you allow this process to be rushed there are bound to be any number of people who think they haven't been heard or who will be misrepresented by one or another group of people. And I would really urge that you all consider going a little slower. Thank you.

CHAIRMAN DURAN: Thank you. Next person please.

STEVE DURAN: Mr. Chairman, Commissioner, my name is Steve Duran. I'm here to represent the Pojoaque Valley as a resident of the Pojoaque Valley and the Jacona Land Grant. As a member of the Jacona Land Grant, I'm here to represent the Jacona Land Grant. Based on the proposed plan, I see that we fall in the rural district. And I find it confusing a little bit, because on the page where the proposed density would be 10 acres for the basin area --

CHAIRMAN DURAN: What page are you on, Steve? Oh, it doesn't matter.

COMMISSIONER TRUJILLO: Just to clarify one thing, that if you fall in the rural district and you live in a traditional community, that rural district will not affect a traditional community. The zoning will remain the same, intact, status quo. The rural district will affect private land outside of the traditional community, so this rural district will not at all impact the traditional communities. The minimum lot size in a traditional community will remain three-quarters of an acre.

MR. DURAN: I understand that. The only one that's going to be affected is the Jacona Land Grant. As you know that's really the only large piece of land left to the private landowners in that valley. And I think that if this were to come into effect, first of all it's going to greatly depreciate the value of that land grant. And secondly, the other concern that I have as you are from the district, that it kind of [inaudible] the private people there of having private ownership of property, especially if the this restriction is put on the Jacona Land Grant, which is like I say, basically owned by [inaudible] out there, and it encourages [inaudible] development, which is already monopolizing [inaudible] if we cannot develop the Jacona Land Grant at one point to its full potential, then to me it looks like you are encouraging the Indians who are putting more mobile homes, etc. etc., which doesn't benefit the people of the valley at all.

1650829

CHAIRMAN DURAN: One question. This doesn't dictate a ten-acre minimum in that particular area, does it?

MR. KOLKMEYER: No. I do not understand, if you could clarify what restriction you're talking about. We're lost here.

MR. DURAN: Well, earlier I had a conversation today, [inaudible] one dwelling for every ten acres in the rural district, page 33 in my book.

CHAIRMAN DURAN: Throughout this process we have talked about not changing the densities that are allowed under the existing aquifer system.

MR. KOLKMEYER: Mr. Chairman, that is correct -- right now, it's one dwelling for ten acres. No, it's not it's [inaudible]

CHAIRMAN DURAN: The minimum size lot is ten acres, but if you agree to water restrictive covenants it goes down to 2.5. And that is not changing, is that correct?

MR. KOLKMEYER: That's absolutely correct. That's absolutely correct. There would be no restrictions with this plan above what you have right now. And the other issue that comes up is that the Jacona Land Grant could do a community plan for the whole land grant and make recommendations about [inaudible] that's an area that might, I don't know whether that would be a contemporary community or how we would designate that, but it's clearly a discrete area that could also, like the Pojoaque Valley come in and do a plan for itself and make recommendations of how the situation could be made better for the property for example.

It's important for me to clarify that we are not recommending anything different from what you already have.

CHAIRMAN DURAN: I think what happens, Jack, is that the Land Use Department, they say that the minimum size lot in this area is ten acres. The reality of it that you can go down to 2.5. The minimum size lot is ten but I think a more accurate statement would be that the minimum size lot with water restrictive covenants is 2.5 and then you wouldn't have this problem with people thinking that we're trying to change it to a minimum of ten acres.

MR. KOLKMEYER: Yes, and I think that's helpful about the process that we're going through. Another thing I think you also have to understand is that there is a minimum designation and there is a minimum lot size designation. You get what you have already. This plan does not change that. What would change that is if you do a community plan [inaudible] welcome the Jacona Land Grant, because you've got the right. It's a very, very important piece of land.

COMMISSIONER TRUJILLO: So rather than limit the Jacona Land Grant area, it would provide new opportunities and new choices that they would put in place, they would decide on.

MR. DURAN: [inaudible] the members that voted to sell it and this would deter them because it looks less attractive. But as a member and someone that would like to see it as an option for the people in that valley some day, I just want to make sure that

1650829

that option is in place and we have the opportunity to come as a community [inaudible]

MR. KOLKMEYER: Yes, and if it's not specific enough, we do have a list of certain areas like San Marcos and Eldorado that are contemporary communities now but we can figure out some ways to suggest that an option needs to be available for Jacona.

CHAIRMAN DURAN: Thank you. Next person please.

BOB TAUNTON: Mr. Chairman, members of the Commission, my name is Bob Taunton. I represent Rancho Viejo and I'll just be brief. I want to say that we support the district plan in front of you today. Rancho Viejo is 21,000 acres of which 10,000 would be in the rural district. The balance would be in the new community district and we're very connected to some of the revisions that have taken place from the previous draft that have occurred over the past three years. Let me compliment the staff and the County on the strategy that you followed in developing this plan.

There are many counties around the country that are struggling with the same issues that you are and I think that once you adopt this plan, which is basically setting principles and allowing the bulk of the planning to take place at the community level [inaudible] a national model for other people. I attended a conference with Jack last December and it's clear that there are a great many counties that are struggling with the same issues. I think you're all to be complimented and particularly the staff on the work that's been done.

[inaudible] on what's called land-based design. I guess another word for that is conservation design. It's one of the principles that we followed in our planning in Rancho Viejo and I'm very pleased to say that they're memorialized here and I hope that they become a very important way in which planning takes place in the county. Also one of the developer's choice is [inaudible] desire on the part of the property owners to maintain an agricultural use as well as maintain open space. And we're very pleased the various options that are presented here. I'd like to discuss them with the staff to understand them better.

The question I have [inaudible] there have been a number of suggestions about revisions and in August we'll have a chance to go through these various revisions. [inaudible] opportunity for the staff put together a summary that might be circulated before that meeting of the suggested revisions [inaudible] by staff or by other landowners [inaudible] to take a look at that --

CHAIRMAN DURAN: Can you do that Jack?

MR. KOLKMEYER: Mr. Chairman, I think we should set a deadline and make it very clear. Because otherwise there might, as many of those suggestions that we could get by a specific date ahead of time would be really helpful and then we could make them available. Because we always run up against a problem [inaudible] If there's any way we could solve that and accommodate people who would like to do that.

CHAIRMAN DURAN: So we'll compile all those amendments for public review.

MR. TAUNTON: Thank you.

CHAIRMAN DURAN: Good comment. Next please.

1650829

ROD RIMPLE: My name is Rod Rimple, Route 4, Box 17. Mr. Chairman, Commissioners, I want to thank you for initiating this great process which is very timely and from my standpoint a very possible approach to growth management issues. I represent a community planning organization which deals with a traditional historic community as well traditional village as a zoning area. In studying this document we feel that it fits our use like a glove. We were very, very grateful to you having such a responsible approach to issues and needs that have come up in our land use planning process and I just want to thank you all and give the plan my support.

CHAIRMAN DURAN: That's one out of twenty.

DALE LEWIS: Commissioners and staff, I'd like thank you for listening to me. The first thing I'd like to bring up, I think staff was in agreement on it last night is where this where this says the Estancia Basin District will adhere to the existing County Code, we need a date on that so that the Code cannot change.

MR. KOLKMEYER: Mr. Chairman, if I may, we are definitely in agreement that there should be a date. That's very clear what that means and the effect it has. The only question that we had was what exactly should the date be tied to? Should it be tied to the decision that the Estancia Basin commits to a plan? We specifically talked about last night is once we create the district that would be the date. But the problem with that that we talked about later was [inaudible] nothing happens at all and there's no planning that occurs so that date is used as [inaudible] So perhaps it might be better, just let me offer a suggestion, that maybe it would be better to tie that date to an official designation of when the Estancia Basin District plan will start. [inaudible] and that may take some time too. [inaudible] That creates a whole lot of ambiguity.

MR. LEWIS: I would like to see it at the date of adoption so we don't have a wide open space in the interim there. That's my concern. We're all for making our own plan. We're all for it. Another concern that I have here, if before August, before this becomes finalized, is there a new ordinance going to come out of this plan?

MR. KOLKMEYER: Mr. Chairman, not to my knowledge, Dale. But don't forget that we had some policies that we passed before from which some ordinances came out of, for instance the community planning ordinance. That came from the policies that were developed last year, remember? We did that. The other, there might be some amendments to the others. There's one that's being considered now about height, for example. [inaudible] there is an concern that there is an Estancia Basin District and perhaps we can continue to allay your concern [inaudible] and we could look at those things in detail and determine that. But I think our response right now would be no, we don't foresee any.

CHAIRMAN DURAN: Mr. Lewis, another thing is that ordinances require two meetings to continue this process. So nothing would be adopted before we adopted this.

MR. LEWIS: What I was concerned about was adopting an ordinance out of this document before it's a finalized document.

COMMISSIONER GONZALES: I think you have to have a final document

before we would implement an ordinance to support what the ordinance talks about.

MR. LEWIS: The other question I have, it's more of a clarification for me. Down here where you all appoint the Estancia Basin Planning Committee, what is the process or how is that going to come about? Where are the people going to be picked from? What's going to happen here?

COMMISSIONER GRINÉ: Mr. Chairman, Dale, [inaudible] if people are interested, that represent those communities, if you want to belong, that's up to you.

MR. LEWIS: But you all have the final say?

CHAIRMAN DURAN: We would verify what the community wants, though.

MR. LEWIS: I'd like to volunteer my services right now. I go on record.

COMMISSIONER GRINÉ: [inaudible] I'm going to go down to your community and get some names.

MR. KOLKMEYER: [inaudible] Let's go back just a bit and clarify exactly what the changes to the Code mean. I'm still a little bit confused. [inaudible] you can ask me some questions and we can direct the conversation in just a moment so we understand what changes to the Code would mean. If you wouldn't mind helping us with this.

MS. BROWN: Mr. Chairman, Commissioners, I think [inaudible] the process takes place if they don't adhere to the existing County Land Use Code. The Land Use Code covers a lot of things besides density, so if we have a new restriction on the type of lights [inaudible] So whether this means, I presume it's zoning designations or densities are the things that you all would want to stay intact until your plan was in place.

MR. LEWIS: I am concerned about everything that we would be planning for. I would like to see things remain as they are until we come up with our own plan. We want to address all these issues. We want the opportunity to address those [inaudible] for the designs of our community.

COMMISSIONER GONZALES: Mr. Chairman, Denise, [inaudible] this is why we're here today, is to move forward so that we can adopt plans so that this community can start working. [inaudible] until the communities that we're talking about [inaudible] Those are things that may come up that we don't necessarily want to tie our hands from being able to engage in. [inaudible] growth management issues within the districts, I think that's something that we should refrain from but there may possibly be other land use ordinances that we're going to be hearing.

MR. LEWIS: I don't think we should affect those special exemptions or applications or special uses, whatever you want to call them, but I think our basic Code should stay the same. I don't want the Code to be a moving target where it changes while we're trying to plan, because that's going to affect everybody in our community. I think we need it tied to a certain date. Either the adoption or the start of our plan.

MS. BROWN: I think when you say you don't want it to change the concerns that you have are things that would affect zoning in your planning area and densities, because those are the things we would plan for. I just want to be clear because the Code

1650829

changes not all the time, but we have Code amendments probably every few months, clarifying sections of the Code that aren't clear, and I don't think those are the things that you wouldn't want to apply in your community, but it wouldn't affect your planning ability either. I just want to be clear, we don't have Code enforcement going out to cite someone for unlawful lighting and then someone says, oh, that Code amendment wouldn't apply to me because we're in the planning process. It could be really confusing for our Code enforcement officers.

I think if we say that the zoning, which includes densities, in that area will not be changed until the plan is completed, that will cover all of the concerns of the community.

MR. LEWIS: I really think we need to address the design conditions too, because our area is different and we need to design our buildings differently. And this is not going to be that long-drawn out of a process.

MS. BROWN: You could do that through a moratorium. You'd have to have a moratorium in place until you got the rules you want in place. And we would have nothing to review, or we would be reviewing progress on an inconsistent basis without any, just let me, say we would have an ordinance change. Our Code would be changed and yet you would be saying don't impose it in our area and that would be fine as long as there was a moratorium in that area. So that would be a decision your community would have to make.

CHAIRMAN DURAN: I think the bottom line here is I don't think there's going to be any ordinances that will be created and adopted out of this plan until it's adopted.

COMMISSIONER GONZALES: [inaudible] design standards are related to growth management. Architectural standards relate to growth management. Density and zoning relate to growth management. Those are all things that we're going to have be able to process. So I don't know, perhaps Denise you can help me with this, or the Commissioners [inaudible] we're going to have to look to the communities to tell us what they want in their ordinances. There's always [inaudible] language and that's something that could be brought up, like I brought up the fact that it was submitted to allow parts of the rural district to become a new community district and do we have an ordinance in place. I asked the staff to begin the preparations to do an amendment so that there should be those types of changes to take place through the ordinance process.

[inaudible] There are specific issues that could come up that don't relate to growth management issues, don't relate to architectural standards, don't relate to lighting standards or whatever it might be that we're going to have to address through the ordinance form, because we can't just tie County government to wait until these communities come up and start enacting their plans.

MR. LEWIS: I'm not asking you to tie all of County government. Just through the Estancia Basin. We don't want to attack a moving target [inaudible] while we're trying to play the game.

1650829

COMMISSIONER GONZALES: You're absolutely right, Mr. Lewis. I agree with you.

MR. LEWIS: That's what I would like a guarantee of all from you all. Because the rules are going to change while we're playing the game. That's my main concern. As a matter of fact, when we start planning, that's fine.

CHAIRMAN DURAN: Thank you, Mr. Lewis. Next person, please.

JOANNE GRANNERMAN: I'm Joanne Grannerman. I live near Edgewood. I wasn't intending to say anything, but either we're going to change or we're not going to change. And my husband and I in a private hearing of our own with another county in this state tried to build a road. After the county approved our plan, they changed those plans six times. It cost us a total of \$20,000 more to fulfill their requirements. We want to know that we have some assurance when we start that these are the rules we follow, at least from the County's point of view, until we get through, not a constant state of flux. Oh, well you have to add this. And oh, we want this more. And oh, we want this. Either they're going to change or they're not going to change.

It seems to me that maybe a way to handle it, would be a safety issue or whatever. We submit a plan, it is approved and those guidelines stay until it's completed. I think that's one of the things Dale is worried about, is that halfway through a project, you put a moratorium on and nothing happens. Nothing gets built. Nothing gets done because after the moratorium the rules are going to be different and we don't know what they're going to be. We just have to create a little stability somewhere. And our basic concerns about this whole document that we are talking about is, it could have been done in about two phase. If you wanted to vote on the Estancia Basin, on the rural district, do that in two phases. In one phase, a document of suggestions about the Estancia people [inaudible] mixed it up. You've muddied the waters so that we don't really know what we're voting on, orally, we're told this is not binding, but it is on paper. Why is it on paper? I don't know. But I feel very insecure. Thank you.

CHAIRMAN DURAN: Thank you. Anyone else? That concludes the public hearing process. Jerry, you've already spoken but I'll give you a few minutes.

MR. POWERS: Thank you. I just wanted a clarification. At the meeting last night there didn't seem to be a problem with changing the Code and now what I'm hearing is maybe it's impossible to do under the language that was proposed by the staff. I just wanted to ask what does that mean that we would be remaining under the existing Code until we start our planning process? If it takes fifteen years to initiate a planning process, what does that mean that we would be under the existing Code?

CHAIRMAN DURAN: Well, under the existing Code nothing has changed. When we get to a point where we can make some changes and need any input on the planning process that is appropriate for this point in time for our community. Nothing has changed.

MR. POWERS: I see. I guess I'm confused because in the Estancia Basin

1650829

section, on page 42 it says that the Estancia Basin District would remain under the existing come until we completed our own planning process. And as I understand it the intention is if these districts are adopted and the Estancia Basin would not initiate a plan say, for a year or two, changes would be made to the Code that conform to the new adopted districts, the rural districts and that that would affect our district unless there is some specific language that says that it would not.

COMMISSIONER GRINÉ: You still remain under the existing Code.

MR. POWERS: The existing Code would be changing.

CHAIRMAN DURAN: Let's say some changes were made. That doesn't mean that the community still couldn't come forward with their plan and they would amend whatever changes may have been made under, whatever the Land Use Department decided was appropriate.

MR. POWERS: I guess that's the point. We're concerned about the gap between when we start our plan and when the adoption of these districts takes place and ordinances are being written all the way up until we begin our plan.

COMMISSIONER GRINÉ: But they won't be adopted and approved by the County Commission.

CHAIRMAN DURAN: Maybe an appropriate thing to do would be that those communities that are in the planning process would notify the County and no ordinances, nothing would be adopted until such time as you had completed your planning process. It would stay with the old Code until you we've adopted your plan after you've fulfilled your process.

MR. POWERS: That's what we're asking for.

CHAIRMAN DURAN: Is there a problem with that?

MR. KOLKMEYER: I believe that was our intention. We want to get Denice to respond to this. That was our intention. That's correct. I don't know if you were in the room when we were discussing this before. The other concern was, last night we had talked about [inaudible] with the designation of a district. And as I had mentioned to Dale, I thought that's a little bit unfair because then you might wait two years to do your plan, so probably you should tie it to the beginning of the planning process. And yes, that was the intention that it would be the Code at that point that remains. I guess there's still a legal question there and I think we need Denice to respond to that.

CHAIRMAN DURAN: Well, why don't we just get some direction. We can put it that way. You guys can confirm this with me, but why don't we allow those communities that have notified us that they're in the planning process, continue the process and no ordinances would change. The existing Code would go into effect until such time as the plan was completed. And furthermore, that the community would have a year to do that and if they needed more time, I think they need to be able to bring forward to this body [inaudible] that you are making some effort and some progress.

And I say that because the community of La Cañada de los Alamos tried to do that

1650829

and I don't know where they are right now. So I think that if it goes beyond a certain period of time, or if this governing body decides that you aren't making any progress and the Planning Department feels that there should be some changes made to the existing Code based on good planning ideas, that we would have the right to do that. And you still have the right to come up with a plan. But if you get stymied, something has to be done. Does that sound --

COMMISSIONER GONZALES: Mr. Chairman, I think that you're right on target. It seems to me that it's a lot of people's concern that there's some time between the time that we're notified and the time that we actually create the committee, so it may be more appropriate that we begin at the point that the committee's created to begin the plan. So of course if the landowners go back and Jerry sends off a letter tomorrow saying we're going to start our community process and four months down the road we haven't appointed a committee that's actually doing it, we need something from you Jerry, or whoever's going to bring forward the people in the Estancia Basin, the people who are prepared to start working today and from that group that we make our appointments that begins what the Chairman is calling upon, this de facto moratorium on new ordinances or whatever it might be.

