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**PLANNING COMMISSION**

August 4, 2016

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**PLANNING COMMISSION**  
**Thursday, August 4, 2016 - 6:00pm**  
**City Council Chambers**  
**City Hall 1<sup>st</sup> Floor - 200 Lincoln Avenue**

**CALL TO ORDER**

A regular meeting of the City of Santa Fé Planning Commission was called to order by Chair Vince Kadlubek on the above date at approximately 6:00 p.m. in the Council Chambers at City Hall, 200 Lincoln Avenue, Santa Fe, New Mexico.

**A. ROLL CALL**

Roll Call indicated the presence of a quorum for the meeting.

**Members Present**

Commissioner Vince Kadlubek, Chair  
Commissioner Brian Patrick Gutierrez, Vice-Chair  
Commissioner Roman Abeyta  
Commissioner John B. Hiatt, Secretary  
Commissioner Justin Greene  
Commissioner Stephen Hochberg  
Commissioner Mark Hogan  
Commissioner Piper Kapin  
Commissioner Sarah Cottrell Propst

**Members Absent**

**Others Present:**

Ms. Lisa Martínez, Land Use Department Director  
Mr. Greg Smith, Current Planning Division Director and Staff Liaison  
Mr. Zach Shandler, Assistant City Attorney  
Mr. Carl Boaz, Stenographer

**NOTE: All items in the Committee packet for all agenda items are incorporated herewith by reference. The original Committee packet is on file in the Planning and Land Use Department.**

**B. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited.

**C. APPROVAL OF AGENDA**

Commissioner Hiatt moved to approve the agenda as published with item #1 postponed. Commissioner Hochberg seconded the motion and it passed by unanimous voice vote.

#### **D. APPROVAL OF MINUTES AND FINDINGS/CONCLUSIONS**

##### **1. MINUTES: July 7, 2016**

Commissioner Hiatt requested correction of minor typos.

Commissioner Hiatt moved to approve the minutes of July 7, 2016 as amended. Commissioner Greene seconded the motion and it passed by unanimous voice vote.

##### **2. FINDINGS/CONCLUSIONS:**

- Case #2016-57. Variance Requests to Sign Standards for Presbyterian Hospital.

A copy of the Findings of Fact and Conclusions of Law for Case #2016-57 is attached to these minutes as Exhibit 1.

Commissioner Hiatt moved to approve the Findings and Conclusions for Case #2016-57 as presented. Commissioner Propst seconded the motion and it passed by unanimous voice vote except Commissioner Hochberg abstained.

#### **E. OLD BUSINESS**

There was no Old Business.

#### **F. NEW BUSINESS**

1. An ordinance amending Subsection 14-6.2(H); creating a new Subsection 14-6.2(J) of the Land Use Development Code to establish urban agricultural activities and uses for commercial purposes; and making other such changes as necessary to carry out the purpose of this ordinance. (Mayor Gonzales and Councilor Ives) (John Alejandro)
  - a. An ordinance amending Subsection 14-6.2(H); creating a new Subsection 14-6.2(J) of the Land Use Development Code to establish urban agricultural activities and uses for commercial purposes; and making other such changes as necessary to carry out the purpose of this ordinance. (Mayor Gonzales and Councilor Ives) (John Alejandro)

This matter was postponed under Approval of the Agenda.

2. **Case #2016-72. Kachina Ridge Phase III Preliminary Development Plan.** James W. Siebert and Associates, Inc., agent for SBS, LLC, requests preliminary development plan approval to create a nine (9) lot subdivision on approximately 2.55 acres located on both sides of Kachina Ridge Drive and north of Shalako Way. The property is zoned R-21-PUD (Residential, 21 units per acre - Planned Unit Development). (Katherine Mortimer, Case Manager)
  
3. **Case #2016-73. Kachina Ridge Phase III Preliminary Subdivision Plat.** James W. Siebert and Associates, Inc., agent for SBS, LLC, requests preliminary subdivision plat approval to create a nine (9) lot subdivision on approximately 2.55 acres located on both sides of Kachina Ridge Drive and north of Shalako Way. The request includes approval of an innovative street design. The property is zoned R-21-PUD (Residential, 21 units per acre - Planned Unit Development). (Katherine Mortimer, Case Manager)

### **STAFF REPORT**

Ms. Mortimer presented the staff report for Case #2016-72 and Case #206-73. Please refer to the staff report, included herewith to these minutes as Exhibit 2 for Case #2016-72 and Exhibit 3 for Case #2016-73.

Ms. Mortimer said this represents the third and final phase the subdivision Kachina Ridge. It was originally approved through final development and final plat in 2007 but it was never recorded and has now expired.

The prior approval was for ten lots and the current proposal is for nine. Concerns were raised were raised about impacts to the arroyo that runs through this subdivision and a bridge that links to earlier phases of the subdivision. The impacts and the litigation were addressed in the conditions for approval.

No concerns were raised by Staff about the roadway cross section. They are asking for an innovative street design in order to match the various phases between when those earlier phases were approved and now. The Code was changed to allow larger area for water to absorb for the street trees. To address that, there is a condition of approval that would move the street trees onto private property adjacent to the sidewalk and make the berming the responsibility of the property owner.

An additional layer of gabions is proposed by the developer and the City Engineer concurred. That waiver would be granted with approval.

She recommended approval of all three reports and explained that this is a different format for the staff report. Staff looked at other cities to pull best practices and would appreciate the Commission's feedback on it.

### **QUESTIONS TO STAFF**

There were no questions to Staff.

## **APPLICANT'S PRESENTATION**

Present and sworn was Mr. Jim Siebert, 915 Mercer. He used a display on an easel to explain the development. He pointed out the particular subdivision for this consideration and said it would be nine lots instead of ten lots. Art Stahl is the developer and he decided on which types of housing was best for the market. He referred to the arroyo that runs through it and pointed out the existing gabions, culverts, etc. There was a request for waiver of setbacks for three lots. Drainage studies were submitted to the City Engineer to verify the bank is stable and none of that area is subject to any 100-year flooding.

When approved in 2006, the sidewalks standards were 5' sidewalks with 3' planter strips. That is the other waiver. They are asking to complete the subdivision. He identified the roads that are already in the subdivision. They are asking approval to complete the same street section throughout the rest of the subdivision. They agree with all of the staff conditions.

## **PUBLIC COMMENT**

There were no speakers from the public regarding this case and the public portion for this case was closed.

## **QUESTIONS TO THE APPLICANT**

Commissioner Propst asked of Staff or Legal if innovative street design is the right mechanism versus variance.

Mr. Smith acknowledged there is room for interpretation on that point. The Staff supported it in this case, in part because they were under the previous standards when this development began.

Commissioner Propst said to her, innovative usually means creative or different but this is doing less than what the current standard is and seemed like a variance to her but would accept it.

Commissioner Greene, regarding connectivity, noted that the driveway at the northwest corner seemed to attach to the driveway of adjacent property. He asked if that will it be open and if it is a fire lane. He asked what kind of pedestrian connection would be there.

Mr. Siebert said there is no connection through to the adjoining property and that was part of negotiations with that neighborhood to have no connection there. There is a connection required to the land owned by State Game and Fish for access to that property. That is the only other access.

Commissioner Greene asked if there are any plans from the State what they want to do with this property.

Mr. Siebert said last time he was there; they were boiling deer heads in big barrels. He didn't believe

they have any other plan.

Commissioner Greene asked if the dotted line is a trail on the left hand of the open space.

Mr. Siebert agreed. The existing trail comes up and the arroyo is between this project and the Chávez Center. People come down to the end of the street and off the end for an informal path to GCCC.

Commissioner Greene reasoned that the trail is along the arroyo.

Commissioner Greene said there are sections where they don't need to do innovative streets and could go back to the more normal street configuration including the south, around the side and across the bridge with street trees along the sidewalk on the street side of the sidewalk.

Mr. Siebert explained that there is only one area not built. It is the hatched area on the site plan and just serves three residents.