COMMISSIONER TRUJILLO: The snapshot would only be for land use, development, zoning, and nothing else.

MR. POWERS: I think that's kind of what we're looking and we'd be glad to submit a list and I understand that nothing can happen until this document is formally adopted anyway. But certainly before August or September we can put together a list and have that de facto freezing of the Code which is what we're looking for until we get our plan arranged.

CHAIRMAN DURAN: If you could bring that language forward, that kind of recommendation.

MR. POWERS: Be glad to do it. Thank you very much.

CHAIRMAN DURAN: That concludes the public hearing. What's the pleasure of the Board?

COMMISSIONER TRUJILLO: I have a question for Jack before we start. Jack, do we have to vote on a resolution or can we just extend a report regarding the districts? There's a lot of concern out there.

MR. KOLKMEYER: Mr. Chairman, Commissioner Trujillo, this is something I explained to the County Manager and to the County Attorney before. And when I spoke with the County Manager that was the idea that we thought would work. We could approve this by a vote and then move on to the next section in June. And in discussions, however, with the County Attorney, and she can address this specifically, that it seemed like, she recommended that we do it by resolution so it becomes kind of bookkeeping device. We know what we have adopted and then it's easier to gauge the changes against that too, because we will come back and do another resolution to eliminate the previous resolutions

1650829

that were made and readopted again. Maybe Denise should discuss this directly, because I think we need to decide, you need to decide how you want to do this and what the next steps are and do it in a way that's legally appropriate. So I would ask the County Attorney, Denise to help us with this.

MS. BROWN: Mr. Chairman, Commissioners, it's actually not very technical. We need, we generally take action through formal ordinances or resolutions when you vote, when you adopt contracts, anything that you all officially pass on, typically a document that you then sign, the Chair signs on behalf of the Commission, so that we have an official record. If Jack and I and Judy and everyone were gone, when the rest of this came up there could be difficulty tracking what was the official version that you all adopted. So the only purpose for having the title resolution was to identify it with a number so that we can keep track over the next several months of what the real copy of what you adopt today. It doesn't make it any more or any less official. It's really more a matter of knowing and having the means to identify the various agreements made and approved tonight. That was the rationale behind that.

COMMISSIONER GONZALES: Mr. Chairman, can I ask a question? Denise, when we have ordinances and we adopt the ordinances, it's going to take another ordinance to change those boundaries. If we adopt boundaries tonight through resolution, will it take another resolution to come back and notice as a resolution to modify the boundaries?

MS. BROWN: You know, a resolution doesn't present any particular difficulties.

CHAIRMAN DURAN: Can there be an amendment to the resolution?

MS. BROWN: You could do it as an amendment. You could do a whole new resolution repealing the old one. Resolutions aren't any harder to notice than any other agenda item. Whereas ordinances have all the public hearing requirements.

COMMISSIONER GONZALES: Very good. So it's all part of the bookkeeping process, so we have a clear paper trail of how we're moving forward. I think we've made some commitments tonight to these communities, that we're going to assure that we have a process that is flexible enough to change as we go forward and I would go along with staff and recommend that we adopt it in resolution form.

CHAIRMAN DURAN: Is that a motion?

COMMISSIONER ANAYA: I second, Mr. Chairman.

CHAIRMAN DURAN: There's been a motion and a second.

COMMISSIONER GRINÉ: What's the number, Becky, for the resolution?
Sixty?

CHAIRMAN DURAN: We're going to adopt a resolution with the understanding that amendments can be brought forward in August for consideration. Any further discussion?

COMMISSIONER TRUJILLO: One other thing. The community has said

1650829

that it hasn't had the opportunity to review the documents, I think that we should accept changes throughout, not only during meetings, but accept changes between now and the August time period, written or otherwise.

MR. KOLKMEYER: That means July, correct?

CHAIRMAN DURAN: Right. It would be nice, Jack if as you get these and you compile them, that you keep us posted on it so that we have time to review it and make copies so we can think about it.

COMMISSIONER GONZALES: Also, part of this resolution, Jack is that we begin the process with the staff to meet with Mr. Thorton and the Galisteo Basin District so that we can bring this back as an amendment as soon as Mr. Thorton and the property owners around there have settled on the appropriate boundaries that they'd like to submit.

MR. KOLKMEYER: Yes sir.

CHAIRMAN DURAN: Okay. There's a motion and a second. Those in favor signify by saying "aye." [Unanimous 4-0] Opposed? Motion carries.

CHAIRMAN DURAN: We'll take a five-minute break.

[The Commission recessed from 7:25 to 7:35]

IX. B. LAND USE DEPARTMENT ITEMS

- 3. CDRC Case #Z 99-5070. Omni America Cellular Site, La Bajada. Omni America, applicant, requests a master plan zoning amendment with preliminary and final development plan approval for a cellular facility at an existing cellular site (site previously zoned for Centel Cellular, case #OD 1994-10). The property is located south of County Road 57, east of I-25, within Section 20, Township 15 North, Range 7 East**

PENNY ELLIS-GREEN (Review Specialist): Mr. Chairman, Commissioners, the applicant is requesting approval for six cellular antennas and two microwave dishes on an existing cellular tower, with one equipment cabinet and two generators at a separate 50-foot by 50-foot lease area. The original zoning of this property was approved in January 1995 and consists of a 36-foot high tower with four cellular antennas and an equipment building and solar panels within a chain-link fence. The applicants are proposing to co-locate on the existing tower.

Recommendation: Staff's recommendation and the decision of the CDRC was to recommend master plan zoning amendment with preliminary and final development plan approval subject to the following conditions:

1. All staff redlines will be addressed. Original redlines will be returned with final plans.
2. All colors to be reviewed and approved by staff prior to construction permit issuance.

1650829

3. The master plan/development plan will be recorded with the County Clerk's office.
4. If the technology changes and these antennas become obsolete they will be removed by the applicant. This will be noted on the master plan.
5. A Knox Lock entry system will be installed on the gate, to be approved by the Fire Marshal.
6. The applicant will provide landscaping along the west and north boundaries of the fenced area to be approved by staff. All trees will be eight feet high at planting.
7. A catchment basin will be installed where fuel is stored.
8. A financial guarantee for all landscaping and fencing shall be provided prior to building permit issuance.
9. All dead or diseased trees will be replaced for the entire length of the project.

CHAIRMAN DURAN: Okay, are there any questions of Penny? Thank you, Penny. Is the applicant here?

[Duly sworn, Diane De Russo testified as follows:]

DIANE DE RUSSO: Diane del Russo, 85 Encantado Loop, Santa Fe, New Mexico.

COMMISSIONER ANAYA: Is the applicant in agreement with all the conditions imposed by CDRC staff?

MS. DE RUSSO: Yes sir. Yes, Commissioner. That's correct. I might make a point as was done at the CDRC meeting that while we will comply with the restriction on the landscaping, I've had further conversations with staff and the eight-foot tree buffer zone may not actually accommodate what it's intended to do. If it's something you all would like to agree to do we will do so. We're absolutely in agreement. One of the conditions was the planting of 8-foot high trees, landscaping and we'll certainly do that.

COMMISSIONER ANAYA: Something of the natural flow of the landscaping is already done?

MS. DE RUSSO: Yes. [inaudible] the intention of what it's trying to do.

COMMISSIONER ANAYA: You definitely need buffering to remain intact and it's been utilized to offset the visibility I think would enhance everything.

MS. DE RUSSO: I just wanted to say a few things as well. I work, I'm a project manager for Hicks and Ragland Engineering and Hicks and Ragland oversees all project management for the Alamosa Sprint PCS build-out. And we're developing a network in west Texas, New Mexico, southwest Colorado and northern Arizona. And Alamosa Sprint has hired OmniAmerica to do our site acquisition and zoning on particular sites around their territory. This site is one of those and I came to the CDRC meeting when Ron Jones was presenting that site for the CDRC and it was my opinion that there was a good relationship working towards solving what the County's concerns were and what the carrier's concerns were. I believe that that was moving in the right direction.

And on here personally, it continues to move in the right direction.

COMMISSIONER ANAYA: That's good.

1650829

CHAIRMAN DURAN: Diane, I just have one question. There were some differences that you and I had talked about. Were you able to work those glitches out?

MS. GUERRERORTIZ: Yes, sir.

CHAIRMAN DURAN: What about the height?

MS. DE RUSSO: Mr. Chairman, I provided Oralynn on Friday a letter from the Alamosa Sprint PCS attorney, dated February 5 instructing OmniAmerica to cease and desist on behalf of his client any exploration on this site. Now keep in mind these are two entities. One is saying they work for themselves and one is they're under contract for us to develop this particular site and a few other sites. Those are mutually exclusive entities and I provided that letter to Oralynn, which she has. As soon as I heard she was not aware of that. I've made that very clear. There is not Alamosa Sprint PCS's position. For the record, I'm here to set the record straight.

CHAIRMAN DURAN: I understand you're here to help us work through the concerns that the County has.

MS. DE RUSSO: Absolutely. If I can facilitate that in any way. In fact, one of the reasons I'm here is an effort to facilitate that in that the gentleman who was stepping in on behalf of Mr. Ron Jones, who I believe had a good relationship created more confusion or some confusion in this area. And I want to be perfectly clear for the record that our agenda is to launch our network and provide services for the community under the Alamosa Sprint name.

COMMISSIONER TRUJILLO: You've got a tower here that does not conform with the existing height restrictions, right?

MS. DE RUSSO: Apparently and I'm sure Ms. Ellis-Green can speak to that more directly. It was built prior to the existing Code, is that not the case?

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Trujillo, the Code came was changed in 1996. It changed the height from 36 foot to 24 foot, and this tower that's existing is 36 foot in height as went with the old code. The applicant is now going to co-locate on that tower. If they intended to put their own tower up it would need to meet the 24-foot height restrictions.

COMMISSIONER TRUJILLO: They can use an existing 36-foot structure? That would make it higher?

MS. ELLIS-GREEN: No, they sometimes will go below the existing -- that's correct.

Commissioner Anaya moved to approve CDRC Case #Z 99-5070 subject to conditions imposed by staff. Commissioner Grifé seconded, and the motion passed by unanimous voice vote. [Commissioner Gonzales was not present for this vote.]

CHAIRMAN DURAN: We look forward to working with you.

1650829

- IX. B. 4. **EZ CASE S 96-4341. Frijoles Village, Phase I Variance. Frijoles Village, Ltd. Co. (Arthur Fields managing partner) applicant is requesting a variance of the minimum standards for roads, lot coverage, height, slope and setbacks for the purpose of proposing a large scale mixed-use subdivision (residential, commercial, community) consisting of 220 residential lots on 128 acres in accordance with the approved master plan. The property is located west of the city limits and north of State Road 599 within the two-mile Extraterritorial District, Sections 19, 20 and 29, Township 17 North, Range 9 East**

[Portions of this transcript are labeled inaudible due to microphone system feedback]

JOE CATANACH (Review Specialist): Thank you, Mr. Chairman, Commissioners, I have a letter that is relevant [Exhibit 3].

CHAIRMAN DURAN: Joe, have you given this letter to the Legal Department?

MR. CATANACH: No, I have not.

CHAIRMAN DURAN: "I wish to register my objection to the legal notice and procedure." Was there a violation of the Code?

MR. CATANACH: The issue is that notice went out for this proposal, notice went out for preliminary plat and development plan and the variances and by the time this proposal got to the EZC there was a lot of uncertainty as to variances that the applicant was requesting and what staff would support and how the committees would act on these variances so it was kind of -- because of the number of variances, the developer -- there was some uncertainties about wanting to proceed further on the plan without getting some idea, understanding or parameters of these variances. So it was discussed with staff, with the applicant. It was agreed that staff would go ahead and recommend preliminary -- that part of the proposal for preliminary plat and development plan, that that would be tabled and that they agency would consider the variances and table the preliminary plat and development plan.

The notice that went out though, notice for preliminary plat and variances, as it turned out, like I said, the preliminary plat part was tabled. So actually the notice was accurate. They had agreed that they would table the preliminary plat.

CHAIRMAN DURAN: So proper notice was given for the issues that we're going to be discussing this evening?

MR. CATANACH: Yes, notice has been given for the variances that are being requested. Now, certainly I would agree that we have to have discussion about -- the development plan So even though that part of the request has been tabled. We still have to understand the big picture so there very definitely needs to be discussion about the

development plan in order to understand what the variances are about. So that kind of, that was kind of awkward, if you will when this came up. If they tabled the development plan how could there be discussion about the development plan? I think that there has to be, just so we can all see the big picture on how these variances relate to the development plan.

It is clear to me that consideration of these variances does not relieve the applicant of coming in and using all other, complying with all other requirements of the plat and development plans.

CHAIRMAN DURAN: Thank you, Joe.

MR. CATANACH: [inaudible] tabled the preliminary plat and development plan was recommended by staff with agreement by the applicant and recommended approval of the requested variances. I'll go ahead with the summary since that second paragraph was part of the agenda caption.

On October 29, 1995 the EZA granted master plan approval for a large scale mixed-use subdivision which would be residential, commercial and community uses, consisting of 433 residential lots and 100,000 square feet of commercial area. School site and common area for community facilities, with 205 acres for recreational open space/parks on 345 acres total, which would be developed in phases.

The density is in conformance with the Extraterritorial Zoning Ordinance for a density transfer based on one unit per half-acre for the portion of property within the urban area consisting of 88 acres and 150% density bonus based on 80% open space for the portion of the property out of the urban area, which consists of 256 acres.

Phase I is proposed to be developed as two sub-phases with 120 residential lots in phase I-a and 100 residential lots in phase I-b as follows: Which would be a total of 209 residential lots ranging in size from 2,395 square feet to 17,120 square feet which includes 22 affordable lots; there'll be 11 live/work units ranging in size from 2,000 square feet to 2,875 square feet; there'll be 20 commercial lots, that would be for retail, office, restaurant and personal services, ranging in size from 2,000 square feet to 3,562 square feet; there would be a hotel lot, 1.08 acre; two school lots of five acres each; a community lot, 5,777 square feet; a plaza area, .295 acre; and the parks and open space would be 205 acres with recreational trails and facilities.

Roads and access: Two roads are proposed to intersect off State Road 599, which is the Relief Route Frontage Road. There would be improvements for an acceleration lane and that would be constructed as part of Phase I-a.

CHAIRMAN DURAN: Joe, I think that you can just enter it into the record, the water, wastewater, open space, archaeology, landscaping, terrain and the homeowners association. Just go to the variance request.

MR. CATANACH: Thank you. The variances requested for various road standards, lot coverage, height, slope and setbacks are as follows:

1. Minimum width of the right-of-way easement for an arterial is 66'. Requested variance is to permit a width ranging from 44' to 63' for transitional road sections

1650829

- along the arterial.
2. Minimum width of roadway for an arterial is 24'. Requested variance is to permit 22'.
 3. Minimum width of right-of-way easement for a collector road is 50'. The requested variance is to permit a width of 44' for portions of the collector road.
 4. Minimum width of roadway for a collector road is 24'. Requested variance is to permit a width ranging from 20' to 22' for portions of the collector road.
 5. On-street parking is not allowed on arterial roads. Requested variance is to permit 8' wide parking lanes on portions of the arterial road.
 6. Minimum road width of on-street parking lane is 8' for collector and local roads. Requested variance is to permit 7' wide parking lanes.
 7. Minimum width of utility corridor is 4' on both sides of the road. Requested variance is to permit a 4' wide utility corridor on one side of the road.
 8. Finished road grades shall not exceed 3% for 100' from intersection approach. Requested variance is to permit a maximum 5% road grade at the approach of 22 intersections.
 9. Horizontal road grades shall not be less than 1%. Requested variance is to permit horizontal road grades ranging from .40 to .75% for six locations.
 10. Minimum spacing between points of ingress and egress for intersection and driveways as follows:
 - Requested variance is to permit driveways closer than 100' from an intersection
 - Requested variance is to permit less than 200' between points of ingress/egress
 - Requested variance is to permit a separation less than 1,500' for intersection along an arterial
 11. Direct driveway access to arterial is prohibited. Requested variance is to permit driveway access from arterial.
 12. Minimum radius for property lines at intersections is 10' and 25' curb radius. Requested variance is to permit zero radius for property lines and 10' to 15' for curb radius.
 13. Design speed for arterial road is 45 to 55 mph and 35 mph for a collector road. Requested variance is to permit 30 mph for arterial and 25 mph for collector.
 14. Minimum width of right-of-way easement for a local base course road is 50'. Requested variance is to permit a width of 22'.
 15. Minimum width of roadway for a local base course road is 22'. Requested variance is to permit a width of 14'.
 16. Maximum lot coverage for building area is 40%. Requested variance is to permit lot coverage ranging from 50% to 95%.
 17. Disturbance of slope over 30% and exceeding 1,000 square feet is prohibited. Requested variance is to permit disturbance of slope over 30% and consisting of approximately 5,000 square feet of disturbed slope.

1650829

18. Maximum height of any structure is 24'. Requested variance is to permit a structure height of 40' for a 1,000 square foot portion of a building within the plaza area as an architectural feature.
19. Required setback along an arterial for residential uses is 50' with a wall and/or landscape buffer. Requested variance is to permit a zero lot line with low yard wall and landscaping.

The applicant has responded to the variance criteria. The EZC/BCC shall determine if the applicant has justified the variance criteria.

Staff review of the requested variances: Staff recognizes that the standard regulations would not be consistent with a subdivision development that incorporates the principles and objectives of a village/neighborhood cluster development with large areas of common recreational open space.

Staff has consulted with the County Fire Marshal staff and County Public Works staff in order to determine that the variances would not be adverse or detrimental to the health, safety and welfare of the general public, and to maintain a functional level of service for the roads. Staff evaluation included consideration of relevant factors regarding traffic volumes, one-way traffic flow, shared driveways and consideration of the two primary roads subject to a conditional dedication for potential ownership and maintenance by the County.

Staff can support the requested variances with certain exceptions and conditions as follows. And these were the conditions that were recommended by the EZC.

CHAIRMAN DURAN: We'll just enter those into the record, Joe, if that's okay.