### **ACTION OF THE COMMISSION**

**Commissioner Hiatt moved in Case #2016-72, to approve the Kachina Ridge Phase III Preliminary Development Plan, subject to the conditions recommended by Staff. Commissioner Hogan and Commissioner Hochberg seconded the motion and it passed by unanimous roll call vote with Commissioners Hogan, Greene, Kapin, Gutierrez, Propst, Abeyta, Hiatt and Hochberg voting in the affirmative and none voting against.**

**Commissioner Hiatt moved in Case #2016-72, to approve the request for the innovative street design. Commissioner Greene seconded the motion and it passed by unanimous roll call vote with Commissioners Hogan, Greene, Gutierrez, Propst, Abeyta, Hiatt and Hochberg voting in the affirmative and none voting against. Commissioner Kapin was not present for the vote.**

**Commissioner Hiatt moved in Case #2016-73, to approve the Preliminary Subdivision Plat subject to the conditions recommended by Staff. Commissioner Gutierrez seconded the motion.**

### **Discussion on the Motion**

Chair Kadlubek asked, when there is another subdivision already developed, already has a character but a piece left undeveloped, about any other restrictions to density zoning or is it still capable of the original density that was assigned to that area.

Ms. Martinez presumed the entire subdivision would have been approved with the particular zoning density that would be applicable to the undeveloped part. They could return and request for the undeveloped portion to change density but she thought they would have to start all over again for that.

Mr. Smith said the subdivision would require a hearing before the Planning Commission. The development plan square footage would trigger that requirement.

**The motion passed by unanimous roll call vote with Commissioners Hogan, Greene, Kapin, Propst, Gutierrez, Abeyta, Hiatt and Hochberg voting in the affirmative and none voting against.**

Commissioner Hochberg said he liked the new staff report format.

Ms. Mortimer welcomed other comments.

Mr. Smith said the Commission could discuss that further under Communications with the Commission.

- 4. Case #2016-51. Haciendas del Mirasol, 700 Hyde Park Road, Preliminary Subdivision Plat.** Cody North, agent for 700 HRP, LLC, requests preliminary subdivision plat approval for 8 lots on 28 acres to be accessed by a private driveway via a connector road off of Hyde Park Road. The property is zoned PRC (Estancia Primera Planned Residential Community). (Donna Wynant, Case Manager) **(Postponed from June 16, 2016 and July 7, 2016)**

Commissioner Greene and Commissioner Hiatt recused themselves from this matter and left the meeting.

#### **STAFF REPORT and QUESTIONS TO STAFF**

Mr. Esquibel presented the staff report for Case #2016-51. Please refer to the staff report, included herewith to these minutes as Exhibit 4.

Mr. Esquibel used a power point presentation and handed out a copy of the presentation that summarized a lot of what is in the Staff memo. It provided some graphics to solidify the presentation. A copy of the power point presentation is attached to these minutes as Exhibit 5.

Mr. Esquibel utilized DRT members to address various portions of the presentation: Stan Holland for water and wastewater, John Romero for traffic, Reynaldo Gonzales for fire protection, RB Zaxus for engineering and Somie Ahmed for the escarpment and landscaping.

Mr. Esquibel said the property is 700' from Bishops Lodge Road / Artist Road intersection. The zoning is PRC through a 1980's ordinance. He showed the density around this vacant property. There were transients camping on the site for many years and the City cleaned it up with the applicant and since then done a division of land resulting in this application.

The property is proposed to be an 8-lot subdivision which will produce a density of about 0.03 units per acre compared with rest of the PRC district. Lots are larger than those surrounding it, including land outside the PRC.

The applicants provided enough information to analyze the development as it relates to the escarpment overlay. The buildable sites were shown to be 3,000 to 5,000 square feet. They are in the Foothills and does not affect the Ridgetop. Buildable areas must be at least 2,000 square feet and here it is 3,000 to 5,000.

They also placed a trail through the open space to get all the way from the driveway access across to the west property line.

A major drainage way crosses the site to be managed by the applicant in accord with ordinance 1982-3. They provided documentation sufficient to demonstrate they have complied with that ordinance. And they provided enough information for proceeding with the subdivision review.

Slopes were shown for 20% to 30% slopes and slopes greater than 30%. They will not develop any slopes with 30% or more. He also showed the location of City utilities.

The pre-application conference was held on March 17 and there were many neighborhood meetings, as well as an ENN meeting on April 11.

Staff find it to be in compliance. There are some specific standards that are more restrictive than Chapter 14 and the applicant agreed to follow them. All of the comments from DRT are incorporated in Exhibit A. As a result of that list of findings, staff concludes it complies with Chapter 14 and recommends approval subject to staff conditions. He noted that when it comes to subdivision review, the ordinance doesn't care if it is 2, 3, 8, or 100, 400-lot subdivision; the same standards apply. The Staff's job is to provide the Commission with the analysis that it meets standards or what is needed to meet compliance. This has recommendations to bring it into compliance.

Mr. Stan Holland showed on the map a red line west of the "site" where the upper part shows where the sewer fits into this subdivision. One Staff concern is the gravity system because all the terrain there is difficult. So they are going with a low pressure system with smaller pipe that will be buried four feet and using grinder pumps that make it slurry and then goes from homes to the sewer system. The beauty is that it can go up or down. If they encounter conditions that are tough, this will help.

People are concerned with grinder pump odors. His concern went away when he realized the roads are flat and once it goes downhill, it is downhill all the way. There would be no valleys for it to stagnate. So it will drain itself. The line then ties unto a 10" line that was installed in 1992 for Matador. Then it ties into the main line at Bishops Lodge Road. So he saw minimal concerns with odor.

Commissioner Kapin asked where the wet wells would be located.

Mr. Holland said they will be located at each house, downhill from the house. They are only a green lid 2.5' in diameter, almost flush with the ground. The house drains into it by gravity and then is pumped out through a 1.25" pipe.

Commissioner Kapin asked if there are guidelines on how far they must be from an adjacent house.

Mr. Holland said there are no minimum distances in our standards.

Commissioner Hochberg asked if such a system exists elsewhere in the City.

Mr. Holland said it is used in Los Cerros Colorado and Nueva Vista.

Mr. Smith said there are a number that were previously approved with this type system.

Mr. Holland said the one for Los Cerros Colorado was installed in 1994 so they have been around. The pump recommended is Environment E-1 and there are other models. The City only allows the pumps that work.

Commissioner Hochberg reasoned that these pumps need maintenance and are subject to break down. He asked who maintains them.

Mr. Holland said the property owner is responsible for the pumps, electrical, etc. and the lines - to where it connects with the public main. This is a private system so the City won't have maintenance responsibilities. But it will be built to City standards by the Homeowners Association. They usually last 5-7 years before rebuild. They also have alarms on them to let people know when they need attention and different capacities for wet wells are available. From main line back to pump is the responsibility of the home owner.

Commissioner Hochberg asked if his Division would inspect it one time at installation.

Mr. Holland agreed, to make sure they are constructed properly. A company representative comes out, starts up the pumps and puts them through a rigorous test.

Commissioner Hochberg asked if they have a warranty.

Mr. Holland agreed.

Commissioner Kapin asked what the setbacks are.

Mr. Smith said the requirement is 5' from sides and 15' from the back property line and 7' from the front property line. There are no special set back requirements for location of the pumps.

Commissioner Kapin asked if the homeowners have to purchase certain pumps that the City knows work properly.

Mr. Holland agreed. There are only two brands that work as required.

Mr. Shandler asked if the odor is at the house or far away.

Mr. Holland clarified that sewer odor comes from septic status when there is not enough oxygen and that creates hydrogen sulfide gas. With this system, He didn't see a problem based on their experience with other such systems throughout the City and this is a short line system with not a lot of sags where the

water could set. When the pump kicks on, it will send the wastewater on out. Once to the edge of the hill, it heads down all the way to the point where it exists. They might get odor from backups at Bishops Lodge Road but he didn't see this system going septic.

Commissioner Propst asked what recourse they would have if it did go septic.

Mr. Holland said they would ask the people to look at the settings on their wet wells - lower the capacity setting so they kick on more often and material doesn't sit in the well as long. He would also check downstream. Staff does an on-site inspection The pumps do have a vent and if it is septic, you can smell them.

Commissioner Hogan said these are frequently used around the city. He asked if there are hundreds of them in the City.

Mr. Holland agreed.

Commissioner Hogan said Mr. Holland mentioned the pump up to the road where they join the main pipe and asked how they get joined together and how they get to a point to the left of the red line.

Mr. Holland said there is an existing terminal sewer manhole there now. They will connect to the manhole through a drilled hole lined up with the pipe, not coming in sideways, so that it shoots the wastewater in with minimal bouncing around.

Commissioner Hogan asked, for each lot, to what location on the site plan they are pumping.

Mr. Holland said it would probably be a 2" line along the road, ten feet away from the water line and in front of each lot have flushing plugs. Each service line will have smaller lines connected just like a gravity line a stop cock at the connection and a backflow valve to prevent backfill.

Mr. Smith said Staff could provide the details of it. Sheet 6-2 shows the private sewer plan.

Commissioner Gutierrez asked if the 10" line from Bishops Lodge Road is city-owned.

Mr. Holland agreed.

Commissioner Gutierrez asked if there is any problem with that line.

Mr. Holland said it has no problems.

Mr. John Romero presented the traffic review.

Mr. Romero said the traffic review was very basic. Typically, a subdivision this small doesn't require a traffic analysis because it generates a very small amount of traffic. But with the amount of traffic concerns voiced, they suggested a traffic study which the Developer did and it shows no issues with this traffic in this area. He went to the subdivision density map and said they wanted the access lined up opposite Hyde Park

Road. It is a typical traffic design that limits number of access points so they are to be consolidated and lined up with each other. Compared to a lot of other high intensity developments, eight lots won't generate lot of traffic.

Commissioner Kapin noted in the packet that it referenced potential density on Tract 2 and suggested that was all tied together. She asked if that suggestion came from him.

Mr. Romero said that was provided by Land Use, not Traffic.

Commissioner Kapin didn't know where tract 2 is on the map.

Mr. Smith pointed it out and referred her to page 4-5 where it discussed the road connectivity policy and determination. Because tract one and tract two are both in the escarpment overlay district future development would likely occur on tract two. The traffic analysis didn't include any volume of traffic with that future development. They must make provisions for that.

Mr. Romero clarified that the traffic review was on the entire proposal. It provides that a stub out to tract 2 is a condition but Traffic would not look at potential impacts until the time that a proposal comes forward for Tract 2 development. If it showed failed traffic patterns, Traffic would ask for a lower density. It does provide flexibility with the stub out. All of that would be determined in the future. The coordination with adjacent sites is accomplished through the stub outs.

Commissioner Kapin asked if he was confident the stub out is appropriate for now with current zoning.

Mr. Romero agreed. It was with a two-lane street with sidewalk.

Chair Kadlubek said one concern the Commission has from an email received about having an entrance to the subdivision directly across from the south entrance to Estancia Primera.

Mr. Romero affirmed that the traffic analysis with proposed traffic pattern at that intersection showed no level of service failures.

Chair Kadlubek asked if there was evidence of traffic back up from Estancia Primera turning left onto Hyde Park Road.

Mr. Romero said the study does quantify that there is any issue there. He would not think there are lines of cars waiting to get out.

Commissioner Gutierrez asked if he looked at a dedicated left turn lane or decel lane.

Mr. Romero said they did look at that and it is not warranted now. If tract 2 development indicates that at that time, it would be part of the staff conditions then.

Commissioner Hochberg asked if the study takes into account higher traffic volume during the winter ski season.

Mr. Romero believed the counts were not done during ski season. [He was informed there were counts during ski season.] The reason that would not be noticeable is that it is not during 8-5 hours - not focused like business traffic peak times.

Commissioner Hochberg said the ski traffic occurs about an hour before nightfall and it is heavy.

Mr. Romero said the analysis accounts for peak hours - morning and afternoon rush hours. The rush hour for housing development does not coincide with the ski season traffic. The developers said it was done during ski season.

Commissioner Hochberg asked if the count was done all day or just at closing.

Mr. Romero said they covered the morning rush hours and evening rush hours. That is when housing peak hours are. If the ski season rush is at 6, they wouldn't look at that.

Commissioner Hogan asked if the emergency vehicle turnaround is a hammerhead design.

Mr. Romero referred that to the Fire Marshal.

Mr. Esquibel said the applicant's engineer is here to answer also.

The Fire Marshal, Reynaldo Gonzales came up next.

Mr. Gonzales said he met with the applicant and covered several issues. One was water supply. Due to the terrain, they could not use a hydrant system. So they discussed automatic sprinkler systems in the houses there. We also discussed the turnaround at the dead end. The plan meets the width and the slope requirements.

Mr. Esquibel invited the City Engineer to speak next.

Ms. R B Zaxus said she reviewed the plans and they exceed the code requirements. We require that the storm water design be able to handle a 100-year storm event on the site so it does not flood downstream. All that water will be handled in various ways according to their plan. Roof water will be handled by them and impervious drives, etc. on site. Rain harvesting for gardens and permaculture is provided. There are beautiful check dams on the property that CCC installed. Some streams downstream will be repaired. There will also be new check dams on arroyos to hold back the water. The post development flow down to lower intersections were the biggest areas of concern from neighbors. Post development flows will be about 2/3 of pre-development. So actually less water would be entering those streets. Her assessment was that the storm water analysis was done properly and meets city code.

Commissioner Propst said that was very clear and did answer one of her questions. She asked whether it could handle storm water if tract 2 gets fully developed.

Ms. Zaxus thought some of those drainage patterns if tract 2 would go a different direction. She was

pretty sure that only the drainage from this project site goes that direction. She added that they could always hold more water back upstream and let it out slowly.

Chair Kadlubek asked if she had examples of other developments in the escarpment zone where flooding has been mitigated.

Ms. Zaxus said there is one across the street which, before her time, had some problems. In Estancia Primera, they developed some beautiful ponding areas in the arroyos and ways to handle the storm water on site.

Commissioner Kapin had not heard about the rain gardens before and asked how that is different.

Ms. Zaxus said that term comes from Tucson. With that design, curbs on the street allow rainwater to leave the street and go into a depression. It doesn't come back into the street and percolates in that area so instead of rushing down the street, it takes the storm water off the street. There are some on Alameda that the City did.

Mr. Smith said the applicant's presentation will include that.

Mr. Esquibel said he was informed that they have pictures of rain gardens.

Mr. Esquibel invited Ms. Somie Ahmed to address landscaping and escarpment issues as the last City Staff presentation.

Ms. Ahmed said the applicant is complying with all requirements of the escarpment overlay district. This development area is on a post-1992 lot so any new development in the Ridgetop would be prohibited except for utilities and access, which the applicant complies with. The requirements for all other areas of development provide that the structures must be as far away from the view line as possible and they comply with that as well as terrain management and setback for each lot. She showed the buildable areas and clarified that they all comply with the terrain slope requirements. The height requirements vary for each lot. They are allowed 14' from highest grade and 20' from every other point around the structure. So it is laid out as the grade goes downhill to keep with the aesthetics. Compliance is required at the time of construction permit. It includes all the colors, screening, trees and all the rest of it does comply.

Commissioner Abeyta asked if in her review, all eight lots comply with escarpment and have adequate buildable area.

Ms. Ahmed agreed.

Commissioner Abeyta asked if she was confident that when the final applications come in no variances would be needed.

Mr. Smith said he felt confident that it is possible to develop each of these lots without variances.

## APPLICANT'S PRESENTATION

Chair Kadlubek asked Mr. Siebert if he could limit the presentation to about 20 minutes, given all the information received from Staff.

Mr. Siebert (previously sworn) said Mike Gomez and Eric Cornelius would be presenting and their address is 1599 St. Francis Drive. Both were sworn.

Mr. Siebert said they would do their best to limit their presentation and asked for indulgence to allow Mr. Jim Hays to present on low impact drainage and how these function.

Mr. Siebert had a letter from an Estancia Primera resident thanking the developer for the work he has done. (A copy of the letter is attached to these minutes as Exhibit 6.)