[The conditions are as follows:]

1. Maintain a minimum 63' right-of-way easement for entire length of road classified as minor arterial.
2. No parking allowed on arterial road.
3. On-street parking for road classified as collector shall be limited to central plaza area.
4. Road grades exceeding 3% at intersection approach shall be allowed as approved by County Traffic Engineer.
5. Prohibit horizontal road grades less than 1% on road classified as minor arterial.
6. Radius for property lines at intersections and curb radius as approved by County Traffic Engineer and County Fire Marshal.
7. Width of easement for local base course roads shall be at least 24', and width of roadway shall be at least 16'.
8. Maintain a minimum design speed of 40 mph for road classified as minor arterial and 30 mph for road classified as collector except where impractical due to terrain constraints, as approved by County Traffic Engineer.
9. Maximum 36' height for portions of up to three buildings within the plaza as an architectural feature, and not to exceed 1,000 square feet.

1650829

CHAIRMAN DURAN: I have a question on variance number 16. Maximum lot coverage for building area is 40%. Requested variance is to permit a lot coverage ranging from 50% to 95%. So that means that if they have a lot that's 4,000 square feet that they can have a structure on it that covers 95% of the lot? Is that correct? And staff thought that that was okay? Can you give me some idea of how you guys rationalized that? Were you involved in that conversation? I find it -- I can understand where maybe 50% or maybe 60%, but 95% lot coverage on a 4,000 square foot lot. I think that's extremely high, when the City requirement right now is 40% lot coverage in any zone that they have.

MR. CATANACH: That is the maximum lot coverage in the EZ as well.

CHAIRMAN DURAN: Except in an industrial area, they let you go, I think, up to 60%. Do you recall how that was something that staff agreed to?

MR. CATANACH: The discussion we had was to try to make a comparison of what would -- how would that work and how can you make a comparison to give us an idea and certainly if you look at the downtown plaza area, that might be very close to compact development where you have commercial and you have a lot of buildings and [inaudible] area in one area. You're probably looking at the plaza area as being an example of the substantial lot coverage that's being requested. And as an example, it seemed like again this kind of development, it was in the context of this kind of development.

CHAIRMAN DURAN: [inaudible] apply to twenty commercial lots. It's not necessarily something you can apply to the 209 residential lots.

MR. CATANACH: Well, not all the 209 would have that -- that lot coverage, without me looking at the plans again, that lot coverage is obviously to be concentrated in the plaza area and then there's a transition as you get out of the plaza area you have larger lots and you have less lots.

CHAIRMAN DURAN: I think that it needs -- if we can specify that that occurs in certain areas as appropriate. I just have a problem with that.

COMMISSIONER TRUJILLO: It's written as though anyone can do 95% including residential lots and I think that's --

MR. CATANACH: I understand that and I think that is important for this developer to clarify that transition and for staff to have a better understanding of that.

CHAIRMAN DURAN: Any other questions of Joe?

COMMISSIONER GONZALES: Mr. Chairman, they requested a variance of the minimum standards in accordance with the approved master plan. So this is in for preliminary and final?

MR. CATANACH: These variances are relevant to the preliminary plat but as I mentioned, the preliminary plat and development plan was tabled by the EZC in order to have a better understanding and get some parameters in place on these variances in order that this applicant can further proceed on the preliminary development plan.

COMMISSIONER GONZALES: So the preliminary development plan was tabled at the EZC. The request for the variance of the issues that were presented by the

1650829

applicant now. I'm assuming that it's appropriate that this happens at the master plan level then. Is there a reason why -- I'm understanding that the EZC had approved the variances. Is that right?

MR. CATANACH: They recommended approval.

COMMISSIONER GONZALES: Recommended approval, and so there was a decision to take the variance recommendation of approval back to the BCC without the preliminary being acted on? I guess my question is this: what happens if the EZC denies approval of the preliminary plan? And the variances have been approved? This puts you in a very awkward position of having to deal with this.

MR. CATANACH: In the subdivision process, the engineer and the attorney can speak to this better than I can, it's different than a zoning where there is more discretion and let's see if I can try and explain this from a staff level. The subdivision process is different than a zoning process where you may have more discretion. I believe the legal term or the term that's used is that a subdivision process is ministerial. In other words, if the subdivision meets the requirements, the EZC should be -- would have to approve that subdivision.

COMMISSIONER GONZALES: My next question then, is if these variances are to the master plan, why didn't they occur at the time the master plan was approved? Why were they not asked for?

MR. CATANACH: The master plan is too general of a level to consider variances at that stage. You really can't -- I think you're looking at caption that says in accordance with the master plan.

COMMISSIONER GONZALES: No, I'm just saying that --

MR. CATANACH: They're bringing forward this request because the master plan was approved. That's really all that says.

COMMISSIONER GONZALES: Okay. I guess I'm a little confused because every time we have a variance it's with the preliminary or preliminary and final plat approval and the variances that are in place for that, where now what we're doing is we're acting on a variance with out a preliminary plan approval coming forward. And I understand that there are two different issues, one's relating to the whole subdivision issue the requirements that they -- they're seeing if preliminary approval if they meet the subdivision requirements that are needed.

I guess what's happened then is the EZC has already addressed the issue of the variance and the applicant has made the decision to go ahead and to bring the variance to the BCC for either approval or denial even while the preliminary is pending?

MR. CATANACH: That's correct. In order to get some clarification, some understanding, some parameters of these variances. Obviously, the number of variances has never, in my career with the County, I've never seen an application with so many variances. Certainly I think a lot of this has to do with the number of variances that are involved here for this developer to be able to get some clearance, some parameters in order to proceed

1650829

forward with the development plan.

COMMISSIONER GONZALES: We're satisfied that these processes can happen independent of one another?

MR. CATANACH: I think it's definitely out of the ordinary and it feels awkward but I think that because of the number of variances and the scale of this development that these type of decisions are appropriate.

COMMISSIONER GONZALES: Thank you, Mr. Chairman.

COMMISSIONER GRINÉ: Any other questions for Joe? Thank you, Joe. Is the applicant, Arthur Fields here?

[Duly sworn, Arthur Fields testified as follows:]

ARTHUR FIELDS: My name is Arthur Fields, 200 West Marcy Street, Suite 142, Santa Fe. Thank you. I'm Arthur Fields. I'm here before you on behalf of the fourteen families that own the Frijoles Village site. It's been a tremendous amount of work to come back and to get here tonight to be in front of you. We're really gratified by the progress and we're really excited to be here tonight. In response to Commissioner Gonzales' questions, the issue about the timing of the variances as alluded to by Joe Catanach, is that the amount of engineering that's required for these plats for these subdivisions is very great. And if we know from the Board of County Commissioners that the variances have been granted, we can go back and complete our preliminary plat submittal and submit it to the Extraterritorial Zoning Commission with the knowledge that the variances are valid.

If we have preliminary plat approval from the Extraterritorial Zoning Commission with variances and then we do a final plat approval to the Extraterritorial Zoning Commission with the variances, and then we come up to you, and you don't grant those variances, we have to start from scratch and re-engineer again a phenomenal amount of engineering and costs and time. So that's why with the County staff, we discussed and agreed that we would voluntarily agree to have our preliminary plat tabled until the variance issues are complete.

COMMISSIONER GONZALES: Let me just interject real quick [inaudible] Why is it that the variances came to the Commission prior to them happening by the EZC on the preliminary? It seems to me that if we had gone through the variances first and discussed them and then the EZC would have looked at it and made a decision. It would come up to the BCC where we are today. We'd make the decision. And the issue of the preliminary plat wouldn't even be on the table yet.

MR. FIELDS: It's a question of certainty. If we know that you have granted us the variances then we know that we can then move forward full steam and complete our engineering, knowing the design parameters for the width of the roads and the sizing of the lots and the setbacks and the amount of lot coverage and the lot types that we can have, and where the buildings could be on the sites, and if we didn't know that, we would do a tremendous amount of additional engineering, with the jeopardy that when it passed the EZC and came to you, you could reject it. So as stated by Joe Catanach, we will have to briefly

show you what the Frijoles Village site plan is about so that you'll understand the variances that we're requesting.

I know that it's been a long hearing and I'll be very brief in my presentation and then I'll turn it over to the architect, Lorn Tryk, to describe the project to you.

COMMISSIONER TRUJILLO: Mr. Chairman, are you going to go over why you need the variances to complete this project?

MR. FIELDS: Yes. The reason that we need the variances approved -- you mean technically why?

COMMISSIONER TRUJILLO: Why do you have to deviate from the existing Code and ask for variances to complete this project?

MR. FIELDS: Well, in our master plan and in the Extraterritorial Zoning Ordinance there's a list of policies and goals that are recommended in the Extraterritorial Zone. Frijoles Village in our master plan and in our submittals to you meets all of the nine goals and policies. But in order to implement those goals and policies, we'll need these variances. And some of those policies that particularly apply, and I'm reading from the Goals and Policies of the Extraterritorial Zone. One of them is the compact urban form. So in order to get a compact urban form, we're asking for -- what I would rather do is let Lorn Tryk address that.

But very briefly, we're putting, we're asking to minimize the setbacks from the roads. So instead of big, large setbacks, which would be appropriate on 2.5-acre lots, we're asking that the houses be closer up to the road. It's conforming and in accordance with the desire to have a compact urban form. Variety in residential use areas through mixed use housing types and densities. So in order to get that feeling of not the monotony of the traditional subdivision where [inaudible] all the lots feel the same, all the houses feel the same, we have a lot of variety and mixing it up. But to do that requires that we deviate from the Code because the Code was designed really for 2.5-acre lots, not to implement the kinds of goals and policies that are really laid out in the Extraterritorial Zoning Ordinance.

Our original master plan approval was rejected by the Extraterritorial Zoning Commission in 1995 and then we worked with County staff and City staff and surrounding land owners and we brought in more land. We've doubled our open space. We have our densities, and working with County and City staffs, we increased the commercial zoning in our plaza to 100,000 square feet. As a result of working with the County and City staff, we went back to the EZC and the EZA in 1996 and we were given master plan approval.

Then we went into the Santa Fe Bypass. As you recall, that was uncertain for a while and we didn't want to go forward with a big effort until we knew that we had a Bypass. Once the Bypass was a certainty, we then worked with engineers and planners, architects, developers and marketing specialists and with the City and County technical staff to come up with a plan in conjunction with the Fire Marshals, with the Traffic Engineers in the City and County and with subdivision engineers, both public and private. We wanted to design a village which we're really proud of and which we believe you will agree is very

1650829

beautiful and a functional village and is sensitive to the environment.

We're building a village that the Santa Fe community will be proud and that we believe you'll be proud of and that you will continue to support. You've shown your support in the past, in March of 1998 by voting unanimously to agree to contract for 50 acre-feet of water to Frijoles Village. That was the unanimous vote of the County Commissioners. Then in December of 1998, the City Council voted unanimously to hook up Frijoles Village to City water and City sewer. So we released the 50 acre-feet back to the County water company. Last month, the Extraterritorial Zoning Commission showed its support for Frijoles Village by unanimously agreeing to recommend approval of all of our variances. And we also got support from Los Alamos National Bank. Three weeks ago we closed on a development loan with the bank to give us money to build the infrastructure in Frijoles Village.

Now the bank supported us because we showed them market research and we had [inaudible] and we showed that we were going to build a really special place that will appeal to a lot of people of varied incomes. Now, when Lorn comes up here to briefly tell you about the six housing types that we're proposing in Frijoles Village, and two of those housing types will be available for affordable housing. Presently, we have 22 units of affordable housing. We're committed to providing another 43 units of affordable housing.

Now if the Extraterritorial Zoning Authority passes an ordinance to give us density for 43 more houses, we'll give back to this community every one of those houses in affordable housing. That will be a total of 65 units of affordable housing. So I'm asking Commissioner Anaya specifically, with the Extraterritorial Zoning Authority to go forward and do an ordinance to allow us to give back to this community an additional 43 units of affordable housing. I've worked with the Neighborhood Housing Trust -- the Neighborhood Housing Services, excuse me, and Community Housing Trust, and they're both very interested in administering the affordable housing program in Frijoles Village and making these lots and houses available.

COMMISSIONER ANAYA: Mike Loftin?

MR. FIELDS: Yes, Mike Loftin at Neighborhood Housing Services. And you know with the new General Plan that you're looking at, there aren't going to be any more villages for a long time in the northwest. So this is the opportunity to provide affordable housing in the northwest side of the county, because if it's not going to be in Frijoles Village it's not going to be anywhere for a long time to come.

The hard decisions, I believe, have already been made about this project. We already have master plan rezoning and we already got water from the City and sewer from the City. So now we're here on technical design issues only. And to assist with the technical design issues we hired the best private experts that we could find, both in the area and outside the area. And we also worked with City staff and County staff to produce requested variances that are consistent with the public health, safety and welfare, and your City staff and your City attorney are supporting these variances that are before you tonight.

1650829

Now, at the Extraterritorial Zoning Commission, the Sierra Azul people, some of whom are here tonight, raised the issue of procedure and they have a lawyer who cited a zoning case that said that -- there's some rough language in it -- it was a zoning case that applied to the type of use of the property. We're not here asking for a zoning variance. We already have rezoning. We're here asking for technical design issues, not for major land use issues in Frijoles Village. We're also not here asking for any variances for terrain management. It's a very environmentally sensitive project.

Now, in the Extraterritorial Subdivision Regulations, in Section 3.1.8, it states specifically that these regulations shall be liberally interpreted to carry out the purposes of intents specified herein. That's in the subdivision regulations and in the zoning ordinance, the EZO, it also says, in Section 1.4d: This ordinance shall be liberally interpreted to carry out the purposes and intents specified herein. We meet all of the policies and goals of the Extraterritorial Zoning Ordinance. That's why the City cooperated unanimously, and that's why we got master plan approval and with the liberal interpretation of this Code, that's why we're also asking you to liberally interpret this Code and cooperate and grant us the variances that your staff and our experts are telling us will make this village a really special place to be.

Now I was going to go over all the nine purposes of the Code but I won't because of the time. But I will point out that your Growth Management Plan, that you looked at this evening, has a bunch of objectives in it and we meet the vast majority of those also. So we're consistent with the direction that the County appears to want to go.

Because we meet all of these purposes, goals and policies and because of the support shown to Frijoles Village by the City Council, because of the support that you showed us in March of 1998 when you voted to contract for water with Frijoles Village, and because we're just here on technical design issues, I specifically asked, and our partners asked, the families asked our supporters not to come out here tonight, to take more time to tell you about what a great project this is. What we do have for you tonight are two private experts that we hired, one is a subdivision engineer from Louis Berger and Associates, and it's Ed Cobau. He's here tonight to answer any questions you may have. We also have Lorn Tryk who is an architect with Lloyd and Tryk who has been working with the architecture and our site planning and he's going to make a brief presentation about Frijoles Village and all three of us are here to answer any questions that you may have. Thank you.

CHAIRMAN DURAN: Arthur, could you address my concern on item 16 please.

MR. FIELDS: Could I defer to Lorn Tryk for that?

CHAIRMAN DURAN: Sure.

MR. FIELDS: Thank you.

[Duly sworn, Lorn Tryk testified as follows:]

LORN TRYK: I'm Lorn Tryk, 115 High Road, Santa Fe.

CHAIRMAN DURAN: Let me say just one thing before you start. I think

1650829

that it's obvious that our land code needs -- in order for a project like yours to be successful I think that we need to appropriate new streetscape standards that will allow for compact developments and allow developers like yourselves to create projects that have the open space desired by this community and this Commission. So listen, I'd just like for you to -- and most of your variances, I think deal with the streetscape standards. But I think that this Commission is aware of the problems that developments like yours face when your trying to create compact development and still provide the open space that we all want.

MR. TRYK: Could you just repeat that last sentence?

CHAIRMAN DURAN: I don't know if I can. What I said was I think that this Commission is aware of the issues and the need to adopt new streetscape standards when a development like this comes before us in order to provide open space in compact development.

MR. TRYK: Let me do this. Let me give you a couple minute overview of the project. I think a lot of you are aware of the project already but let me use it as a way of demonstrating why we need some of these variances. You are right in pointing out that many of these variances have to do with street widths. In fact, I think one through seven all have to do with street widths, as do variance requests 14 and 15. Basically we are looking for narrower streets. They're more pedestrian friendly. They have less pavement, therefore less stormwater runoff, also less grading involved in narrower streets. In other words, the cut and fill slopes that fall away from them.

So we think of them as being more environmentally sensitive, more pedestrian friendly in slowing cars down. More than half of these variances have to do with those requests, have to do with these issues of pedestrian friendly and motor speed.

You asked a question about lot coverage and that's a key one for us. That's number 16. Let me just show you quickly on Phase I what you're looking at here. This is the Bypass and these are the two main roads coming in to the project. This is our main plaza. Surrounding the plaza are live/work units, which are basically living space above retail space, and then retail space on the south side of the plaza and a public building on the north side.

CHAIRMAN DURAN: Lorn, excuse me, how big are the live/work space spots?

MR. TRYK: They're 2,000 to 3,000 square feet.

CHAIRMAN DURAN: Okay. Thank you.

MR. TRYK: And then you'll see [inaudible] these little neighborhood centers which are punctuated by a park. They are higher density housing types like town houses and patio homes. And then spraying out from the parks that punctuate the centers of these neighborhoods are houses and edge houses. The houses being lots that are 5,000 to 8,000 square feet and the edge houses being lots that area 8,000 and above, for larger houses, obviously.

The idea of cluster development is to take a piece of land and pull the housing into

1650829

tight clusters and then preserve all the rest of the land for open space. In order to do that we need variances for lot coverage. What we've done is we've created a whole urban code as part of this [inaudible] which defines what a townhouse is, what a patio house is, etc. So the only lots that actually require the 100% lot coverage are the live/work and retail lots around the plaza. The townhouses are asking for 80%, the patio homes 70%, the small lots, single family, 60%.

I think you mentioned a while ago that everywhere in the City of Santa Fe, the maximum lot coverage is 40%. In the BCD we have lot coverages as high as 100% that are allowed. Some parts of the BCD are 90%. The floor area ratio is many times the size of the lot.

CHAIRMAN DURAN: Pardon me. What was that?

MR. TRYK: The floor area ratio is allowed that, in other words that you can build a building whose square footage is several times the size of the lot in the City of Santa Fe. And that's appropriate when you're in village or urban centers. But it's not our intention to have lots outside of this area or outside these urban centers have lot coverages anywhere near that high. So it will be specified on a lot by lot basis with each of these lots having their own type and their maximum lot coverage.

But that is a concept that is absolutely critical to clustering the houses together in order to get this amount of open space. Now let me just say this, that if you take the amount of land that the buildings actually cover, it's less than 20% of the site. So in taking into account the amount of open space that's in the project, we are meeting the Code in spirit; we're not meeting it in fact, because we them parceled off into lots. So I hope that helps to explain number 16.

CHAIRMAN DURAN: Thank you. That does. And that's acceptable to me.

MR. TRYK: There are several in here, number 10 and 11 have to do with road spacing and driveway spacing. Those are also key to village concepts. As an example, this is a collector street. Here are two roads surrounding the plaza that are less than 200 feet apart. If you were meeting the current County Code, we'd have to do a plaza that was more than 400 feet by 400 feet. It doesn't make sense in a village center not to have a tighter road spacing, [inaudible] integrate it well with the village concept. There are -- variances number 12 and 13 have to do with property line radiuses. Thirteen has to do with arterial design. These are ways of making a more pedestrian-friendly environment. Tighter curve radiuses, cars have to slow down more when they make a turn.

Again, 14 and 15 have to do with road widths. Seventeen has to do with slopes that are 30%. We have a couple of minor areas. There's one right here and one right here. These represents 2/100 of a percent of the land mass of the project. There are places where we are bringing roads over little pieces of eroded arroyos. Number 18, the maximum height of a structure, 24 feet, we will ask for three places in the project on the plaza where we can go up to 36 feet. If you look at -- this is an artist's rendering of buildings on the plaza -- what we're trying to do is create a little bit of architectural character on what otherwise

1650829

would be a very flat elevation around the plaza. This is one of the few locations where you'll public buildings, on the north side of the plaza, with a central element, an architectural element that is 36 feet.

We did a viewshed study, and I'll just give this to you to pass around. This is called a viewshed study. It's taken from the closest neighboring property to the west, and the white square in the middle represents the height of the buildings in the plaza and their impact on the view behind them. I think it has a minimum impact on the view. That picture was taken from right here, looking directly at the plaza. This is Sierra Azul neighborhood right here.

Number 19, the required setback along arterials, the Code asks for 50 feet or 25 with an intensive landscape buffer. It's our opinion that bringing houses closer to the road help slow down traffic, help keep the road from being alienated from the village. Basically, we're talking along this alignment here where going right through the middle of a neighborhood having a 50-foot setback from the road sort of destroys the village concept. So while it's possible to do a project on this site of this density, having these kinds of variances allow us to meet the stated goals and objectives in the EZO about cluster development and village type development.

I think Art has covered really well why it is that the variances are being heard tonight. I think it's clear to us that having these variances approved does not give us right without a plan to go along with them. Otherwise we'd take these variances with us and craft an entirely different plan in order to apply the variances to them. But we feel we really need them in order to proceed with the plan at the level of detail that we're being asked to develop it at.

I think you also covered the fact that we're not asking for a bunch of terrain management variances. The neighbors have been very sensitive to terrain management and how we're handling stormwater control. We have a part of the design, are continuing to implement a comprehensive, ecologically sound plan for stormwater management and water harvesting. We're still at the preliminary plat stage. We're happy to answer any questions that you have about that plan if you have them tonight. I think we've worked very hard with staff in crafting in some cases a set of compromises to these variance requests. There have been several of the conditions basically are denying our request for road widths. I would like to say that we are in total agreement with staff on all of the conditions that they've presented to us.

I could go into more detail on the plan. I think it would be more appropriate when we get to preliminary plat stage. So I stand for questions.

CHAIRMAN DURAN: Are there any questions? Do you have anyone else out there with public comments?

MR. FIELDS: No, we have a subdivision engineer and an ecology expert to answer questions, but [inaudible]

CHAIRMAN DURAN: This is a public hearing. Is there anyone out there that would like to address this issue? Please step forward.

1650829

BECKY BUSTAMANTE: Mr. Chairman, if we could have them all stand up so I can just swear them all in.

CHAIRMAN DURAN: Okay, if you would all raise your hands. And please try not to be repetitive and long-winded.

[Duly sworn, Hollis Whitson testified as follows:]

HOLLIS WHITSON: My name is Hollis Whitson. My address is 3 Camino Mayancita. We appreciate, Chairman Duran, your concern for time. We have, at least a number of us have coordinated our presentations, planned them. They're very specific. We plan no duplications, but we can't speak for everyone in this room. We have brought the bare minimum of voices we feel you need to hear. At the same time, we're being asked to cover an enormous amount of material and we'll do so as efficiently and effectively as we can.

I am -- my role in this is to sort of get it started and cover some legal points. We need to make a record on those, and so that's my role. Others of us will address, probably a little more briefly, specific topics, specific variances. The problems that I see from a legal perspective are the same kind of problems that occur whenever individual speculators or developers are not required to follow the same rules as everybody else. I agree with Mr. Catanach. This is unheard of, not only the number of variances, but the manner in which this is being presented. It requires some legal comments. Mr. Fields read from both the regulations and the Code and where the section cited it, calls for liberal interpretation. Mr. Fields did not read the next sentence. The next sentence in both of the regulations and the Code are identical. And they say the provisions of the Subdivision Regulations or the EZO, the provisions of the EZO, shall be considered the minimum requirement to meet the purposes.

It is plain that the Code and regulations cannot be met without the number of variances they seek is preposterous. And it is -- the Code and the regulations say very clearly that they are the way in which the decision makers in our County have decided that the purposes will be met through the Code and the regulations that were adopted. The reason that we have concerns from a legal standpoint that policy made in the master plan has been broken is because of the many references to what the concept, the compact urban form, the small city, if you will, that Mr. Fields and his friends and family are trying to implement in the rural district of this county.

They have a master plan approval, but as our attorney, Earl Potter likes to say, this is where the rubber hits the road, and that's what we're here for tonight. And the thing about what these variance requests brings you in the plan, and they say that frequently, that this is such a good concept, and their concept was approved at master plan. Of course, I remember at least 2/3 of the Commissioners sitting before me at that stage. But there are two things. One, you really have to do it. You really have to do the concept and implement it, and number two, you have to do it on a particular place of [inaudible] You have to do it in a particular place. And that is why we have these variances. Not because the concept

1650829

won't work without them. But the particular piece of land is so ferociously unsuited for the development they're proposing.

Granting variances to the proposal are not justified legally. There is not a factual showing that is required by the courts that have considered what an adequate showing is. There are conclusory statements. Many drawings -- and I won't go through them and take out each one and I don't have to, to make the record here. In fact that these are based, they say they're based on consultation with so-called experts, but they do not explain who they are, what they considered, or what their opinions are. They say things like [inaudible] an engineer. We have a parking study. This is the kind of things you read.

COMMISSIONER GONZALES: I don't want to lose my thought wave before proceeding forward because I know you're getting to the point, but correct me if I'm wrong. What you're stating here is that Mr. Fields and the families could still accomplish what they were given conceptual approval for on, are you saying on other parts of the land? And not this part of the land where they're wanting to put it?

MS. WHITSON: They -- all they have received approval for now, Commissioner Gonzales, Mr. Chairperson, all they've received for it now is a master plan, a concept. If they can't really do it, what they promised, or they can't do it there, they don't get variances granted and they don't get a permanent plat.

COMMISSIONER GONZALES: I'm just trying to understand your point. I mean, conceptually you're right. They were given approval for a concept, a new concept, this new urbanism, whatever you call it, compact development. And what I'm hearing you say though is that this new urban type development, compact type development won't work on the land that Frijoles Village owns?

MS. WHITSON: Well, Commissioner Gonzales, Chairman Duran, [inaudible] But in terms of the variances, if the individuals cannot build it there, if they had a master plan approval to build it on the moon, they have a master plan. But if they can't come in here and show you a coherent way they can do it --

COMMISSIONER GONZALES: If we can focus specifically just on the variances, and you'll have to assist me in this, but as I read through the variances, what I'm reading is variances to the minimum width of right-of-way, the minimum width of roadway for arterials, the minimum width of right-of-way of easement for a collector road -- these are all issues [inaudible] that accomplish this conceptual approval, they would have to have variances whether it was on the moon, Frijoles Village or down on the state land New Mexico 14. Right? Or is that not?

MS. WHITSON: I disagree. And I'll tell you why, Commissioner Gonzales and Chairperson Duran. The reason I disagree is because of the justification that has been provided in this submittal. Because the justification given for the variances given is that they have what they call a semi-mountainous piece of property. I don't think they have made a factual showing that it is that different from other property. And I also, it is not a valid justification, it is not in the criteria for granting a variance from ordinances or from a

1650829

regulation that the zoning regulations in Code don't provide for that kind of development. That's the reason for denying it.

Because our legal argument, you see, is that they need to get a zoning change if they want this new variance. I count 46 to 48 variances and that's if you don't count each specific spot. Typically, when applicants come in with variances they have a master plan or a preliminary plat and they say right here in this session we want a variance. You grant this variance tonight and you have granted it carte blanche. And a matter of record and I'll try to repeat though I promise not to until Chairman Duran comes back, Mr. Catanach summarized a 95% variance, but in the materials it can even be 100%.

In the absence of knowing where the road is and what specific plat, what preliminary plan they have for development, you are granting property rights, a variance [inaudible] and so that's what I'm saying. The legal problem here is that you can't consider the variance question separate from the preliminary plan. I assert that you can't be a village type environment in this area under the current Code, but you certainly can't do it [inaudible] to see what they're doing. You don't know what your variances are. That's what I'm saying.

Not that one can't be done, but one can't be done until you have the plan before you.

COMMISSIONER GONZALES: Okay, well I'm completely lost in what your argument is. Is it [inaudible] I think you're bringing up some valid points. To me, we're looking at variances that the applicant is bringing forward to support this conceptual nature of Frijoles Village which was adopted by the EZA and the BCC.

MS. WHITSON: Yes sir.

COMMISSIONER GONZALES: Then I hear you say the point is they're not asking for the variances because -- they're asking for these variances because possibly they don't want to do it in conformance with what our Code already allows them to perform this type of new urbanism type conceptual development?

MS. WHITSON: They -- let me, if I could, answer by going to the court case.

COMMISSIONER GONZALES: I need some idea of why this couldn't be done in conjunction with the preliminary plan and that [inaudible] I need you to help me stay focused on these variance issues and then we can take on the issue of why it's not with the preliminary plat approval, it's separate.

MS. WHITSON: Right. The point is the legal status of where we are right now is not can they do this under the present rules. The question is have they met the criteria under the rules to get a variance? Throughout their project they've justified the variances that we couldn't do our project, we couldn't do our compact dense urban form. We couldn't do our [inaudible] if you don't give us a variance. But those aren't the legal criteria for granting a variance. And they do have to follow the rules. As a matter of fact Commissioner, you personally promised a number of people in the community including the applicant, that they would have to follow the rules. So let's see what those rules are.

COMMISSIONER GONZALES: [inaudible] stick to what the variance

1650829

requirements are and the justification of the variances. We're talking to that issue.

MS. WHITSON: The justification of the legality of the showing that they've made. And I'll [inaudible] the point of considering them together because I'm going to stay on the train now.

COMMISSIONER ANAYA: Excuse me, Mr. Chairman. You've got to keep in mind that this is -- at least since I've been here, this is the first time that any type of cluster development has ever come before the EZ or the Board of County Commission and taking that into consideration, how these variables formulate as we go along with this particular first type concept. I'd like for you to stay focused in that direction. Because it's new. It's original.

MS. WHITSON: Yes, Commissioner Anaya. There are examples in this community that are much larger. Rancho Viejo is a great example of this kind of development. There are others. The Code does provide for cluster development where there is 80% open space there could be clusters and it's not strictly 2.5. It can go down to one per acre. So there are provisions for the Code for this. But what we're saying, we're not at master plan. [inaudible] We didn't run to court after you guys approved master plan. But now we're at the variance stage and the courts have said that the criteria isn't [inaudible] the criteria isn't, gee, could you do it under the present Code. The criteria, according to the court of appeals -- I'm citing from the Downtown Neighborhood Associations vs. the City of Albuquerque case are as follows. And this is the legal question, and then we have all the specific criteria. And I'll just read it. The first criterion is whether their parcel, their property is distinguishable from other properties that are subject to the same zoning restrictions. They certainly haven't shown that.

The answer depends upon whether, as a result of the differences between this parcel and others, the zoning restrictions create particular hardship for the owner. The test is whether, because of the differences, the owner will be deprived of a reasonable return on his or her property under any use permitted by the existing zoning classification. If the question is answered affirmatively, then the body considering the variance is entitled to infer that there are exceptional or special circumstances justifying consideration of a variance. If not, the applicant must make a change in the zoning restrictions. They can't come before you and ask for 36 or 48 variances at least. That's not a variance. That is not a specific, limited, minimal easing under hardship.

The subdivision codes require that the hardship be something like medical. There is a medical --

COMMISSIONER ANAYA: We're still focusing under the auspices of a first time cluster approval.

MS. WHITSON: They still have to be authorized by --

COMMISSIONER ANAYA: Your legal --

MS. WHITSON: My legal point is, Commissioner, that to do what they want to do on this piece of property, they have to rezone the property. They cannot effect

1650829

through variances a zoning change. That's illegal. And if the court makes more --

COMMISSIONER TRUJILLO: But you have to understand, ma'am, that we're in a transitional period. The whole focus of development in Santa Fe County, the General Plan, is toward cluster development. This is a transitional period. The Code that you're talking about will become obsolete in the next four months. This county is heading into the area of cluster development. The whole General Plan is being put together towards that focus.

COMMISSIONER ANAYA: Thank you, Commissioner Trujillo. That's exactly what I was focusing in from from my direction. I asked you to focus your legal thought in that same direction.

COMMISSIONER GONZALES: Mr. Chairman, I understand what the counselor is indicating here, is that there is a Code that we currently live under and I think the issue that they're bringing forward that the rules that that Code is calling for submittals and so I don't want us to get lost in what's going to happen four or five or six months from now, what we're working towards essentially. I don't want to waste the counselor's time in trying to address something in the future where this is needed now. But because we're at the whole point -- let me ask the staff this, and I'm not sure where Denise has stepped away, but at the master plan level, was the property rezoned for this type of use, this type of new urban type development was adopted? Was that considered a rezoning? Can you address the counsel's issue concerning this point about the fact that it hasn't been properly zoned?

COMMISSIONER ANAYA: It's inherent in the previous approvals.

COMMISSIONER GONZALES: What the counsel is saying is that this property has not been zoned for the uses being presented tonight. Is that right?

MS. WHITSON: Yes, and more specifically, this variance package amounts to a rezoning.

COMMISSIONER GONZALES: To a rezoning, right. Without following the due process that we do follow the zoning. Right. Okay, because I think that's the crux of your whole argument here tonight is really the issue of zoning.

MS. WHITSON: We have a number of arguments but --

COMMISSIONER GONZALES: I think that's the big issue.

COMMISSIONER ANAYA: I think the issue is inherent in the preliminary or the conceptual approval. I went through both the EZA and the Board of County Commission is the request before us tonight, inherent in that procedure and that approval, I think the legal focus --

COMMISSIONER GONZALES: Well, no. The point is when this master plan was approved, whether it was zoned properly for what's being presented and what's going forward.

MR. CATANACH: The property is zoned under the master plan. It was zoned under the master plan in accordance with the zoning criteria that's in the ordinance,

1650829

so it didn't -- there was no -- I guess the point I'm making is that when the property was zoned under the master plan, it was zoned in accordance with the zoning ordinance criteria, a density transfer and a density bonus. That was the two zoning criteria if you will, that the property was zoned under in the master plan which he is in conformance with the zone, the current zoning ordinance.

COMMISSIONER GONZALES: Okay, so we know that this property has been properly zoned. What I'm hearing you say now is then that these variances are going to constitute a rezoning of what's currently happened? Or is that --

MS. WHITSON: Yes, Commissioner, they have not received permission for these 48 things they're requesting. That's what they're here tonight --

COMMISSIONER GONZALES: Are you challenging the request, are you challenging the process they're following to ask for this request of the thirty --

MS. WHITSON: We haven't received your argument related to the notice and related to consideration of a variance in a vacuum, variance without a plan. I don't think that's legal. So the big things here are serious legality problems with that, but the argument and you and I and think Commissioner Anaya would stay on track with was whether or not, when they got approval in the master plan for a certain number of units, they certainly didn't get approval for 100% lot coverage. That's what they're here tonight doing. And according to the ordinance --

COMMISSIONER GONZALES: Would we have talked about that at the master plan level? What the lot coverage would be? Would we have talked about the actual specifics of how the widths of the roads and all these variances that they're requesting?

MS. WHITSON: No.

COMMISSIONER GONZALES: And I'm asking you an honest question because we get to deal with master plans, but at the master plan level do we really move into this detail that they're asking us to approve tonight?

MS. WHITSON: No, the detail comes at preliminary and plat, and that's exactly what this Commission said, you individually said, we're going to handle, and I think Commissioner Anaya told me, I think, we're going to handle all this at preliminary plat time. Well, here we are and they haven't even submitted a preliminary plat. I don't think it's legal to consider these variances in the abstract. But I did want to cite from the Code, from the EZO, to explain again this legal argument. Perhaps the Code says it better than I do. From Section 3.7b or a. Variances are intended to afford relief from the strict letter of the ordinance requirements to protect against individual hardships where there are unique circumstances of a particular property. Not for the project, for the property.

The case of a variance, therefore depends on its own face. The purpose of variances is not to effect amendments to what are perceived to be flaws in the zoning ordinance, nor to effect rezoning, nor to relieve personal problems or inconvenience to the property owner. Variances are not to be used to permit buildings, businesses, densities or intensities or uses prohibited by ordinance, nor to authorize zoning violations. Applicants should use rezoning

1650829

or special exception or ordinance amendment may be the appropriate mechanism in these circumstances.

COMMISSIONER ANAYA: In the essence, Hollis, if you're working on the old concept of the Code, you're not taking into consideration of the projection of what we're following through now on all the planning and general planning in accepting the cluster type of development and you're working under that auspices, thus by creating another waiting period for Frijoles Village to material in say four months to make it authentic?

MS. WHITSON: Under the proposed General Plan, sections of which haven't been adopted, Mr. Fields would have to seek a zoning change. We're in the rural district. We're in the rural district, and if that new plan were completely in effect today, he'd have to come in here for a zoning change actually under the new plan. Our district is not slated for this kind of a new urbanism.