Mr. Siebert pointed out that the developer, Mr. Cody North, is also present.

Mr. Siebert, using a Power Point, presented a site plan of Tract 1 and Tract 2. He explained that Tract 2 is owned by another entity and there is no purchase option or right of first refusal on this LLC's part to buy Tract 2.

As part of platting process, they are shifting the line to Hyde Park Road slightly because as John Romero pointed out, it meets a line with the intersection across the street. So we are shifting it slightly.

He showed the aerial view of Hyde Park Road. Estancia and Tract 1 are zoned PRC, less than 2 units per acre. Further to the east are one and two-acre lots. The maximum density allowed for PRC is 2.8 dwelling units per acre or a 78-dwelling unit potential but the proposal is for 8 lots so it is a 1 dwelling per 3.5 acres' density. The plat shows the buildable areas. They arrived at that by taking out all of the constraints and that left the buildable areas.

Mr. Siebert said Ordinance 1981-3 adopted the PRC with a whole set of conditions in that ordinance. The subdivision complies with all of them and also with terrain management regulations. He showed how Tract 2 would be accessed through a private road with a turnaround at the end. On the display, the blue line is the trail to be developed by the developer and open for public use. The trail is laid out for minimum disturbance.

In accord with the standards in the Foothills subdistrict, as Ms. Ahmed pointed out, they have to locate buildings away from the view line. He described how the view line works. He pointed out the 20-30% slopes and those greater than 30%. The buildable areas are 3,500 to 5000 square feet. Their road is on the ridgetop. They are doing everything they can to save all the trees and are landscaping for added buffering of the roadway. The sewer line is principally in the roadway. He showed how it is located on the site. There will be very little disturbance of trees.

Mr. Mike Gomez was sworn. He said he is a Professional Engineer and licensed traffic engineer and addressed the drainage. He counted traffic in late January from 6: a.m. to 6 p.m. during a fantastic ski season.

At the entrance, there were 12 cars making a left turn in one hour and 20 making a right turn into Estancia Primera. They saw no traffic backups but there was a lot of illegal parking on Hyde Park Road and also speeding. He said they included tract 2 because Hyde Park Road is a State road and they have to do traffic counts according to the State manual which requires it for possible future developments.

Drainage was big issue with neighbors and Cody North agreed to reduce it as much as possible, using low-tech sustainable techniques. They won't disturb any 30% slopes and have nothing underground except cisterns. Drainage is accessible for maintenance. The runoff will help water the plants and trees, minimize erosion and clean up the property.

Mr. Gomez showed a map of the drainage flow lines. On the lower left hand is the biggest drainage basin. With topographic mapping, they delineated the drainage basin and looked at historical flow patterns there. He showed a 1950 aerial with the site colored. He also presented several photos of the area that showed where water was intended to go in the past. These problems have been there for past 60 years.

He identified their multiple layers of defense. They will first clean the site and re-seed with native plants. There is a swale on the side of the hill parallel to topography so water is ponded there which will promote watering of existing vegetation. Swales catch the water instead of erosion channels. They will also repair the check dams that are already there. He showed a typical CCC check dam. They will repair using materials on-site and no heavy equipment.

They will use rock vanes to improve the arroyo. Rock vanes work very well.

They will fix the culverts from Hyde Park Road that are now hanging up in the air. For some reason -no pad was put under them. They will also build rain gardens for the driveways. The onsite improvements will meet city code with ponding on the lots. It is up to each architect to design it. As a result, none of the runoff will get to the arroyo. Cisterns will be used. They are built all the time, maintainable and the Homeowners Association will make sure that happens.

At Hadisway, the peak flow rate that was existing was 50.54 cfs and will become 33.92 cfs with this development - a 33% reduction in peak flow, reducing erosion and providing for infiltration and use for landscaping.

The Homeowners Association will be strong and they are required to maintain inspection records in spring and fall and after major events. So the system can be maintained and accessible for maintenance.

Mr. Jim Hayes was sworn. He is with Urban Watershed Management and showed first Pueblo San Marcos in 1987 - a major arroyo where he built check dams, catching soil and water. It still infiltrates and nourishes the plants ten years later. It is still in place and can be seen from the Rodeo grounds. The trees were 1" saplings when planted.

Next he showed the Arroyo Saiz - a 189-acre watershed creating a semi-riparian habitat. He said both of those areas were done in the 1970's. Estancia Primera required more. Kachina Hills was done in 1985 where they created detention ponds to control all the storm water. The pictures he showed were taken right

after it was built. When the bond was issued, they worked on the arroyo improvements where the area was scoured by the water. They used straw wattles with wooden shakes to catch the flow in the soil to water the trees. He showed pictures of the rain gardens.

Mr. Hayes clarified that he was not a paid consultant but was just sharing this plan.

## **PUBLIC COMMENT**

Chair Kadlubek limited public comment to two minutes for individuals and ten minutes for those representing a group.

Mr. Smith noted that there was a sign-in sheet which was from the previous meeting and not for the Planning Commission.

Present and sworn was Mr. Richard Folkes, President of the Greater Callecita Neighborhood Association, who said the presenters took about an hour to present and asked if he could have more than ten minutes.

Chair Kadlubek asked him to be as quick as he could. He wanted to limit public comment to an hour.

Commissioner Propst asked if there were a number of people from the same neighborhood association. "Is that why the ten-minute limit is problematic for you?"

Mr. Folks said, "No. There are two or three people representing the neighborhood association. Half an hour, maybe."

He said, "For the record ... Greg Smith was going to address this... but we just found out this afternoon that some things were not in our packet and a lot of things are not available digitally to the public. So we had asked for a postponement until that was clarified. I don't know if Greg Smith wants to comment on that but, just for the record, we did ask for postponement because there were some things left out of the packet - our packet, including some things from the applicant, a letter from Cody North, some things we never saw that were submitted May 4, I believe. We just never saw this. I don't know why things didn't get in there and we would like to see some things before. We would like to see everything that you see before the meeting."

Ms. Martinez said, "I'm not sure which letter you are referring to but we did our best to compile all the information that came in before the deadline to put into your packet. There were a few additional pieces of information that came in following that deadline. And of course, it is very difficult for us to keep collecting it as it comes in every day and make sure it gets to you in a timely manner. In general, if it came in before the application deadline, before the packet deadline, we provided that in your packet. And if you missed something that came in in May, my apologies. But I'm not quite sure what he is referring to.?"

Mr. Folkes said, "The attorney, Fred Rowe, spoke with Greg Smith about it. I thought he was going to address it publicly."

Mr. Smith said there was an email addressed to the City Attorney and Land Use Staff. The Land Use Staff has reviewed the documentation. The correspondence I'm familiar with, we worked with Ms. Bowden over Monday, Tuesday, and Wednesday of this week and trying to coordinate to make sure that the Greater Callecita Neighborhood had seen all the materials submitted by the applicant. The request was made to us on Monday, and we have done our best to coordinate with the applicant in making that happen.

Mr. Shandler said, "let's try to figure this out. So there is a packet put on line digitally the Friday before. What's not in there?"

Mr. Smith said, "Some of the documentation that was generated by the applicant in colored packets, blueprints, 11x17 documents were submitted independently to the Commissioners of the material that is posted on line. Similarly, some of material from the association was photocopied in color and distributed to the Commissioners with their agenda packets. Some of those documents were also not posted online as a consequence of the formatting issue."

An unknown person swooped in to take pictures of the proceedings.

Chair Kadlubek declared a brief recess at 8:05 until 8:20 pm. However, the Commission reconvened at 8:16 p.m.

Chair Kadlubek said the Commission was talking about documents that did not get out to the public and trying to determine which specific documents those were and get Mr. Shandler's opinion on the matter.

Mr. Smith said, "The only item in question by the neighborhood Association is the June 8, 2016 letter addressed to Kelley Brennan, Esq. from Cody North, 700 HBR LLC. It is a 2-page letter and 2 11x17 exhibits that are listed in the Commission agenda packet as item H."

Mr. Folkes said for the record that there was something else omitted. Suby's report – she is going to clarify that.