COMMISSIONER ANAYA: With the concept of that there's a lot of favoritism from both City Council and the County Commission and all the planners on both entities. I'm trying to justify what you're saying in my mind and yet still trying to visualize the potential being materialized in the future. And I wonder what kind of monkey wrench you're throwing in to the process of this type of development, you see. That's what I'm trying to formulate in my mind.

MS. WHITSON: Yes, I can see that -- I think that if I can return just a little bit more to some of my points then.

COMMISSIONER ANAYA: [inaudible] give the other people a chance to speak.

CHAIRMAN DURAN: I'll chair this. I'm going to give you three more minutes and then --

COMMISSIONER GONZALES: Mr. Chairman, let me just intervene. I have just taken probably the last ten to fifteen minutes of her time with questions that I veered her off into. She was making her presentation and I stepped in and started asking serious questions. I just wanted in the interests of fairness --

MS. WHITSON: I'm sorry. There was quite a battle going on an actually I've been politely as possible encouraging the gentlemen to let me return. I think their questions will be answered. One of the criteria for granting a variance as we discussed in the court case is in the Code and the regulations is that the variance cannot incur any special [inaudible] So then, throughout this request, what do they say? Their answer is that other [inaudible] and as I indicated their project is at stake, and that's not legal.

They will not be deprived of a reasonable return on their investment. They may not be able to build as many homes as you've approved, but they will not be deprived of a reasonable return on the investment. The hardship cannot be self-imposed. They have throughout this submission said that the hardship is caused by policy, that some people are talking about and a buffer, a variety of things. But in fact, the hardship is caused by them coming in to, Commissioner Anaya, what will be the rural district and coming up with 100%

1650829

lot coverage, and other things, an urban form in what's going to be the rural district as a matter of fact.

And they have to seek a zoning change if they want to do what they're doing in the way they're doing it. And they say that throughout the submission. I would request this body to grant only variances as identified by staff because it is not legal to grant, again, not only to grant them in a vacuum outside the plan, but the way that the variances have been described in staff report is quite general. But the way the applicants have described it is worse. And I'll give you an example that might be near and dear to your heart, Chairman Duran. You asked about lot coverage. And in their plan -- I'm sorry, in their submittal, they asked for in one area, 100% lot coverage and that was not recorded by staff in the staff report. It was recorded as 95%.

So when you approve, if you approve variances tonight, I recommend only the ones that are mentioned. You don't know what's in this plan. There are a number, as I said, a gross number of variances that have not been identified and you have to be sure of what you're actually granting and that the legal basis exists for each of them.

COMMISSIONER ANAYA: Hollis, are you representing just yourself or a body of people?

MS. WHITSON: I'm presenting legal arguments, I believe endorsed by the Sierra Azul, a number of residents and the homeowners associations in there.

COMMISSIONER ANAYA: Do you actually think then, for the sake of saving time with you, are speaking for everybody out there?

MS. WHITSON: The terms of my employment, I am an attorney and the terms of my employment do not permit me to represent others in the private practice of law. So I have consulted with our attorney, who is in Madrid, Spain [inaudible] and I am presenting the argument that he would present were he here. But I submit it on my own behalf at this point, although I believe it's endorsed --

COMMISSIONER ANAYA: On your own behalf.

MS. WHITSON: But everybody isn't going to repeat it. We're not redundant. Throughout the submittal, the criteria has not -- basically what they were doing is they are saying what they wish the Code were. What they wish the zoning and regulations were. They do that by citing the AASHTO standards as if that was a reason to ignore the Code, if it has not been adopted by this County, it shouldn't be. Another problem in there is improper delegation to the Fire Marshal and the Traffic Engineer. You're being asked to grant variances that say let them decide and if the Fire Marshal and the County Traffic Engineer are asked to review the granting of a variance without notice and opportunity to be heard by the public and we had a public hearing, that would be improper delegation of legislative authority to the executive branch and that occurs any number of places.

It would violate our due process, our right to be heard. [inaudible] A number of the variances are so interconnected that already what's been deprived of the applicant affects other variances. The best way I can described this is an example with the curb. They ask,

1650829

they justify the curb radius variances based upon their zero setback permits, which of course if a different variance. This is why this is tantamount to a rezoning and why it is illegal to do it in this form. When it is rezoned, the public has notice and opportunity to be heard about what these are and Commissioner Anaya, when that occurs, we will be able to comment on whether or not lot coverage is safe. Many say zero setbacks are safer. I have a three-year old child and a four-year old child and I think the farther my kids are away from the street the safer they area. So I think that's something that needs to be debated in the context of the zoning change and a good example for your consideration.

Another example is their intersection, grade, the spacing between intersections, the spacing between ingress and egress have all been justified based on speed, on the lower speeds they requested. Well, they aren't going to lower speeds they requested. Staff and the EZC have recommended against what they requested in the way of speed. What does that do then, to their justification for the distances, the grades and the radii? They basically have no parking out on the street, and yet there's commercial development is based on parking. They come in here and they say variances, we need variances, but if you read the variances, they come in and they take away things that are necessary for, as they say, the village concept.

I have only a few additional remarks to make. We don't know, in fact I can about guarantee they're going to be in here with more variances. And again, this speaks to the legality of this body considering piecemeal variances separate from the plan. One of the justifications for the variance has to be that the ordinance would deprive the applicant of rights commonly enjoyed by others. And what they did throughout their submission is they say that the ordinance would deprive them of the parking. The ordinance would deprive them of the narrower roadway. The ordinance would deprive them of the height. It's circular is what it is. They haven't shown why the ordinance would deprive them of a reasonable use of their property as enjoyed by others. They are not meeting that legal criteria.

I've discussed the fact that this is self-imposed. Some people may like it. Some people don't in that area, but Commissioner Anaya, we cannot deny as a legal matter, it's them and their chosen project that brings the need for the variance. It is self-imposed in that sense.

One of the requirements is that the easing of the regulations must be minimal, the easing of the Code must be minimal. This is anything but minimal. I need to say little on that. The justification as stated in this request is literally, time and time again throughout this document, it's minimal because it's minimal. It's safe because it's safe. They have no facts to show it. They have no sufficiently legal facts worth showing.

One of the arguments they make, Chairman Duran, on lot coverage, is that their overall lot coverage is necessary so they can have all this open space and that the overall lot coverage, over their entire acreage is low. That of course is not a legal reason for the variance either. That's not the criteria. The criteria is whether the lot coverage on

1650829

individual lots is 40% or greater.

And in fact another reason to emphasize why the plans should be here is that most of the open space, almost all of it, is undevelopable arroyo. It's flood plain. As they say in their own submission. It's not territory that they could build on anyway. It is not true that you have to grant all of these streetscapes and lot coverages and zero setbacks and no radii and hammerhead turns for our fire engines to get the open space. I saw it. Nobody's building in the middle of the Arroyo Frijoles. Ever. That is not true, nor does it constitute a hardship under the Code.

It sets a terrible precedent. Basically, it is burden of the applicant and the burden is not on this body to prove that they don't meet the criteria. They have to make the showing in order for this body to really grant variances. And not only have they not done so, they have brought this matter to this body in a way that is illegal, violation of the public opportunity to be heard and to notice. The notice for this hearing, as the letter that you have and Mr. Trigg make speak to it himself shows that this notice was faulty. There's no question about it. The question is what to do about it. This notice, notice, variances and the plat, it is a deprivation of our ability to review. We have been prejudiced by no ability to really assess a lot of what they're asking for because they haven't submitted.

The State Engineer says they don't have the water. They're still talking about that. You're probably aware and someone will point that out. It's in your packet. At this point, the City permit is not valid. The Soil and Water Conservation District, as well as the State Highway Department has said the submittal is inadequate. And with an inadequate submittal, this body cannot go to the variances and consider them in a vacuum. I greatly appreciate the courtesy I've been given in making up for lost time. If there are more questions, I'm available.

CHAIRMAN DURAN: I have a couple, please. Let's get away from the argument that you are making that it doesn't meet the criteria for granting of a variance. And let me ask you a question. The Code right now requires that the road, or the streetscape out in the county be 66 feet in some cases, 50 feet in other cases. And if you look at the variances, 1 through 9, they all have to do with the streetscape. And I think that it's cutting edge planning to adopt or to lessen the streetscape standards in rural areas when you are trying to create compact development. And I really believe the variances 1 through 9 deal with that.

I understand that even maybe 10 has to do with that. Eleven, 12, 13, 14, 15. So most of the variances actually have to do with streetscapes and how, in my opinion, a 50-foot swath of pavement has much more impact than a street that is 22 feet. It is safe. It meets fire protection requirements. I understand what you're saying that you believe that most of these variances don't meet the criteria, but if you look at the ones that perhaps really we need to be concerned about, it might be number 16, which is the lot coverage. It might be 17 which deals with disturbance of slopes. Eighteen has something to do with height. I'm just curious if your organization or if you're representing no one but yourself, is there

1650829

anything in this that you can't see as being beneficial to the community?

MS. WHITSON: Chairperson Duran, there are a variety of things, I think that are beneficial to the community. Many of them are mentioned in this applicants master plan and they're not happening. There's no school, no fire station. There's no --

CHAIRMAN DURAN: I'm asking you about the variances that are being asked for, not other aspects of it.

MS. WHITSON: My personal belief is that this is not good for Santa Fe. It is a high-density commuter subdivision which will add to this county's overburdened water resources, traffic resources. I agree with the State Highway Department that the traffic study is woefully inadequate. I think it will horrifically impact areas and I agree with the schools that it's going to impact overcrowded schools. The other speakers are addressing a lot of the individual topics you've raised. And we even have one or two talking about those narrow streets. We don't think they're safe. We have one. [inaudible] off the end of them. Some of these guys built them and they didn't follow the subdivision regulations when they did that either. This was one of the serial subdivisions by Mr. Hoffman and Mr. Etre.

So no, we don't actually think even the narrow streets -- we think, again, I don't want to be redundant with the people that will address it. But we think that for example, especially on dirt roads that go up and down, and they're sandy, they're exceptionally dangerous. We think people will park on that street. Just like they do in Tierra Contenta. We think they will ignore the homeowners association signs, and the homeowners association doesn't have the authority to ticket them. We have signs on our road.

COMMISSIONER ANAYA: Mr. Chairman, why don't we let other people speak.

CHAIRMAN DURAN: I will.

MS. WHITSON: Your questions I hope will be answered by the others. There are some things that are beneficial about developing our neighborhood. And we'd like to have a developed neighborhood. But I personally feel very strongly that this is very bad for Santa Fe. This is not a village, and you'll hear that tonight. And it's not the direction we should go. We think villages are a good idea. We support that concept. We would support it there is they could come before this body and show how they can do it without thwarting what the Code is designed to protect.

And what the Code maintains, Commissioner Anaya, the criteria for a variance is wrong.

CHAIRMAN DURAN: Thank you.

COMMISSIONER GONZALES: I have to ask the question. And again, I may be stretching this but I want to ask you anyone. At the point that the BCC and the EZA approved the conceptual plan of this new urbanism type village to occur we all knew what they were presenting. There was packets that came before us. We knew there were going to be narrow streets. There was going to be a very tightly formed compact development. None of that was ever hidden by Mr. Fields or the fourteen families that came forward. At

least that's what I remember the process being.

When we adopted that conceptual plan of this new urbanism type concept and we zoned it for that, could we argue that the Code in the way it existed wouldn't support what that zoning was, and therefore variances would be needed to be able to support that? It was an action that was taken by this body to rezone it to the form of new urbanism compact type development. We basically approved a master plan that the Code as it's written with 60-foot width roads or whatever the width is, would never support. So there would be this need for submittals of variances to narrow the size of roads to support this conceptual approval. Is that a wrong way of looking at this?

I hear what they're saying is that they work with the legal requirements and the hardship created by our action of rezoning this to the type of concept that was basically presented to both the EZA and the BCC. We supported this form of new urbanism type development which called for narrower roads, which called for tightened, compacted development. And the Code, when you try to implement and follow the letter of the Code and you have 60-foot width roads in what's supposed to be a tightly compact new urbanism type development, it doesn't wash.

So I guess I wanted to say, am I looking at this the wrong way also? Is there not a need to request variances based on the zoning that was approved for this type of approval? Because we did approve a master plan where they had presented that this was going to be a regular type like Rancho Viejo. That was not presented to us. Everyone knew, and we had countless news stories that this was going to be a very different type of development for Santa Fe County. And so we moved forward and we approved the master plan based on that.

How would you propose that the applicant support and make good on the subdivision that they promised us unless they were to come in and request the variances to provide for the narrow streets and some of the requests that are coming forward? Because I agree with Chairman Duran, 16 through 19 are things that are separate from what I understand to be possibly the new urbanism or this type of village. It seem the others are focused on the roads, and those variances really --

MS. WHITSON: I'll try and have a short answer to a long question, Commissioner Gonzales. And I think I understand what you're asking. Commissioner Gonzales and Chairman Duran, I believe that I agree with Mr. Catanach, that what was the only legal effect of the master plan in terms of authorizing something not apparent by the Code, was telling this applicant at that point they had legal permission to proceed with 433 units. And to cluster, even though the Code, outside the urban growth area says if you cluster you get one per acre and you have to have 80% open space. And we -- Mr. Virgin is here tonight. We won't have the benefit of the this math but we sat through hours of math about the number of units, and that's what was approved. [inaudible]

And as a matter of fact, when we raised objections at that time that in fact, on that piece of what they call semi-mountainous property, this would not be a good place to put

1650829

this. This would be a bad idea. And that wouldn't be affordable, so that you have the problems from the schools. We've tried to raise that and what we were told by this body, like every developer and every opponent that comes in there, was that we'll handle that at variance, at preliminary plat. This is where those issues are handled. I do not agree that granting of a master plan, essentially zoning, or variances that haven't been properly presented to the body, and notice and hearings held. No. I urge you not think that the master plan approval granted these some odd 40-odd variance requests. Absolutely.

COMMISSIONER GONZALES: I wasn't saying that it did. What I was saying was the master plan approval required that the applicant to come forward and request the variances as they've done now. They have met the kind of conceptual approval that we put in the master plan.

MS. WHITSON: Only if they are hell-bent on making every penny from the land they have. Because what they should have done, again, I'm not in their shoes, and I wouldn't be. What a reasonable interpretation of the Code and consistent with master plan would have come back in here and say, gee, Commissioner Gonzales and Commissioner Trujillo and Chairman Duran, I'm sorry, Commissioner Anaya, you approved our master plan for 433 units. You know what? We found that we're going to have to disturb 1000 square feet behind the hotel, a 30% slope. And we found out that we were going to have to not have cul-de-sacs, we were going to eliminate cul-de-sacs and have hammerhead turns.

And we found out all of these 30, 46, I count up to 45 and I know there's more because they haven't told us where they're doing all this and those should all be counted. A proper variance request counts each site where you're going to have a variance. There's hundreds of them in fact. They should have come in and they should have said, you know, gosh, we're going to have to make a little less money because we can't do it on this particular piece of property.

CHAIRMAN DURAN: Okay, I think you've answered the question. Thank you very much. To the rest of the speakers, I am going to make sure that you do not get repetitive. If you are, I'm going to call you out of order, so please come up with new information. Thank you.

[Previously sworn, Don Trigg testified as follows:]

DON TRIGG: My name is Don Trigg and I live at 133 Sierra Azul in Santa Fe and I certainly accept your requirement. I want to cover a couple points. One point I want to cover is the non-road variance requests that you talked about, 16 and 17 and so forth. I also want to speak to what I think is the artificiality and the prejudice that results in splitting the variance requests from the preliminary plan approval and finally I'd like to respond to Mr. Fields' comments about why he thought that was appropriate.

If I came to you and asked you for a building permit to build a house and told you I didn't have any plans, but I really wanted a building permit now so I'd know what kind of plans to draw and don't worry, trust me. The plans will be okay. I think you'd throw

1650829

me out on my ear and you should. That's precisely what Mr. Fields is asking you to do on behalf of Frijoles Village.

I also want to tell you that I join in Hollis' legal points to you and I would suggest that if the other speakers don't join in those and share her legal comments to you, that they opt out and that otherwise you assume that we all join in those comments. I know that I do.

Even if the variance requests are proper as a matter of law, and I believe they are not, nonetheless, there's been no factual showing to you that would permit you to pass on the variances one way or another. We're all kind of operating here in a factual vacuum. It's really been one of the problems that we've had. It's the reason I objected when I found out that I couldn't rely on the notice and that once I got the notice, I went down to the courthouse and I asked to see the file and I found out there wasn't anything in there that could tell me anything one way or another about the variances because the preliminary plan had been pulled and the engineering work-up, terrain management plan and so forth that are customarily a part of it weren't available for me to review.

And that's the reason I sent you the letter and that's the reason I protest and I stand on the letter. That's also why the County ordinance and your custom requires that those variances and preliminary plan are reviewed concurrently, in parallel, to deal with precisely that problem. Here's an example of how this harms us. This is the map that comes from the Frijoles Village filing. It's not a map I prepared. I did add the coloration to it and I did that simply to point out some things to you. This pink is Sierra Azul. The blue is the Arroyo Frijoles and you can see that Sierra Azul crosses down here the Arroyo. The green is where the Sierra Azul Subdivision is located, and the orange that I outlined here is what I believe to be the Frijoles Village proposed development area. I say I believe because it's not precisely clear to me from the map exactly where the development is going to occur, but it appears to be on both sides of the arroyo.

Now, Sierra Azul is a dirt road. It crosses the arroyo at grade and when it crosses the arroyo at grade there's a concrete roadway built across the arroyo for you to drive on. It's kind of a neighborhood joke that in the monsoon season you want to come home from work early or you want to come home late, but you don't want to come home at five or six o'clock because when we get rain that arroyo fills with water. That is the current condition. In October of '98 we got some rain and there was about three or four feet of water in there. Sierra Azul was not passable for approximately four hours. That is the only means of ingress and egress for the twenty-some homes that are in there and the families and the children that are there. There are three homes currently under construction in one stage or another in addition, all north of the arroyo and Sierra Azul crosses.

We're very -- I'm very concerned about whether or not the development that will occur on this 30% slope with 90% lot coverages, whether or not it will increase the run-off into the arroyo. I think logic can tell you clearly that's the case. I refer specifically to variance number 16, where the lot coverage is to be increased from 40 to 50 to 95. Variance request number 17, where the slopes in excess of 30% will be disturbed,

1650829

approximately 5,000 square feet of that will be disturbed.