Present and sworn was Ms. Suby Bowden, 333 Montezuma. "All I was going to say was that when we discovered on Friday that the digital copies did not include the report that Suby Bowden and Associates produced with the Greater Callecita Neighborhood Association. The digital documents also did not many documents from the applicant that are called applicant submittals. They included CC&Rs for drainage; they included multiple letters of response to the City or to the neighborhood Association. And those were finally seen at 3:00 this afternoon."

Mr. Shandler said we can make their record as they go along. My advice is to proceed.

Mr. Smith said as a point of clarification that it might be possible they didn't see these documents until this afternoon but they were available for review at any time after Friday at 5 PM in our office.

Chair Kadlubek said they would begin with ten minutes for neighborhood associations and two minutes for the rest.

Mr. Folks said he lived on 109 Valley Drive since 1957 right on the Arroyo de las Piedras.

Mr. Folks said, "my main concern about this development is that the storm water will be contained. And I know we have had a really lengthy and colorful presentation. But if you take a look at these pictures here ... And I wasn't sure you had an overhead projector here saw to Paper Tiger and spent a fortune so I'm going to hand them out to. [A copy of the pictures is attached to these minutes as Exhibit 8.]

He said, "The first one is on the Arroyo de las Piedras, which is the same Arroyo that the Mirasol development would drain into - at least three or four minutes, plus the road on the Ridgetop were trained to the north and it will run into this Arroyo. This picture was taken about a half a mile east of where the applicant's runoff will join the Arroyo. As you can see, there is a gabion that is completely breached in number one. And the resident there, at her expense, posts and whatnot there and try to keep the water catching her house and from damaging her property. I went inside and I talked with her and asked her who is liable. I talked with three or four people and occupied with these pictures. My issue is liability. I want to know who is liable for maintaining these things when they don't function like they are supposed to. I really enjoyed Jim Hayes' presentation but it really paints a pretty picture that I don't see when I walked this Arroyo. So my question is how is it possible to turn this into what I saw with cottonwoods and all that stuff that looks like Disneyland or something. It is not happening on this arroyo. And these developments were built after 1983. This is not an old development. This particular one was built sometime after the bridge so it was after 1995."

He showed a picture of a house near a house Jim Hayes built on the same arroyo. Nobody there knows who is responsible for the maintenance. They told him the City has an easement and when it really, really floods, the city will send some front-end loaders over. He asked them to look at the culverts and pointed out that there are trees growing out of the culverts.

On the downhill side there are units built 20 years ago. They are following the same regulations as this applicant will be. "I would like to believe they would follow them."

He showed runoff from the Mirador Apartments close to where the sewer connects off the north side of Cody North's proposed development into the backyard of the apartments. His next picture showed the apartments and pointed out that there is nothing to protect them and is the flood water from north side of proposed development.

Mr. Folkes showed the Williams Street view and a property owned by Commissioner Greene which was why he recused himself. He showed other pictures of the area and where the storm water would go into a front yard.

"My question is - maintenance and liability. I don't know who maintains what and can't imagine the 8 people of that development who probably won't even live there. Most of those communities along Hyde Park Rd.... Have a very low occupancy. So I 'm supposed to believe that a gated community that will have minimal occupancy is going to sign on to a maintenance agreement that will turn pictures 1, 2 and three

and to what we saw here earlier of ponds and cottonwoods. I have a hard time believing that. And then, I looked at the code and it says that if the city inspections show the maintenance fail, it falls on City shoulders to clean things up. But I still don't know who is liable."

"The engineers signed off on the other developments. They were LLC protected. You can't touch them. They are gone. The City signed off on these things. I'm talking about the Arroyo de las Piedras; I'm not talking 50 years ago; I'm talking ten to twenty-five years ago. Nothing personal and I like what Jim Hayes is doing. But the little development where he building some houses looks the same as it did. It is very dry and washed out."

"I don't believe all the pretty pictures we've been shown tonight. And I would like to know who is liable and who maintains these things. It would be job security for every lawyer in town coming off of the city. That would be my guess. So I would urge you to approach this with caution. I would also say it's a little getting the cart before the horse on this. Thank you.

Ms. Suby Bowden (previously sworn) said, "Suby Bowden and Associates was hired by the Greater Callecita Neighborhood Association, I am representing them today. The conversation we're having tonight began 30 years ago. 30 years ago, the city of Santa Fe produced an open space plan which had three priorities for why this particular property, as well as others in the foothills around downtown should be kept for hiking, hunting, and firewood. They were not meant to be development. However, in that same year, the first house ever was built on the ridge near St. John's College. What was fascinating was that after 400 years of the City of Santa Fe saying we don't build on our foothills. San Francisco filled their foothills. Austin Texas built their foothills. But Santa Fe had chosen for 400 years not to build on the foothills. Suddenly a house was up there on the top looming over the Apodaca Hill Neighborhood Association, the only remaining Spanish land grant. It is still all Apodaca's to this day. And the locals poured up in an uprising to put together what is it eventually became known as the escarpment ordinance. And these were people from all over the historic neighborhoods. They were from Hillside; they were from Valley Drive; they were from Apodaca. And these were not city planners. These locals came out with binoculars; they hired their own survey or; they went out and set their own stakes, because they ... One of the Valdez's - a 98 year old man who herded his goats up and down the sales and they grew their crops on them.

"So this protection is not like a normal code. The City Staff develops a normal code and it gets approved. This is backed by a very large contingency of citizens. It was designed not to just protect the Ridgetop. The map that you see on the screen right now the thin lines are the Ridgetop and the rest of the green is the foothills. So these citizens were not saying we don't want you to build on the Ridgetop, they were saying we don't want you to build on any of it. That all occurred in 1987. In 1988, the City came back and put together a guideline manual. Because City staff said they could build in foothills. And they did it. But that is different than the intent. The intent states 'The interest in the welfare of the people of the city is to restrict development in the escarpment overlay district.' Now that includes Ridgetop and Foothill - all the green on the map is escarpment overlay. The intent is to preserve the aesthetic beauty and natural environment of the areas of the foothills and to protect the mountain views and scenic vistas from the city to the extent possible.'

"It is still possible on this property to site buildings other than in this area that our citizens chose to protect. We also will talk to you tonight about a 19-year history since Estancia Primera came in and this is

part of the old Estancia Primera plan that has flooded the neighbors below. You will hear from any neighbors tonight that have been flooded. Sewage started backing up because the sewer lines were not big enough and these developments are dropping into the old historic neighborhoods. It went through Planning Commission. I was on the Planning Commission. Jim Hayes was on the Planning Commission and it came six times. We kept saying it's not ready; it hasn't been dealing with these issues. It went twice to Council and was denied. It finally went to court. The court said it didn't address the issues. So this property has been sitting here since its original application in 1994. And it is because of all the same issues. We are asking you today to make sure the preliminary development plan is not approved until these issues have been addressed. And we have legal standing that we'll present to you tonight that shows why it is essential that you don't yet approve the preliminary plan until they have been addressed.

The map showed tract 1 and tract 2. Both of them dominate the area the citizens said should be protected. She showed a map that referenced the 1981 ordinance. In the 1981 ordinance is the legal document we will ask you to wait for approval because it has requirements that have not yet been met. The 1981 ordinance shows a dotted line that calls for a 150' set back. That is the width of Hyde Park Rd. So a driveway through that initial set back area- the private driveway just like the one on top of the Ridgetop could go along and still fit in five houses there and three above. They are all outside the escarpment overlay. It meets the eight requirements. The square footage they are showing at 4000 5000 sq. ft. lots just like the developer has shown. And they could still bring in a private drive and it does not require multiple driveways and can have a turnout lane. We feel it is a viable option that should be considered and discussed with the neighborhood and Planning Commission.

The next topic she addressed was what they called code violations. When Los Vecinos looked at them 20 years ago they were called violations and today, the City Staff has chosen to call them conditions. They need to be dealt with now before preliminary plan approval to assure they are dealt with.

At the moment, the other items of concern are that right now a private driveway is shown on the Ridgetop. That is because the cats Ridgetop is not like no for a larger driveway. A private driveway is only allowed to serve 8 homes but this shows 8 homes. And yet, in the developer's documents, they stay quite clearly that there will be eight homes and eight guest homes. City Staff and Councilors and others 8 have been leading for six months, studying ways to have affordability and one idea is to have guest houses occupied by another family. So in this eight-unit area it would actually have 16 units. They are not allowed to have a private driveway for 16 units. So the Planning Commission should really limit it to eight units.

Also in the 1981 ordinance is a provision that if a lot if larger than 2,000 sq. ft. they should be considered as more than one unit. The 1981 ordinance states, "No increase in unit count can occur without a minimum of zoning reviewed and approved by the Planning Commission and the City Council. So if indeed Mirasol continues with what they put in writing for the Commission today – eight homes and eight guest houses, then it is 16 units and that is an increase that requires going to Council.

In tract 2, the presenters haven't talked about it. They had 3 meetings with the Neighborhood Association and at every meeting, they talked about Tract one and Tract 2. Tract two has 49 homes and if they all have guest houses it would be 16 homes on Tract 1 and 49 on Tract 2 with guest homes, it suddenly becomes 94 units on a private driveway for access coming off of Hyde Park Road. These issues need to be dealt with now before preliminary plan approval.

Next is utility alignments which should be carefully routed to avoid locations perpendicular to the horizons. So the alignment can't just go down the hill. That needs to be addressed.

"The Planning Commission has right to decide to approve what doesn't meet code if it feels the developer has an extraordinary hardship. We don't think it has extraordinary hardship. We think that we are showing here eight units outside the Ridgetop. And you could also take this entire hundred and 50-foot setback because it slopes off the road and you could fill it all with affordable units. It doesn't allow commercial so AirBnB is not allowed to use it anyway.

Lastly, the 1981 ordinance has 15 submittals that must be provided before preliminary plan approval is done and none have been submitted. There is partial information on many of them but not all of the information. It requires phasing programs. You might not have noticed in the Traffic report their hope that Tract 1 will get approved in August and in writing, it says that Tract 2 will come forward in September. They are talking about a month from now. They told the neighbors that and it is in the traffic report. So we think it is essentially a series subdivision. It is not just like Los Vecinos but essentially the same scope that has 65 homes. Here, it could be as many as 94 units. And if no guest house approvals, they are at 47 units. So the Commission should be looking at what that roadway intersection is. We should look at how the terrain issues are dealt with.

"They also have not dedicated open space. PRC requires dedicated open space. Let's say they dedicate top of the hill - let's get higher density along the roadway and get some affordable units in here. Let's dedicate the top as open space. Somewhere open space has to be dedicated. It is not the bottom of a valley between two hills. It has to be somewhere as open space. But at the moment it is all split into lots.

She handed out what she showed on the overhead. [A copy is attached to these minutes as Exhibit 9.]

Present and sworn was Mr. Peter Dwyer, 632 Camino de la Luz, who said he would review and submit concerns in writing. "Fred Rowe and I, for many years have advocated with Planning Staff and the City of Santa Fe for a mediation type process. There is already a model program in Albuquerque which the City of Santa Fe could and should follow. This is exactly the kind of project we have in mind. I would encourage you to look at that as an alternative in this case, to not decide the case, but rather to revert back for some kind of community-based collaborative process to make it a better application. I know there is no formal process for that in the City of Santa Fe right now. I hope there will be at some time in the future.

"In terms of substantive issues, I'm concerned about the externalization of cost. I have many years of experience with Estancia Primera and the projects in that area. I was a former City Attorney for the city of Santa Fe, amongst other things. It causes me an enormous amount of trouble for me. I spent many, many hours with people like Raymond Herrera and others who have legitimate concerns about their properties in the impacts of that development. It was not well conceived; it was approved by the City without thinking through the issues. It caused a lot of problems for the City and for the citizens of the City. And all of the costs were externalized so if you send carefully when Mr. Hayes presented to you, says to you they went in with a backhoe into the arroyo to do drainage maintenance, it is because it was not done before the time of project approval. That is the case with all of Estancia Primera, with a whole series of many subdivisions where two-page resolutions were passed basically saying all the drainage problems would be taken care of

by subsequent landowners. They were not recorded instruments. They were not special districts. Basically, nobody was aware until it became a problem. And all the property owners to these devices like swales and detention ponds and didn't know they were drainage devices so they filled them in. Then of course, they didn't work and people wanted request from the city the city can provide it because it was just not well thought out

So I would encourage you to not allow externalized costs on projects like this. I would encourage that all sewer be gravity flow. I know that Commissioner Hogan addressed that issue There are many subdivisions that use pumps in Santa Fé sewer systems, but they are not as good. I would encourage you to find a way gravity flow could be done."

Other externalized costs include drainage easements. The city doesn't do the drainage and people get flooded. They care only if their sewer backs up and if they get flooded themselves. The city has little money and permanent solutions need to be done ahead of development. You could do special districts - alternatives could be found and make sure the costs don't go back to taxpayers.

I also have concern with the whole project. Is this really what you want? Other people could look at this and see that they are nice homes but there are equity issues. Councilors repeatedly say we should have the same standards across the city.

It is basically short-term rental heaven. I live on the east side and know what my neighbors do - trash and parking are problems.

When this is completed - the Fire Department could come back and say a road must be cut through and the neighbors won't like it. It could become inevitable. Think about those before approval.

Present and sworn was Ms. Sue Herman, 1505 Calle Ramon, who said, "I want to state one other concern that hasn't been raised here tonight. But I would also like to echo the concerns that Mr. Folks and Mr. Dwyer have brought to you. They are real.

"We heard a lot about the traffic report. But what I want to point out to you is that, as a resident who uses Hyde Park every day for walking and driving, I would not ride the bike on it because I think it is too dangerous. What the traffic report tells you is what intersections will be able to hold - how much traffic. They don't look at the conditions that actually exist on Hyde Park Rd. we have them during ski season. We have been during the summer season when people are actually out using that road for a variety of purposes. I've been there at my address for 27 years. When we first moved here I would see horses going up and down Hyde Park Rd. into the national forest. Now it is bikes, all kinds of bikes. Where did those horses go? The bikes have to be in the road and Hyde Park Road is narrow. The white line goes right along the edge of the asphalt and the edge is falling off. And it has been that way ever since I've been there.

The problem is an accident waiting to happen. There is no place for pedestrians to use Hyde Park Rd. Between Bishop's Lodge and where this turnoff would be, there are areas that you can walk off the side of the road but they are not very wide you have to cross over the road. That road isn't straight. It's up and down and around - not straight. There is a .3 mile that is straight and is between the two instances for Estancia Primera. The rest is curved, so you have to stick your head out to find out whether or not

someone is actually coming down that road. And the speed limit is 45 miles an hour and suddenly drops to 25 mph at Kearney. And people and the going into the intersection at Bishop Lodge Road at too high of a speed.

Maybe with all the development there, we should talk about lowering the speed limit. I don't want to see anymore Estancias. Consider this, not just in light of traffic report that looks at load but how the road is actually used, and to consider that maybe this is not 8 homes but 47 homes plus accessory structures. There are more short-term rentals not approved by the City. I didn't say before but I am representing Peralta Subdivision.

Present and sworn was Ms. Sandra Green, 611 Gonzales Place, who said, "This is my first time addressing you. There are aspects of this development that will affect the neighborhood and the Santa Fe residents, in general. The first one is covenants. She echoed Ms. Bowden's reading of the ordinance. Hyde Park Road is also considered a scenic byway. According to the scenic byway definition the natural views should be a protected.

This clearly violates the ordinance. Four of the eight houses are highly visible from the road. The City of Santa Fe should have the developer present a better solution that honors the ordinance. There are places outside of the escarpment district and less visible that would be an acceptable solution. There are other buildable areas that are not in the foothills subdistrict and other ways that could screen from Hyde Park Road to protect the scenic road.

The second issue is drainage and terrain management. The high steep hills risk those below the development. Our neighborhood is frequently flooded. The development is exceeding with the plan for the rest of the neighborhood and the plan presents no protection to the Mirador and the plan is not complete.