On the January 11, 1999 Phase I plan report there's a request that they use earthen and armored rails in lieu of curb and gutter. That means the drainage will not be controlled within the roadway. And then finally there's a supplemental request for a variance that was filed. It's page 7-36 of Joe's report to the EZO and it asks for permission to fill in part of the arroyo to build a roadway across it. Now logic will tell you that all of that is going to increase the run-off into the arroyo, adding to the existing flooding problem and erosion problem we have.

To give you a sense of the magnitude of the problem here are some photographs one of my neighbors took. In the fall of '98, all of the neighbors in Sierra Azul had the delight of writing checks to repair the erosion, repair the roadway and to rebuild the area around the crossing of Sierra Azul. That arroyo flooded not just in October of '98. It also flooded in the summer of '98 and the fall and summer of '97 and the fall and summer of '96, and no doubt if we get some rain this summer and this fall it will flood again.

Now if all of these variances are granted and nothing else is done, it will increase the run-off. I think that's obvious. It will also increase the erosion. And that is why it's so critical that we have some sort of a compilation from the developers about how they plan to handle these terrain management issues. This is a letter from the Santa Fe-Pojoaque Soil and Water Conservation. It's not a letter that I wrote. It's a letter that's part of the file. It's part of Joe's report to the EZO. It states that the terrain management plan is inadequate. That there has not been sufficient study that's been done so that one could have reliance upon the paper that's in the file.

CHAIRMAN DURAN: Mr. Trigg, excuse me. Have you had the opportunity in the last month ago or whenever this submittal was made, has the applicant contacted you to talk to you about your concerns? Have you made an effort to discuss your concerns with him?

MR. TRIGG: I have not been contacted by the applicant. At the public hearing walk-through, I attempted to ask a question of the developer and was admonished by staff that I couldn't be asking questions. I then raised the point again at the EZC and Mr. Fields' response, as I recall it, was that the County Code prohibited the incremental additional run-off as a result of a development. I didn't find it very comforting because as I understood the County Code, the variance request couldn't be split from the preliminary plan and we had to have a terrain management in the file which didn't exist. So I really didn't have much confidence that if the County Code wasn't being honored there, why would I expect it to be honored in the future.

CHAIRMAN DURAN: Have you had any neighborhood meetings concerning the development at all?

MR. TRIGG: There have been many neighborhood meetings, yes.

CHAIRMAN DURAN: I mean with the developer?

MR. TRIGG: No sir.

1650829

CHAIRMAN DURAN: So it's just been the neighborhood discussing the issues amongst themselves.

MR. TRIGG: That's correct. Mr. Fields did attend the road maintenance meeting which was a slightly different group. I believe that was in March and at that time he handed me his business card. I guess I asked him for it. I did not contact him independently and he did not contact me independently.

CHAIRMAN DURAN: That's fine. Okay, I hear you. Mr. Trigg has the floor, thank you.

MR. TRIGG: The bottom line: they don't have a written plan to control the run-off. Bottom line: we don't have a written plan to control the erosion. Bottom line: we have none of the things that are customarily part of a variance request. Separating the zoning variance request from the preliminary plan has clearly prejudiced our ability to understand the zoning variances. It's particularly prejudicial in this case since the notice which I received, and I'll be happy to hand out; I've brought a copy of it. Clearly led me to believe that I could expect that material to be in the file because the preliminary plan to be heard in conjunction with and parallel with, simultaneous with the variance requests. That hasn't happened.

What's happened is that after the game had started the rules had been changed. It's really a homeowner's worst kind of nightmare to face a corporate developer in what certainly feels like an uneven playing field. I'd be happy to answer any questions that you might have.

CHAIRMAN DURAN: Thank you, Mr. Trigg. Next speaker please. Thank you for giving us new information.

[Previously sworn, Paul Singdahlsen testified as follows:]

PAUL SINGDAHLSSEN: My name is Paul Singdahlsen. I live at 110 Sierra Azul. I join in the comments made by the previous opponents, including legal points. And I have basically three issues that I would like to address tonight if the Chairman and Commissioners will allow me to do so. First of all I do have a chart I'd like to put up on the easel.

CHAIRMAN DURAN: I'm sorry, could you pronounce your last name once more for me?

MR. SINGDAHLSSEN: My last name is Singdahlsen.

CHAIRMAN DURAN: Why don't you give me your first name.

MR. SINGDAHLSSEN: Paul.

CHAIRMAN DURAN: Okay, Paul. Thank you. That will be easier for me.

MR. SINGDAHLSSEN: I guarantee you it will. First of all, this chart outlines everything. I'm not going to go over every single point because some of them have been covered and some of them will be covered later. It outlines differences between the master plan and the development plan. And I believe that those are pertinent because it shows ways that the master plan has deviated from the development plan for which you're

1650829

supposed to be allowing variances to and you're not even addressing the development plan.

The terrain management is something that I'm going to speak to a little bit later. Regarding run-off, Mr. Trigg has spoken to this. The commercial development will be spoken to later. One aspect about that I'd like to gloss over is there are, there are still no commercial commitments for their commercial center. There is not a viability certification from the Land Use Administrator that they say they need if it's going to work in a commercial development and those are things that were promised. Their building phasing has changed substantially as well, even though that's not specifically addresses and in the variances it's still pertinent, I feel.

Again, the viability certification by a Land Use Administrator is something we have not seen, so who knows if this is really going to work according to administrators. They did promise a public school. There is now no public school. The roads, haven't spoken to you, they will be at greater length addressed. And the impact problems with the communities. It will be spoken to later by another speaker, but I think that relates to some of those variances may be sixteen through twenty that you have spoken to in a lot of respects regarding the variance for a 40-foot tower, I guess now three 36-foot towers. The traffic impact -- things that aren't addressed, both noise pollution and light pollution.

Basically, I don't want to spend a whole lot of time on that. One more thing that I wanted to address tonight was within the staff report there are numerous negative recommendations, some of which have been addressed so I'm not going to go into those in detail but I want to point those out to make sure that you all are aware of that.

The State Engineer's Office has said that the plan is not in full conformance with the County Subdivision Regulations and no opinion can yet be given as to whether sufficient water will be available to meet the full requirements of this subdivision. The attorney for the State Engineer's Office has concluded, has said it is my conclusion that the subdivider's water proposal are not in full compliance with County Subdivision Regulations and an opinion regarding the availability of water for the subdivision cannot be given until additional information is submitted.

Again, according to the State Engineer's Office has pointed out how the application and the water permit application state that the place of use is in Santa Fe County but has been advertised as having a place of use in the City of Santa Fe. He says that this is a discrepancy between the advertisement and the application is potentially serious the holding of the New Mexico Court of Appeals in, and he cites Eldorado at Santa Fe, Incorporated v. Cook. It's also been pointed out that the New Mexico State Highway and Transportation has said at this time the recommendations included in the traffic impact assessment are not acceptable. These are all things in the staff report.

And it also has been mentioned that the Santa Fe-Pojoaque Soil and Water Conservation District says it is our opinion that the material in this submittal does not conform to the County Code in regard to the terrain management plan. And lastly, Santa Fe Public Schools indicates that they cannot support this because the nearest elementary

1650829

schools and high schools are already at or over capacity.

I just want to point that out. Of course, I'm not getting redundant and I hope that you all have also read that staff report. The last thing that I want to address is some terrain management issues. I'm fighting a cold so I have to apologize for whatever these aberrations come out of my mouth.

I'm a little puzzled when the applicant says that they are not asking for terrain management variances. One of the variances specifically requests to build on slopes over 30% on 5000 square feet. The road grades, some of those are definitely terrain management issues, where they're requesting greater road grade percentages. And it has also been stated that the buildings are less than 20% of the site and I have looked at those numbers. I have no reasons to doubt his calculations at this point, but the buildings proper are still only a portion of what will be graded and paved over once the city gets built out.

This juniper pinon woodlands west of Santa Fe where this project is proposed are both steep and fragile, the sensitive nature of which have not been sufficiently addressed in this plan. The only areas with less than a 5% grade are the intermittent hilltops, which in the master plan, were promised to be kept open space, although I hope you know that the development plan calls for the proposed hotel site and other businesses to be located on a hilltop. And the bottom surfaces of the arroyo drainages which run through the property. Therefore much of the areas to be built upon is anywhere from 10, 20 and 30% or even greater. Even though most of the slopes greater than 30% will not be built on, those that will still have insufficient slope analyses for these areas to be disturbed. In addition, all of the slopes in this area, as well as the areas downstream will suffer irreparable damage from the moment bulldozers begin mass grading and stripping the land of vegetation on through minimum of seven to eight years of build-out and on for many generations to come.

Those of you who were able to visit the site have seen how the general vegetation pattern in that area leaves the hilltops and most upper reaches of the slopes with the sparsest vegetation, while the lower slopes which retain what little moisture the region receives are the most densely forested. One aspect of this pattern is that the pinons are most dense on the areas which will be bladed, paved and built. These forested slopes contain hundreds of pinons upwards of 200 years old. Because of the urban density of this development, as well as variances requested for increased lot coverage up to 95%, much of this forest will be forever eliminated. It will simply not be possible to preserve the vegetation in the built area in a development of this urban density.

Anyone who has tried knows how difficult and expensive it is to transplant already existing pinons. So that option is very unlikely. Along with the loss of so many magnificent specimens of our state tree comes a collateral damage. Habitat destruction of many species of flora and fauna, the loss of the top soil in an area of already high soil sensitivity, all of which combine with the paving of 140 contiguous acres will result in inevitable regular flooding of all downstream areas.

The master plan states that the biodiversity will be preserved where practical, but the

development plan doesn't address how this is possible with 95% lot coverage. The master plan also calls for reseeding where practical and catchment ares, swales and gavions to reduce erosion. But the development plan merely states, in one of the myriad variance requests, to replace curbs and gutters with earthen and armored swales. It's impossible to accurately assess this project with an inadequate terrain management plan, which is of the utmost importance on a site, which makes a dense, urban development such as this so difficult.

I can indeed imagine a cluster type development safely succeeding on this site, but only with a fraction of this density. It is also clear that a cluster type development could work where there are sustained terrain problems based on this site and where there are fewer existing communities to be negatively impacted, and I think Rancho Viejo is indeed a good example of that. [inaudible] an urban development and an urban area within the urban growth area and south of the Bypass, which is where the County has stated it wants to see growth take place. Thank you.

COMMISSIONER TRUJILLO: I have a comment. We've been talking about Rancho Viejo and about other subdivisions in Santa Fe County, but we haven't even mentioned the model that Los Frijoles is molded after and that's the traditional community. I live in a traditional community. I drive to my house through arroyos. I climb a 30% grade to get to my house. That is the essence of a traditional community. If you look at Frijoles Village, the design, the process of the clustering that is being proposed is conducive to the lifestyle of northern Santa Fe County of northern New Mexico. That is where we're living at.

And yes, you have to cross arroyos, and yes, sometimes you have to go up the hills to get to our houses, but that is the form of development that has taken place in this community for hundreds of years. And by building another house up the arroyo, the arroyo is already running and you're going to get a little bit more flood, it's not going to stop it. It's still going to continue to run.

MR. SINGDAHLSSEN: Once it's started it's a cycle, there's no doubt about that. And --

CHAIRMAN DURAN: Thank you very much, Paul.

MR. SINGDAHLSSEN: May I respond to the Commissioner's remarks?

CHAIRMAN DURAN: No, you can't. Thank you very much. I would like all of you to know that terrain management has been addressed. Erosion and run-off has been addressed. Commercial development has been addressed. Phasing, the school issue has been discussed. The roads have been discusses and so I hope that whoever comes up next has some new things to talk about because I won't let you speak for much, for long if you're not bringing new information. Thank you.

[Previously sworn, Eric Samler testified as follows:]

ERIC SAMLER: I name is Eric Samler. I live at Camino Mayancita. And I too concur and join with whatever's been said before. I am going to speak briefly, very

briefly to commercial development because I don't believe it has been fully addressed and it's going to be brief, probably within two minutes, so if you will bear with me I hope that I can do that. And I realize we're only here on variances. However, variances do not exist in a vacuum. You must consider not only the legal basis for variances, but also the context of the variances. It can only be done by at least referring to the submissions for preliminary plat approval and comparing that to what was approved at the master plan stage.

At master plan, a condition was added by Commissioner Gonzales that the developer must show prior to the approval of each stage commitments from businesses willing to locate in the commercial area. The amendment states as follows: "Prior to the approval of each stage of the project, the applicant shall provide proof satisfactory to the Santa Fe County that an appropriate mix of businesses committed to occupying the commercial area to the project in conformity to the new or traditional neighborhood design project." That amendment passed.

In their preliminary plat submission the developers have completely ignored that requirement. Instead, what is stated, and I again quote, "Not later than the date 125 homes have been occupied, built upon and/or actively market the lot zone for commercial development. It is the express intention of the County and the village to provide the commercial development with the appropriate facilities to support the residential uses and surrounding regions at the earliest stage that such commercial development is economically feasible.

I don't know about you, but I would love to be able to borrow money from a bank and say that I will pay it back when it's economically feasible. A promise based on being economically feasible is no promise whatsoever. The reason why this lack commitment is important is because the developer is seeking numerous variances based upon their claim that they are somehow different from your every day high-density commuter subdivision.

CHAIRMAN DURAN: Mr. Samler, you would prefer that they do neighborhood commercial when there's not even a neighborhood in existence? Is that what I hear you say?

MR. SAMLER: I would prefer that they abide what was passed in master plan and what was put on this, what then was put on. And whether or not this body thinks it's inappropriate, it was put on at master plan approval and if that's inappropriate, then the proper remedy is to go back to master plan and get that amendment taken off and not just simply ignore it as if it doesn't exist.

CHAIRMAN DURAN: Is that your comment on commercial property?

MR. SAMLER: That's my comment.

CHAIRMAN DURAN: Okay.

[Previously sworn, Bob Virgin testified as follows:]

BOB VIRGIN: My name is Bob Virgin. I live at 3 Montana Vista and I want to also agree with the legal issues that have been raised here this evening.

But I would like to talk on an issue that probably has not been brought up yet. I hope

it has not. I'd like to talk about entertainment and I feel for one that this community doesn't provide enough entertainment and I support Arthur's effort here in narrowing the roads to be more narrow. I support his efforts to more allow the safety issues that we're faced with on these roads because I live right over there where in the evening I can come along and set my lawn chair up and watch these wrecks that are going to happen. Now I've got to wait to 10:00 to catch the news and I wish you'd allow this type of entertainment more often.

[Mr. Virgin's testimony is interrupted by microphone static]

I endorse that. And you people up here [inaudible] endorse it too -- end up with mad families, dead children -- safety issues without public input, without -- without rezoning, without new ordinances.

This is great. I love it. Thank you very much. I'm all for entertainment. Let's go for these wrecks, these pile-ups --

CHAIRMAN DURAN: I'm glad you're having the time of your life tonight.

[Previously sworn, Nancy Mandel testified as follows:]

NANCY MANDEL: My name is Nancy Mandel and I live at number 3 Montano Vista and I too join with the legal comments that have been made.

I will speak about the streets within the development. Chairman Duran and other members of the Commission that are still here, we appreciate your time and your willingness to listen to us. We listened a little bit earlier to I believe Loren Tryk talk about the technical design issues. And specifically he talks about the variances designed specifically for the streets. I believe Mr. Tryk said that perhaps more than one-half of the variances have to do with specific street designs within the village itself.

Part of the concern I'd like to express, I will quote, I hope that this is correct, from Mr. Tryk. The specific concern has to do with streetscape standards and I quote, "Looking for a narrower street, less grading and more environmental sensitive streets." I have some concerns about this in terms of again, if you look at [inaudible] and also the village concept, what we're doing with -- but looking at the older villages of Santa Fe. I love the state of New Mexico. I spent my lifetime running or walking through the Acequia Madre neighborhood. I don't see narrow, narrow streets there. What I do see is that there are narrow streets that -- difficulties in transportation. I see some of them walking down my streets. I myself run and I can tell you that many times between the curb and the street I have almost been run over.

So I caution sometimes, looking at a variance to increase safety issues. A traditional village -- Acequia Madre; they do not fit right on top of the street. I think most of us are familiar with that. Again I think when we're looking at a traditional village, we wouldn't want to change existing Santa Fe. As we look at these variance requests, I would also like to share with the Commissioners that once again, what we look for is for master plan and we look for authenticity in supporting the original concept. It seems that much has been lost in translation.

And then a quote earlier that said although the village may [inaudible] in fact what

1650829

really happens and I would suggest that if the Commissioners look to the safety specifically in terms of safety, that we consider these issues. Thank you.

[Previously sworn, Ginna Sloane testified as follows:]

GINNA SLOANE: My name is Ginna Sloane. I live at 88 Sierra Azul. Thank you for listening to us. I would like to support the comments that were made before me, the legal comments, and I'd like to talk about the variance request for the 40-foot tower. I drove, before coming here up Sierra Azul to Sierra Rosa and also up Bosque Azul to look at the story tower or story board that the applicant put up for Michael Hurlocker to see the height of the 40-foot tower. And from those vantage points, it sticks up like a sore thumb. When Arthur Fields spoke to us about the Frijoles Village -- I guess it was a couple of years ago -- I got this hand-out called the Village Voice that showed a picture of the village looking kind of like an Anasazi development and not sticking up above the ridgetop.

The master plan on page 26 said that commercial and civic lots shall be limited to 24 feet and I would suggest that the tower is not necessary and it will be a visual blot on the vista of the mountain from the road paths that I mentioned and also from Puesta del Sol. So the other thing was that Frijoles Village promised it would protect neighboring communities' views and this tower will in effect not do that. So I hope you'll consider that in considering variance number 18. Thank you.

CHAIRMAN DURAN: Thank you. Next speaker please.

[Previously sworn, Krista Elrick testified as follows:]

KRISTA ELRICK: My name is Krista Elrick and I live at 2 Camino Mayancita. I agree with the general comments that others have made including legal points. I'm here to talk tonight about schools. Commissioner Trujillo, I was moved by when you spoke about living in a traditional village and how part of that village concept comes from living -- there's no schools in this village, and that children of the schools could go to walk to their site and be safe from all the traffic that is outside of the development and that was something that everyone was excited about.

CHAIRMAN DURAN: I just want to say one thing please. I hope you can please keep your comments about the school relative to the variances that we're discussing this evening.

MS. ELRICK: -- public schools based on the amount of homesites and units for sale there would be about 82 students that would live in the Frijoles Village. Now that there is no school, -- traffic that is already in place going down the Bypass and to West Alameda Street -- schools that are already over capacity. I wish to make that point.

When I attended the face to face meeting on the Frijoles site itself with the applicants, they were very proud to say that a five-acre parcel of the public school site that could potentially become a non-profit educational center, which is quite different from what the law and the recommendations have been for that land. So that is something that we also want to bring to your attention that that land is not being used for a public school site remains as open space.

1650829

CHAIRMAN DURAN: Excuse me ma'am. Does this mean that there will not be any schools in the project?

MS. ELRICK: The Santa Fe Public Schools have indicated in writing that any future growth for public schools would be in the southern district of the county.

CHAIRMAN DURAN: But when there's a need for a public school in this area, you think that the two lots, which are five acres apiece won't be used for that?

MS. ELRICK: When I attended a face to face meeting with the applicant he very proudly pointed to that particular area of those two five-acre parcels as being designated as being designated for a non-profit corporation. He believed that the -- I can't recall in detail right now exactly which ones, but they were clearly not public schools.

CHAIRMAN DURAN: Since you really are addressing the school issue here, I think it's important that I get clarification from the developer that that's the case. So Arthur, I need to ask you a question. These two school sites are not going to be public school sites?

MR. FIELDS: Chairman Duran, Commissioners, presently the school site is zoned as a public school site. So unless we get a master plan amendment that site will remain a public school site. I can tell you that I spoke with the Santa Fe Public Schools on several occasions and they do not intend to use that site for a public school. We also offered it to the University of New Mexico to have a campus to move out of the space of the community college. Many people wanted the site but it was an administrative decision to stay at the community college. I can also tell you that I am meeting with the Santa Fe College of Design, which is a non-profit, high-tech, design school that wants to open up here in Santa Fe. They would like that site.

The Santa Fe Botanical Gardens would also like to do a 20-acre demonstration garden for xeriscaping and conservation and water conservation and 20 acres as well as building a museum on the site to talk about xeriscaping for sustainable communities. But that would require a master plan amendment, which I do intend to come to the Extraterritorial Zoning Authority to request.

CHAIRMAN DURAN: Thank you, Arthur. Thank you very much for letting me interrupt you.

MS. ELRICK: If I could just read a quote from the staff itself on various master planning option. It's number nine, and I'll paraphrase, cut out some parts of it. In no future event shall this site be rededicated for any other use, other than open space or the construction and operation of a public school. Thank you very much.

CHAIRMAN DURAN: Thank you.

[Previously sworn, Chris Leibman testified as follows:]

CHRIS LEIBMAN: Chairman Duran, Commissioners, thanks for bearing with us. We have a lot to say and certainly have in the time you've given us. My name is Chris Leibman.

I would like to try to clarify some points that were made. I will avoid repeating

1650829

things that have already been said. I'd better follow up on Bob Virgin's sarcastic comments regarding the roadways and the potential for accidents. One thing that Bob failed to mention was that on our narrow roadway for example, we had a very serious accident. We had a teenager racing down the roadway as teenagers often do and -- in an arroyo and thanks to God no one was killed but these are the types of things that we live with every day and are very concerned about.

Also, what has not been mentioned at all is the context of this development, with UARTF recommendations. As you are well aware, the Urban Area Road Task Force is continuing with recommendations and the roadways that go through Frijoles Village are part of that plan. So when you consider variances related to the width of roadway, you cannot see it out of context of that plan. And that plan anticipates that traffic will be coming down through our roads from Las Campanas and Camino La Tierra. And in fact the developers are expecting people to come down this roadway and use their commercial areas.

So they are not roads that are limited only to neighbors. We're going to see people coming through who may or may not respect the neighborhood and they're likely to speed in the neighborhood. Hence we hope that you will endorse staff's recommendation to make these roadways arterials and design them to arterial standards or near arterial standards. Certainly don't allow the variances that the applicants are coming forward with, which would seriously impair safety of residents in the neighborhood as well as people shopping there.

Another thing I want to speak to is --

CHAIRMAN DURAN: Just let me ask one question. You are in agreement that staff's recommendations are appropriate based on those road being used by outlying communities or development?

MR. LEIBMAN: I agree with staff's recommendation for a wider roadway - higher standards for that higher traffic would be appropriate. However, the variances that the applicant is coming for is not appropriate.

CHAIRMAN DURAN: But the variance as amended by staff's recommendation are appropriate?

MR. LEIBMAN: Well, obviously, that's for the Commissioners to decide.

CHAIRMAN DURAN: I'm trying to get you to tell me if you think that they're appropriate. I haven't decided whether I think they are or are not yet. What I heard you say is if the arterial road they're asking to be smaller in width are not reduced in width, they're okay. And my understanding is that staff has recommended that they maintain the minimum 63-foot right-of-way easement the entire length of the road classified as minor arterial. And there's no parking allowed on the arterial roads. Do you have that recommendation?

MR. LEIBMAN: Yes, I am definitely acquainted with them. However, I have to say I'm not a traffic engineer so obviously I'm ill-prepared to make a technical assessment of whether or not that's adequate. Obviously, I defer to staff's recommendations.

CHAIRMAN DURAN: You sound like a traffic engineer. I thought maybe

1650829

you knew.

MR. LEIBMAN: I do want to point out one issue. Part of that staff recommendation of parking. In order to get that roadway at width, the EZC is recommending to this body that you eliminate the on-street parking. And another problem is you're making decisions on variances outside of the context of preliminary plat of development plan. So where is the parking going to go ultimately? And without a preliminary plan you don't know what's coming. That's the point I'm trying to make regarding this variance.

A few other points. [inaudible] with Arthur Fields' engineers. We had a site visit. This is just his most recent submission, so I want to state that for the record. [inaudible section] At our meeting on the site we expressed our concerns about terrain management. He complained about coming to visit us on the weekend. I think there has been some difficulty in us coordinating our efforts but certainly I want the record to show that we did make a case -- and did have some of these meetings. [Inaudible] with reference to the plan and that is really essential. It's not just a matter of meeting with the developer but rather having the right to see the development plan.

COMMISSIONER ANAYA: I have a question. Did I hear you talk about opening up the arterials leading up to Las Campanas and so forth and bringing all those up the arterial standards? Am I correct? I was thinking of the village concept and trying to keep it within the village atmosphere. How does that coincide with the Bypass and the utilization of any crossing of the Bypass into this -- the arterial that's being requested in this proposal. -- getting away from the village concept, the fact of keeping it a small scale of a development, by small scale I mean in area. I have difficulty following what you want as far as you want arterial roads in the middle of the village.

MR. LEIBMAN: Commissioner Anaya, if I can address the first point. First of all, I think that's the contention of many of us who have taken a great deal of time and looked at where information is available. And we've determined that this isn't a village. There's no public school. There's no commitment to commercial. We believe that it is a large number of units which is going to generate a lot of traffic and all the trappings of a village which were promised in the master plan are anything but guaranteed and I don't believe are likely to come to pass. In the absence of that we have simply more traffic even going to as I mentioned from Las Campanas of La Tierra.

We have all the people in this subdivision who do not have access to the commercial. The Allsup's isn't the Kaunes's type grocery store that many of you probably envisioned when master plan was proposed. It's now a convenience store. We see this over and over and over again. Unfortunately, since of our discussion tonight is limited to variances, we have not had the opportunity to point these problems out. -- these roads as bearing nothing but high traffic. The amenities aren't there: it's not a village. There's no public school. It's a lot of houses tacked on to some very hilly terrain, and nothing more. There's no guarantees that in this plan that reassure us or alleviate our concerns that we're going to have

low-speed traffic, that people are going to hike to the grocery store to get their milk and eggs. We don't see that happening. We see an Allsup's -- justify vast numbers of houses.

That's why we believe that the road standards needs to be met, which is an arterial.

CHAIRMAN DURAN: Thank you very much.

MR. LEIBMAN: A few quick points. Again, as I mentioned when you showed support for the master plan you expected something, a complete plan. I think we all anticipated that the developer would come forward with something you could sink your teeth in and make the decision. Instead, we have a lot of unanswered questions and need answers before intelligent decision can be made as to the variances.

Another point that was mentioned was regarding the relationship of this in the General Plan and the direction that the new General Plan is taking us. Well, in fact the regional plan does not have a village in the northwest sector -- there's some very good reasons for that. The terrain constraints, the significant transportation issues associated with this area, and I imagine, I expect that's why you don't see that in the emerging General Plan.

Another point mentioned by Arthur Fields that they have water. As a point in fact, there's a negative recommendation from the State Engineer's Office regarding water availability and --

CHAIRMAN DURAN: -- Stick to the variances, please. Move on.

MR. LEIBMAN: Pardon me.

CHAIRMAN DURAN: We want to stay focused on that.

MR. LEIBMAN: That's fine. I just to make sure that we cover some of the misstatements --

CHAIRMAN DURAN: Let's stay focused on these variances, please.

MR. LEIBMAN: Certainly there's a question regarding whether or the variances can be granted because -- a traditional village or design cannot be accommodated or somehow thwarted by the existing EZO and the Subdivision regs. I think it's extraordinarily important to point out that in the ordinance it is very clear on this.

It was brought out or alluded to by Joe Catanach -- that these variances are needed to correct forthcoming and anticipated ordinances and regulations. In fact Arthur stated that the ordinances as they exist now, and regulations are for 2.5-acre lots. That's why the Frijoles Subdivision needs the variances. But the ordinance is very clear on that. The ordinance says that the purpose of the variance is not to effect amendments to what are perceived to be flaws in the zoning ordinance. I would hope you would take that into consideration when you are deliberating this issue.

I would like to conclude by saying I concur with the legal arguments that were made earlier this evening and I'd be happy to answer any questions you may have.

CHAIRMAN DURAN: Any questions of Chris? Thank you, Chris. Is there anyone else out there that would like to address this issue? Okay, Arthur, you can have the last word if you have one.

1650829

MR. FIELDS: I'd just like to make some brief comments and then ask Loren to speak from the notes that he took, some comments. Just very briefly, the emerging General Plan specifically does contemplate villages in the northwest when water is available and we currently do have a water commitment letter from the City of Santa Fe. And Mike Hamman assured me yesterday that he has done the proceedings we requested to do to retract the letter that's in the file from the State Engineer because it was a technical issue.

There are so many things that went on and it's late and I don't want to address every one of the them and I'm sure Lorn will not either. But there was just one gross misstatement which had to do with a letter in the file from the public schools saying they couldn't support this village because of over-enrollment. That is definitely false. The letter does not say that. In fact the letter says that this project will have minimal impact on the public school system.

The case that was cited, the only law case that was cited was a case that involved a zoning variance for the use of a property, whether it be residential or commercial. We are not here on zoning variances like that. We're here on design issues only. I want you to note that every speaker that spoke tonight is from Sierra Azul and that the rest of the community was not here tonight. In fact, I could have filled this room supporting it and then we would be here until three o'clock in the morning.

I'm sorry that there are arroyo crossing floods. It floods today from nothing that we did. Apparently it's built wrong and it's engineered wrong. But the Code requires that we not have increased run-off from this property and we have a hydrological expert engineer who is guaranteeing us and we're bringing before you a terrain management plan that will show that we will not increase run-off on this site. Now I'd like to defer to Lorn Tryk. Thank you.

CHAIRMAN DURAN: I have a couple questions for you. If you're to be granted these variances, could you live without the 40-foot high structure?

MR. FIELDS: The variances for the heights were 36-foot heights. The staff is recommending that there be three towers of no greater than 36 feet maximum of 1,000 square feet total area of the three towers.

CHAIRMAN DURAN: Could you live with -- the Code is 24 feet.

MR. FIELDS: Yes, the Code is 24 and we agreed with the staff recommendation of 36 feet and I want to point out that the plaza area where the towers are going will be the only sites on this property that will be mass graded, the commercial plaza area, to make it level. We are mass grading it and dropping it down 16 feet. So the ridge line, the drawings that we had showing that the ridge lines will not be broken will not be broken. That is still a correct statement and a correct representation of this project. So the problem is, as Lorn can tell you, that the height would be very monotonous if it were all 24 feet on the plaza and we wanted architecturally to have some towers to break the monotony of the uniform height. That was the purpose of asking for the variance.

CHAIRMAN DURAN: Why don't you do 24 feet --

1650829

MR. FIELDS: Chairman Duran, Commissioners, there's a requirement from the County staff and the City staff that we increase the plaza area to a minimum of 100,000 square feet. If we don't have second stories we cannot do 100,000 square feet. So our plan that we have prepared has the minimum of 100,000 square feet required by your staff. If we were to have one-story buildings we could not do that.

CHAIRMAN DURAN: Is 24 feet one story?

MR. FIELDS: They're two-story buildings. Fourteen feet would be the one story. Then we wouldn't be able to do the plaza area at a minimum of 100,000 square feet with single story buildings.

CHAIRMAN DURAN: Okay, thank you.

MR. FIELDS: Thank you.

COMMISSIONER TRUJILLO: I have a question. At the beginning of this project has tended to circumvent existing, well not circumvent but introduce if you will enigmatic ways of development. Initially, when the project was introduced there was a density transfer from the urban area to Frijoles Village and that was a concern of the community. Now we have a copious set of variances here that -- I don't know. I'm asking the question whether it was unanticipated or did you know that they were going to happen? You proposed the plan, the new concept and this is the first time I hear of these variances and I think they should have been brought up since the beginning.

MR. FIELDS: Chairman Duran, Commissioners, the master plan that we submitted is full of language about narrow roads, pedestrian friendly, small lots, mixed densities. We promised, as Commissioner Gonzales said before to bring you something that you have not seen before and it was definitely contemplated in the master plan that this phase would arise. Your staff knew, when the planning staff knew, when they recommended to you, when the City staff and the County staff, that the day would come when they would changes or variances to enable us to build the village the way we promised that we would build it.

So this master plan that we have approved definitely contemplates that this day would arrive. And your staff is here, obviously, for you to discuss with them.

COMMISSIONER TRUJILLO: I guess I would like getting a statement from the staff regarding --

MR. CATANACH: I can confirm that when the master plan was presented and staff was under the understanding that this applicant would have to come back and request variances of design standards, particularly on roads, which most of these are. But there definitely was that understanding as part of the master plan presentation.

COMMISSIONER ANAYA: I remember that, Mr. Chairman.

CHAIRMAN DURAN: I remember before I was elected, talking to Arthur about the roads and how there was a huge ways to go and the City was in the middle or had just concluded the process of reevaluating their streetscape standards and I have a book, I believe in Commissioner Grifé's office. I'm glad to hear you say that because that was one

1650829

of the standards also.

MR. TRYK: Just a couple final quick comments here. This has been brought up a number of times tonight that a question of improper notice. I have to say it's the first time in my experience, in 24 years working in this town where somebody is complaining about a project that was noticed but not heard, as opposed to heard without notice. We were following the recommendation of staff to have these variances heard first because of the amount of detail that we need to provide in the preliminary plat.

I also have heard over and over tonight about how we didn't present information, or weren't forthcoming to the neighbors, particularly Sierra Azul. I just want to say that on the site visit, I stood there in front of a group of these people that you listened to tonight and offered to them at any time, day or night, weekday or weekend, to come to my office and I would show them the plans. It didn't have to be all together. I still have that open office. The plans were submitted. The project was tabled. Most of these people have actually seen our plans before, although they don't like to admit it, they seem to have a pretty good working knowledge of what is in them.

There are some, I think misunderstandings about parking on arterials. Our arterial does not run through the plaza. We do have parking on the plaza. As part of our preliminary plat submittal we have a complete parking study. It shows the parking required for all of the uses. -- and the commercial area. There were comments made about the open space being primarily flood plain. That is patently false. We're leaving 100 acres of prime land -- yes, there is an arroyo on the edge of that 100 acres, but in one single piece we're leaving 100 acres, most of which is highly buildable land. So I would not be misled by that kind of a statement.

One of the things that I would like to explain to you I'm not going to because they are simply issues of preliminary plat and not of the variances, so we'll deal with those later. There were comments made about the safety of roads and I think those bear addressing. First of all, some of you went to Portland. I think you are aware of studies that were done, there's been a street study for Portland. There have been a half-dozen done for that city, and studies like them done across the country which conclude that narrower streets are safer. That wider, flatter, straighter streets with less activity on it, with buildings not facing the streets encourage people to speed and are inherently less safe.

I sorry, that's what the studies conclude. There are a lot of roads on the east side that are safe. In point of fact, most streets don't have sidewalks. They don't have sidewalks that are separated from the street with planting strips. We do. I think that's an important distinction to make. We're looking at, what we're talking about which is a street with narrower paved section. We are not -- in the staff report and the conditions you're looking at, we are not getting a variance for the arterial width. The Arterial Task Force, arterial study, shows a projected traffic flow through our project from the north of about 200 cars, which is very insignificant. An arterial is defined as 3,000 to 10,000 vehicles trips per day.

So we're not carrying a great load of traffic from the north to our property.

1650829

However, we are not going to vary that roadway for the arterial from the 63 feet. Again, the plaza is not on the arterial. I think anything else that has been brought up today we could probably respond to better when we present the preliminary plat. Any questions?

CHAIRMAN DURAN: Okay, that concludes the public hearing process. Any discussion amongst the Commissioners?

COMMISSIONER GONZALES: I'm prepared to move for a motion. If there's any discussion --

CHAIRMAN DURAN: I'd like to say a few things before you make the motion. I think the Frijoles Village represents a development that is much needed in our community and I think a lot of effort has been put into developing something that this community can be proud of. It may have some flaws but it can serve as a model for other types of development not only in our community but in other communities. And I've always supported this project. I've always believed that the streetscape standards that the County has right now should be adopted in other areas of the community. Only because I really think that a 50-foot swath of pavement or gravel isn't as pleasing as safe but narrow streets. I just thought I'd say that.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. Keep in mind also this is a pilot proposal before us and in advocating the plot that we have in mind for changes in our particular things in our Code.

COMMISSIONER TRUJILLO: And as we've heard throughout the public process tonight, there is not a disconnect between some of the requested variances and what was in the project initially and the cluster development, the narrow street, the concentrated commercial areas and those things. I don't think that there's a disconnect between the requested variances tonight and the essence of the project as it was introduced to the public and to this governing body.