Third and last is traffic and the overall Master Plan. The full impact is of 47-50 plus guest houses. The new road on Vallecita would probably connect the entire neighborhood. I ask the Planning Commission to reject the application and demand a better application to protect views and drainage and traffic impact. I'm not against development but I am against bad development that can hurt Santa Fe residents. Ms. Greene provided a copy of her statement which is attached to these minutes as Exhibit 10.

Present and sworn was Mr. Raymond Herrera, 279 Hillside Avenue. Mr. Herrera said he wasn't going to speak since he figured a lot of people were here representing the area being affected. He was surprised how many people are standing up to speak. "I'm a member of Hillside Neighborhood Association. We started with Estancia 35 years ago and it was the biggest development in Santa Fe. And it went through because of politics and put our neighborhood through hell. We were able to organize our neighborhood thanks to people like Peter White and Steve Farber with legal aspects of it. It took months and months of work. We were responsible for creating Ordinance 1981-3. We were the second Neighborhood Association in Santa Fé and formed from a need to protect our neighborhood. Now there are more than 200 associations. My main concern is - the presentations were great but not giving any figures on amount of water coming through arroyos - no numbers on percentages and all that which are important. Because that is what will cause flooding in the downhill neighborhood from the development. I appreciated Jim Hayes' presentation He did a great job but that was for his development. The rest of Estancia Primera is in my neighborhood and nothing has been done. A major arroyo comes out at Hillside Avenue at street level.

We had a meeting at Council 35 years ago and that night, we had a major storm and surprisingly - it flooded all the way to City Hall. But even showing them the fires and all that came down didn't do any good. What good is an ordinance if not enforced? 35 years later we are in the same boat. It is up to the residents to take control or pay for what needs to be done to rectify the situation. The City doesn't do it. They don't even know what is going on there anymore. That is what worries me about this development. Unless the ordinance is enforced completely, the people downstream will have problems.

Present and sworn was Mr. Gavin Wright, 211 Williams, who seconded a lot of things said already. In 1995, the Los Vecinos project was nixed for good reasons. The land issue was so much terrain to negotiate and you can't do it with shovels and backhoes. The other issue is that we are a dry community. But all of a sudden much rain and flash flood came. We don't get enough rain to permeate and soak into the ground. He showed a picture of his house. He is trying to do projects now because nobody from the city does.

The coyote fence where the picture ends is where the water will come down. Short of the wall there is no protection. The wall is in back of Mirador and they are in the arroyo. Nobody tells you who is liable. I'm doing all of my own repair. All the Elm trees grow into the piping and you have to tear up the street and the land.

Secondly, they only show you the minimum criteria but this has to be above and beyond to protect for a 100-year event down the road. Lastly, it is stage three all the way. What you will talk about in September will go all the way down to Valley. That is a huge development - there is a reason why it has never been developed.

Present and sworn was Mr. Ernie Romero, 2011 Botolph, who said he owns the 41 acres known as Tract 2. He did own 68 acres and sold 22 acres to Cody North and his associates. He is a native and been in business here for 38 years. "I think my reputation is good - no black marks against me. I own a lot of real estate. I want to tell you about the history of this property. Although Suby's report says the Tract 2 owner is the same owner as Los Vecinos, I had nothing to do with Los Vecinos I had nothing to do with the land until I purchased it. I purchased it in 2011 and did a lot split in accordance with the city ordinance, through the Summary Committee. It was approved in late 2012 and recorded January, 2013.

After that, we began to market after about a year and looked for a good developer. Several parties were interested because in 1981 it was allowed to have 78 units by zoning. The Master Plan showed 69 units so I knew it wouldn't be possible with the overlay ordinance and he wanted a buyer who would be careful with this property. He rejected offers from those who wanted to tie it up and try for many more units than this shows to develop it

Back in 1994, Los Vecinos was bring in 19 units. This is 8 units and probably one of the lowest densities in all of Santa Fé. It is developed carefully. Suby's plan would be totally visible from Hyde Park road and this is in full accord with ordinance. Respect the staff. They have put the developer through a stringent process and they are careful to analyze whether it is in accord with the law. It was postponed for 60 days.

"I have no application on the remaining 41 acres and surely won't have one in September. That is not

even possible. I have tried to work with the neighborhood and tried to join the Greater Callecita Neighborhood Association and Richard Folkes and Fred Rowe said it would be inappropriate for me to join. Environmental conflict was cited.

So I was denied membership in it. I hope a lot of folks here tonight know that I wanted to be a member. I have shown them my plans from day one. There are a couple of members - President and Sec/Treasurer who told me they want nothing to happen on the property. I would say kudos to staff and I respect their work and the developer's work.

Present and sworn was Mr. Eric Enfield, 612 Old Santa Fé Trail, who said, "This is a neglected site and has been for years. I spent time in high school up there. Great spot to party. I wondered when someone was going to develop it. I knew Bill Bush, who developed Estancia Primera. When you look at 8 lots on 28 lots I can't imagine that they wouldn't be glad for that density. The foothills subdistrict has been a great place to live. Right across the street was a giant Ft. Marcy structure and major Indian developments there from 2,000 years ago. They were removing rock for arrowheads. I live in a lot with archeological easement because of that. I live above them and wondered what would be a developed. When I heard it was only 8 lots, I was surprised. The escarpment is very limited.

"If you think about escarpment, they put their binoculars one way; not around the city. The escarpment maps are being revised now with visual concern all around the city. It is one of the more restrictive districts. The reason they can build now is that the lots were created before the escarpment ordinance. The view impacts can be reduced. Cody North has put four not visible and four visible from Hyde Park Road. I find it strange that the association would present an alternative plan. Wouldn't you rather see four instead of many along Hyde Park Road? As a design professional, we are given the code and that is what we work with. Not trying to make the code better. This is very low density project and if you want people to thank you, do 8 on 28 acres.

Present and sworn was Ms. Karen Heldmeyer, here representing the Neighborhood Network. The Network supports a Master Plan for this whole area. There was a Master Plan. It is mostly foothill and ridgetop, not with huge open spaces from the goodness of our heart. They are not talking about what is happening above and coordination with all the houses above. The neighbors downhill have been inundated with flooding, sewage, and traffic.

Let's forestall the problems. The City Santa Fé ended up paying for that problem. It ended up being very damaging for some people sitting here today. Think of a Master Plan for the whole area. And think about what would be right for the entire area, including people who are already there. Some for centuries.

"I and others were on a group - the Escarpment Working Group - to change the ordinance. If you want us to come tell you what changes we suggested, we would be glad to do that. It is not 60 units on the ridgetop.

Present and sworn was Mr. Michael Sandreen, 539 Hillside, which is right on the side of the Arroyo Saiz and bottom of Estancia Primera. He said "I built an adobe house there 15 years ago and in 2007 water came down to blow out the sewage line there. The work that Jim Hayes did alleviated that. It contaminated our well and the city didn't not reimburse us for it. I think Cody's plan is a good job. Judge it on its merits -

what they do with the arroyo will help down below.”

Present and sworn was Mr. Larry Stevens, 821 Camino de las Trampas, President of 1000 East Homes Association, who referred to the description of transient camping in that area. The man who purchased that property in 2011 made a massive effort to clean up the area – the camping and open fires and transients who lived there permanently. We lived above that area and a fire would have come into our property. We would like to see 8 homes rather than campsites. It is to the advantage of development in that area. It offers no traffic issue because about 1/3 or less are occupied during the year in that area. He couldn't imagine that the development would deteriorate the water issue below the area. There is active protection there.

Present and sworn was Mr. Fred Rowe - Stagecoach Circle, who apologized for his hearing difficulties and hoped he could communicate effectively with the Planning Commission. First, he commended the testimony by Suby Bowden whom he respected as a professional. He is Counsel for the Greater Callecita Neighborhood Association and he particularly commended Peter Dwyer's testimony who was former city attorney and has mountains of experience including Los Vecinos in 1995 and 1996 on very same acreage and the same plat for development of 55-58 homes and it was first endorsed by staff so they are not antipathetic to develop. The Planning Commission disapproved it and Council disapproved and it was litigated for five years and the City paid a substantial settlement because the official of Planning Commission and other employees could not be vouched for integrity.