COMMISSIONER GONZALES: Mr. Chairman, before I make my motion I think that most people know that I've come a long way on this project and I opposed it the first time that it was before the Commission, or before the EZ, I'm not sure where you went to first, Arthur. And since, I've actually reached out to the families afterward to try to really understand what their intent was and I've come to believe that the fourteen families want to offer something that hopefully Santa Fe could be proud of. And this Commission showed that when I voted for this project the second time that it came back, I voted in the understanding that there were going to be variances coming forward.

I think we all understood that there were going to be issues coming forward that were going to be different and separate from the Code. And I think that this is just a continuation of that process. There are lots of issues that still need to be addressed and Arthur, it was brought up tonight it's true, there were some heavy commitments made on the commercial and I expect to see some serious intent made on that when you come back for preliminary and final. And that's something that you had promised or the families had promised that you guys were as committed to that you were to the residential because that's what sustainable

1650829

communities are about. That's what a real community is about is making sure that people can live, work, and shop in the same community.

That's why I believe in your concept and the vision of what the fourteen families said they wanted out there. And I still believe in that today and the County needs to do that. So I think we always knew that this day would come where we had to support the variances legally and get them into the record so that they could proceed so with that, Mr. Chairman, I ask to submit a motion to approve the variances as requested by the applicant with the additional nine conditions that the staff has submitted and for the record, the findings of fact that support the requests for the variances.

COMMISSIONER ANAYA: I second, Mr. Chairman.

CHAIRMAN DURAN: Commissioner Gonzales, would you -- I wonder if I could get some clarification on number 16. It's my understanding that the lot coverage variance of 50% to 95% will only occur in the plaza area. Is that correct, Arthur?

MR. FIELDS: I defer to Lorn Tryk on that please. There are specific lot coverages for specific types of lots. The highest density is around the center of each neighborhood. But Lorn, if you could come up please and say for the record again for the Commissioners --

CHAIRMAN DURAN: When the request was made for this variance, representations were made to staff relative to where this would occur. As long as those recommendations, those areas are the ones that would benefit from this increase in lot coverage.

MR. TRYK: Right. As I said before, the townhouses are 80%, the patio houses are 70%, the small lot single families are 60% and on the submittal it shows where each of those different types occur throughout the plan. So the intention is not to open the barn door to 100% lot coverage on every lot.

CHAIRMAN DURAN: Okay. Thank you. Any other discussion?

COMMISSIONER ANAYA: Mr. Chairman, just a request to the developers and Arthur Fields, the whole world's going to be watching this, so we hope that something fruitful comes forth and something that can make the City of Santa Fe and the county proud. I'm looking forward to that.

CHAIRMAN DURAN: Those in favor signify by saying "aye." [Unanimous 3-0. Commissioner Griñé was not present for this vote.] Opposed? The motion carries.

COMMISSIONER GONZALES: Before we move for adjournment, can we have the -- if the Fire Marshal has to hang out here all night, we should have people from Public Works. I had asked them for this almost two months ago that we have someone from Public Works here. I think that they need to start being here no matter what, whether there's an issue that might -- if you could deliver that message. I don't care who it is. It doesn't have to be Larry, if we just have someone who can answer questions.

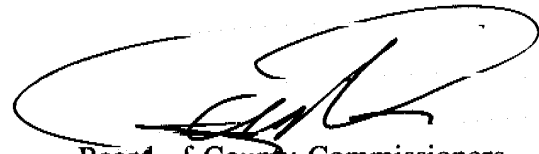
CHAIRMAN DURAN: Let's make Larry be here.

1650829

ADJOURNMENT

Chairman Duran declared this meeting adjourned at approximately 10:30 p.m.

Approved by:


Board of County Commissioners
Paul Duran, Chairman

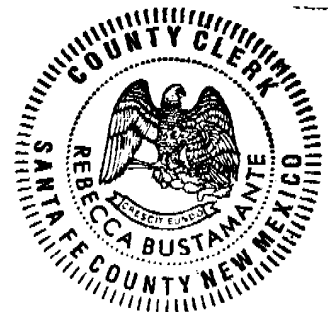
Respectfully submitted:


Karen Farrell, Commission Reporter

ATTEST TO:

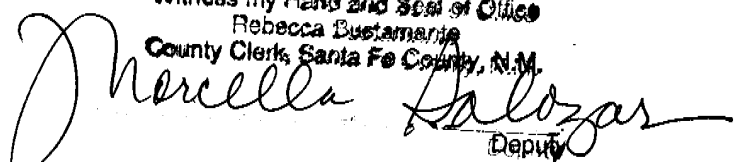


REBECCA BUSTAMANTE
SANTA FE COUNTY CLERK



1077 786
COUNTY OF SANTA FE
STATE OF NEW MEXICO
I hereby certify that this instrument was filed
for record on the 9 day of June AD
19 99 at 10:46 o'clock A M
and was duly recorded in book 1650
page 829 of the records of
Santa Fe County.

Witness my Hand and Seal of Office
Rebecca Bustamante
County Clerk, Santa Fe County, N.M.


Deputy

P E T I T I O N

This Petition is for citizens of Santa Fe County concerned with true voter/property owner participation, due process, and implementing and adopting the Santa Fe County General Plan. We make the following points:

The meeting on Monday evening, May 10, is the first public hearing of the draft plan, but

A COUNTY RESOLUTION REQUIRES TWO PUBLIC HEARINGS ON ALL LAND USE MATTERS.

The County Planners propose adopting this draft plan Tuesday afternoon, May 11, the next day. IF THIS HAPPENS, 1650829

**WE KNOW OUR INPUTS CAN'T POSSIBLY MAKE A DIFFERENCE
IN THE PLAN AS PROPOSED**

THEREFORE, we, the undersigned, request the Santa Fe County Commissioners to table, for a reasonable time, any vote on adoption of this proposed Plan. The Planners had over a year to draft the plan. . . .

PLEASE GIVE US MORE THAN 24 HOURS TO ORGANIZE OUR COMMENTS ON IT!!!!

Name	Address (optional)	Phone
Ken Edwards	Box 64 Stanley N.M.	832-1456
Victoria L. Edwards	Box 64 Stanley	832-1456
Sally Wyse	62 Solida del Sol Tr.	281 0669
Maria Morris	113 Mosley Rd.	251-535
J. L. Morris	113 Mosley Rd.	281 6538
John Crowder	Box 89 Starker	469-4576
Robert Terrance	41 Rd. Crow Ld.	281-0634
Rita Lee Simmons	88 Crestview Ln Edgewood	281 1826
Chris H. Mosley	1101 Quigdon NE Alb.-N.M.	268-5453
Angelina Bugkwa	8708 Herrera (Old) C.R. 281	831-0934
Greg Bardouche	P.O. Box 1912 Moriarty	299-41834
Emilia	29501 Laguna Blvd NE Albuquerque	299-6527
John Horton	294 Broken Arrow Tr Edgewood NM	281-5401
Sharon L. Benfield	2801 Butler NE Albuquerque NM	255-6783

P E T I T I O N

This Petition is for citizens of Santa Fe County concerned in preserving true voter/property owner participation, due process, and good sense in implementing and adopting the Santa Fe County General Plan, Part II. We make the following points:

The meeting on Monday evening, May 10, is the first public hearing of the draft plan, but

A COUNTY RESOLUTION REQUIRES TWO PUBLIC HEARINGS ON ALL LAND USE MATTERS.

The County Planners propose adopting this draft plan Tuesday afternoon, May 11, the next day. IF THIS HAPPENS,

**WE KNOW OUR INPUTS CAN'T POSSIBLY MAKE A DIFFERENCE 1650829
IN THE PLAN AS PROPOSED**

THEREFORE, we, the undersigned, request the Santa Fe County Commissioners to table, for a reasonable time, any vote on adoption of this proposed Plan. The Planners had over a year to draft the plan. . . .

PLEASE GIVE US MORE THAN 24 HOURS TO ORGANIZE OUR COMMENTS ON IT!!!

Name	Address (optional)	Phone
Gene Thornton	Lamy, N.M. 87540	466-6022
Alicia Moore	17 Camino Pinar	466-9148
Jim Thornton	4 Encanada Dr.	466-7146
Bruce Kida	Box 5 Stanley N.M.	832-4448
Dorothy Bassett	Bx 276 Wagon Mound	666-2440
W. H. H. H.	31A Fred Rot Rd Stanley	832-6616
Jane Bassett	P.O. Box 276 Wagon Mound N.M.	
Larry Frost	P.O. Box 276 Edgewood	281-9206
Dale Lewis	240 Rough Rd Stanley	832-1503
Mary Anne	Stanley	832-4339
Joe Miller	H.C. 25 Box 4106 Lamy	466-7032
Karen Lewis	240 Rough Rd Stanley	832-1503
Jesse Johnson	P.O. Box 1417 Edgewood	832-1111
Lena Torres	P.O. Box 2460 Edgewood	286-9411
Judith A. Wood	Bx 1323 Edgewood	281-2870
Carolyn Kirtin	Box 245 Stanley	832-4596
Judith A. Wood	44 Front Rd E	281-4345
Joyce L. Johnson	58 Front Ranch Rd	832-6992

P E T I T I O N

This Petition is for citizens of Santa Fe County concerned in preserving true voter/property owner participation, due process, and good sense in implementing and adopting the Santa Fe County General Plan, Part II. We make the following points:

The meeting on Monday evening, May 10, is the first public hearing of the draft plan, but

A COUNTY RESOLUTION REQUIRES TWO PUBLIC HEARINGS ON ALL LAND USE MATTERS.

The County Planners propose adopting this draft plan Tuesday afternoon, May 11, the next day. IF THIS HAPPENS,

WE KNOW OUR INPUTS CAN'T POSSIBLY MAKE A DIFFERENCE
IN THE PLAN AS PROPOSED

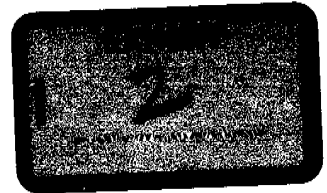
1650829

THEREFORE, we, the undersigned, request the Santa Fe County Commissioners to table, for a reasonable time, any vote on adoption of this proposed Plan. The Planners had over a year to draft the plan. . . .

PLEASE GIVE US MORE THAN 24 HOURS TO ORGANIZE OUR COMMENTS ON IT!!!!

Name	Address (optional)	Phone
Matthew N. F. Gray	379 Venus Rd East	281-9173
Jim D. Gray	Box 102 Santa Fe	832-4339
Emilee King	Edgewood N. Mex	281-3488
Ruth H. Hill	Edgewood N. Mex	281-3101
John Hunter Morris	Lamy, N. M.	466-9148
John Hunter Morris	" "	" "
John Hunter Morris	" "	466-6052
Max Hill	P.O. Box 3 Edgewood	
Robert Hill		
Chester Hill	Edgewood	281-5271
Bert Hill	Edgewood	281-4488
Charles Richards	Farmington, N.M.	326-5147
Mauda Richards		"
Charlotte Richards		"
Ken Crumfall	Edgewood	
Edel DeGuan	Edgewood	
Sharon DeGuan	Edgewood	
Robert DeGuan	Edgewood	
Phoebe DeGuan	Edgewood	

LANDOWNERS ASSOCIATION
HCR 69, Box 181
Moriarty, NM 87035
(505) 832-2367 FAX: (505) 832-1634



May 11, 1999

1650829

Santa Fe County Commission
P.O. Box 276
Santa Fe, NM 87504-0276

RE: Proposed Changes to the Santa Fe County Growth Management Plan Part II
For Presentation at the Public Hearing May 11, 1999 Santa Fe New Mexico

Dear Commissioners:

Attached are the changes in language we propose for Part II (five pages).

Very truly,

Jerry D. Powers
President

c:\landasso\jgonzales ltr

The Estancia Basin District (EBD) extends from Clark Hill south to the southern boundary of Santa Fe County. The District encompasses all of the Estancia Basin Aquifer Fringe and Aquifer Area, including the Traditional Communities of Stanley and Edgewood, and the newly incorporated Town of Edgewood. The area is characterized by open grazing lands, irrigated farmlands and agricultural lands, and dispersed, populated areas.

In recent years the Edgewood area has been the most rapid growth area in the County. Many new residents commute to Albuquerque while enjoying the less crowded lifestyle opportunities available in the Estancia Basin.

The Estancia Basin District will *be allowed to* establish its own zoning criteria through a District Planning process. Until that process takes place, the EBD will adhere to the existing County Land Use Code *as the code was written as of May 11, 1999*. Residents have expressed a desire to be recognized as a "district area" within Santa Fe County with a character and needs different from other parts of the County.

ESTANCIA BASIN DISTRICT PLAN

Once the Estancia Basin District has been legally adopted, *a District Planning process could be initiated by residents of the district by petitioning the Board of County Commissioners for a public hearing, to be held within the district, to determine the need and interest for a plan. Once the residents desire and need for a plan has been established and the Board of County Commissioners has approved initiation of a planning process,*

an Estancia Basin Planning Committee should be appointed by the Board of County Commissioners to begin drafting the Estancia Basin District Plan.

The purpose of an Estancia Basin District Plan is to establish a broad framework for land use that will preserve and enhance the quality of life as defined by its residents, while allowing reasonable, resource-based growth, that reflects the diversity of design elements and the cultural values of the District, and preserves individual rights.

Once a District Plan has been completed and adopted by the Board of County Commissioners, a Local Development Review Committee shall be established and empowered to review all development applications in relation to the District Plan and amended Land Use Code, making recommendations directly to the Board. The Estancia Basin Local Development Review Committee would replace the County Development Review Committee.

Option	Density	Requirements	Other Conditions
E: Agriculture Protection Incentive	Ranchlands: for every 140 acre parcel maintained in agricultural use, owner gets base density times four plus 2 units which can be transferred to another parcel or portion of the property	agricultural lands must be maintained for <u> </u> years by easement or other legal means	Applies to lands not previously divided for exemptions or development ?
Note: this is a proposal only; details of incentives to be developed with the advice of farmers and ranchers.	Valley irrigated: for every 10 acre parcel w/irrigation rights maintained in agricultural use, owner gets base density times four plus 2 units which can be transferred to another parcel or portion of the property	one unit remains (or more if owner does not transfer all of the allotted density transfer units) with each 140 acre or 10 acre agri. lot	Agricultural parcels pay no impact fees
		Minimum community benefit standards and water conservation covenants for residential lots	Residential to be developed on least productive lands
			Home occupation/small business meeting performance standards

1650829

44

1650829

WATER AVAILABILITY

Development in the Rural District will be dependent on groundwater supplied by individual or cluster wells or community water systems. In some cases water may be supplied by the County Water System where groundwater supplies have been depleted or the groundwater levels are dropping because of withdrawals for individual or community wells or where contamination has compromised local supplies. Land development densities in such areas will change only if proposed and approved as part of a Community Plan.

Page 31

1650829

DENSITIES BASED ON HYDROLOGIC ZONES

The lack of new water resources (imported water from the Rio Grande) is a major constraint to increases in population in the Rural District. Therefore, the underlying Aquifer System Area will continue to determine the permitted density and the minimum lot size, to limit the number of new individual domestic wells (72-12-1 NMSA) in the Rural District and to conserve aquifer resources for already established water rights holders and future generations.

The 1980 Plan and Code created a density incentive for development on individual wells to encourage conservation of water resources. Since then use of water conserving fixtures has been accepted and incorporated into building codes nationally and the need for water conservation in an area of limited supply is well accepted locally. Water conservation measures are now imposed as a standard procedure for existing as well as new development. Xeriscape standards are in place for required landscaping. Water metering of individual and shared wells is now required to enable enforcement and restrictions to well pumping if necessary in the future. More stringent standards for hydrologic studies proving water availability for 100 years are also now enforced to assure that "dry lots" are not created.

However, since 1980 the perception has grown that the four fold density incentive is a zoning "right", rather than an "incentive" to encourage behavior which benefits the whole community. This Plan ties water conservation to additional benefit objectives for the community.

Basic density in the Rural District depends on the underlying Aquifer System Areas as described below:

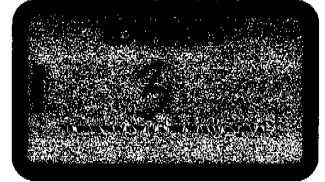
- Aquifer System Area (Basin) - one dwelling for each 10 acres;
- Aquifer Fringe Area (Basin Fringe) - one dwelling for each 50 acres;
- Mountain Recharge Area - one dwelling for each 80 acres;
- Mid-County Hydrologic Systems Area (Homestead) - one dwelling

1650829

In the event that actual subsurface aquifer conditions are found to be different than the Aquifer System Area zoning in which the surface lies, the actual subsurface aquifer conditions shall govern density. For instance, if actual aquifer conditions on lands in the Mid-County Hydrologic Systems Area (Homestead) are found to be more like the Aquifer System Area (Basin) then the Aquifer System Area (Basin) base density shall apply to those lands. If permitted water rights, meeting the 100 year proof of supply criteria are imported or become available to lands in the Rural District, the Aquifer System Area (Basin) density would apply to those lands.

(Pages 32 & 33)

133 Sierra Azul
Santa Fe, New Mexico
May 10, 1999



Board of County Commissioners
County Courthouse
102 Grant Avenue
Santa Fe, New Mexico

1650829

Re: Frijoles Village Limited
Co. File No. 96-4341.

HAND DELIVERED

Ladies and Gentlement,

I wish to register my objection to the legal notice and procedure used in the Frijoles matter. As an adjoining landowner, I received legal notice of the May 11, 1999 hearing of the Board of County Commissioners regarding Frijoles Village Limited Company. The notice stated that Preliminary Plan Approval and zoning variance requests would be considered at the hearing. Informed by the notice, I concluded that the Preliminary Plan filing by the developers would contain the customary engineering work-ups (such as a Terrain Management Plan) and detailed developer commitments, as required by the County Code, to demonstrate that the variances requested were proper.

I have now been told by the administrative staff of the Land Use Office that contrary to the notice, instead only the zoning variance requests will be heard on May 11 and that the Preliminary Plan approval process has been separated and postponed. Further, that none of the customary engineering work-ups have been submitted. As a result, I am unable to evaluate and to decide how to understand the zoning variance requests. I feel particularly prejudiced because the notice, in effect, told me not to worry because the information I needed would be set out in the Preliminary Plan Approval filing and process.

MAY 10 1999

[Handwritten signature] for JC

1650829

I respectfully request that the May 11 hearing be set aside, that proper and correct notice be given, and that the zoning variance requests be heard only in conjunction with the Preliminary Plan Approval process all as required by the County Code.

Thank you for your consideration.

Yours truly, .


Don Trigg