He highly regards Ernie Romero wisdom and standing as an investor. He bought it for a song and partnered up with Cody North who has not stood up. And last year at several meetings, they proposed a project of 58 acres which they advertised on the internet and neighbors vigorously opposed and then came in with the marvelous sounding development of only 8 units on 28 acres. He viewed it as spurious. This is not a development of the entire tract. It should be treated the same way Los Vecinos was. It should be denied for the flooding issues and 30% slopes in the terrain.

“We think Mr. North should be disqualified from Planning Commission approval because he has threatened, interrogated Suby Bowden. He threatened to go to Architecture Review Board to get her license revoked. That is not only unlawful but a third degree felony. We have not pursued that yet. Our view is that it is not moot but is pending and would be litigated if approved.

Number two, we also stated which tracks Los Vecinos by the legal doctrine of preclusion which means that a denial of an administrative decision precluded you from coming back later and raise the same project all over. It is not identical but close enough and that prevents Mr. North from retaliating with it here.

Number three, there is a spurious claim that importuned the neighbors last year for several months for 50 or so units almost matching Los Vecinos and now purports to be strangers from each other.

Finally, as Mr. Dwyer mentioned, it is ripe for mediation. This was discussed in 1993 and we think it would be a wise way forward instead of ending up in an appeal and litigation - A mediation process might well avert that for neighbors and Mr. Romero.

There were no other. speakers from the public regarding this case.

## QUESTIONS TO THE APPLICANT

Commissioner Hogan pointed out that a lot of issues tonight revolve around drainage. So he would like to drill down on that. His intent is to try to discern what is generated by this development and the pre-existing conditions.

Engineer Gomez said the majority of the development drains to Hadison Way and not to Arroyo de las Piedras. At least since 1950, that is an existing condition. So they are suffering now from drainage. Do they want to get it fixed? The developer will work to alleviate those problems with more detail and more calculations. The report has all the calculations and numbers We are confident of our numbers.

Commissioner Hogan said to Mr. Gomez that a lot of problems we saw already are existing and you have an undisturbed site so maybe the drainage doesn't have anything to do with this development.

Mr. Gomez said it comes from Hyde Park Road and also from Estancia Primera. This project would catch the impervious runoff from Hyde Park that has no mitigation at all. That storm water is eating the mountain down with rocks and mud and that is what we want to fix.

Commissioner Hogan asked if some of that is coming onto this property.

Mr. Gomez agreed. We are doing the same thing on the Williams side. What drains to those areas will be fixed. Mirador saw the arroyo coming to their door. They disregarded that in that building. That is not on Cody's property, but on his property. they are doing an enormous amount of improvements.

Commissioner Hogan said the development is at top of hill so any impacts would change the runoff because of houses and the road. Is that correct?

Mr. Gomez agreed. It would interconnect the impervious area. We are taking that area that is flooding and putting it to good use with sustainable improvements.

Commissioner Hogan understood they would not only be offsetting negative impacts but also mitigating offsite drainage coming onto the property.

Mr. Gomez agreed. As far as who is maintaining and who is liable, the Homeowners Association will hire a property manager. All the roads are private; the sewers are private. Estancia Primera and Tierra Contenta are examples of how that works. They will be required to get insurance so the Homeowners Association will have management insurance so if there is massive flooding and things break - they will cover those repairs. They will be out at Hadisway with dump truck and laborers to clean it up. So the problem will be minimized.

Chair Kadlubek asked him to talk about how many units are being recommended for approval.

Mr. Gomez said there are 8 lots. By city code they are allowed to have a guest house. Probably some

won't. If everyone built a guest house the traffic impact would be increased but they are willing to go by the code.

Commissioner Propst asked about the private driveway limits.

Mr. Gomez said the street section would be 28' wide paved surface. It could be a public street but only serving these lots.

Chair Kadlubek pointed out that the Commission heard the maximum of homes for private drive is 8.

Mr. Smith said Chapter 14- 9.2-1 talks about the appropriate right-of-way for units. The practice is to apply that to principle dwelling and accessory units. The more stringent interpretation would require 24' wide private road for tract 1 and tract 2. He clarified that he was talking about the common road for access to both tracts; not for this subdivision.

Mr. Gomez said they met with the Homeowners Association in Estancia Primera about guest houses and they said they allow them but don't even notice them. It was not a problem.

Commissioner Propst said in the Summary Committee they consider lot splits. She asked what would happen if they decide to split them.

Mr. Gomez said that is not allowed by deed restrictions and covenants.

Chair Kadlubek asked if there is any place in the code that requires gravity instead of a pump.

Mr. Smith said, as Mr. Holland indicated, pumps are approved.

Chair Kadlubek asked if the perpendicular alignment is a concern.

Mr. Smith said regarding the alignment of the sewer line, Mr. Holland indicated it would be a routine matter that meets the standards.

Chair Kadlubek asked if AirBnB housing is considered commercial or residential.

Mr. Smith said as defined in the code, it is treated as dwelling units residential.

Chair Kadlubek remembered that commercial activity is not allowed with short-term rentals.

Ms. Martinez added that Staff spent time trying to define that. Retail is allowed and recently an ordinance amendment for things such as movies or weddings and the like are now limited within those residences.

Chair Kadlubek noted that Mr. Rowe believed that Mr. North should automatically be disqualified because Los Vecinos was denied and asked if there is an opinion on that.

Mr. Shandler said that requires four legal elements to be met and they have not been met in this matter so it is not a concern.

Chair Kadlubek asked about an advertisement on the internet and whether it was a project advertised for 60+ homes that Mr. Romero and Mr. North were working together

Mr. Smith was not aware of anything on the application regarding that.

Mr. Shandler said he did see a screen shot of that website and it is in the record. The web site has since been changed.

Commissioner Hochberg pointed out that Mr. Romero testified under oath that he doesn't have any relationship with the person he sold to.

Chair Kadlubek agreed.

Commissioner Hogan said there was testimony of code violations not dealt with. Yet staff says it meets code. Another issue is whether or not there is an exception being requested for hardship but it seems testimony is different from the staff report.

Mr. Smith said Staff is not aware of any exception being requested other than from concerned neighbors. Staff has testified there are no code violations

Mr. Shandler presented what he thought were the code violations but there is a 2-page document rebutting that in the record. 1981-3 has additional requirements and Staff says those have been met. There are conditions and a table and you can analyze whether those are conditions or violations.

Commissioner Hogan asked what has superseded the 1981 code and what applies to this.

Mr. Shandler said that was rezoning and it runs with the land.

Commissioner Hogan asked if those standards were applied to this application.

Mr. Shandler agreed and they went through all of it, item by item.

### **ACTION OF THE COMMISSION**

**Commissioner Hochberg moved to approve the preliminary plat in case 2016-51, subject to staff conditions. Commissioner Abeyta seconded the motion.**

Chair Kadlubek said there are a lot of facts around this. Equity was brought up for home buyers or renters. That flies in the face of what is needed. Equity is not going to be reached by denying projects but by approving projects and it doesn't deny for lower income folks on the south side. We need to dig into the code and do deeper work. Often, whether high industry on the west side or low density on east side >>

I would like to have it on the record that this not be used in conflict between west and east. If it needs change in code that is what we need to do. We got lots of heat from Councilor Bushee for something that is not fair. But he has been trying to go by the Code.

**The motion passed by unanimous roll call vote with Commissioners Hogan, Kapin, Propst, Gutierrez, Abeyta and Hochberg voting in favor and none against.**

Commissioner Hochberg excused himself from the meeting at 10:02.

Commissioner Kapin said she cringes every time she hears that people are being excluded from a neighborhood association. She asked if this is being worked on.

Mr. Smith said there was a discussion about a bill for neighborhood association qualifications and he would check on the status at the next meeting.

## **G. STAFF COMMUNICATIONS**

Chair Kadlubek noted there is a second meeting in August and Commissioner Kapin will have to leave early. They will hear the case that was postponed.

Ms. Martínez asked for feedback on the changes in the staff reports. Hopefully it will be easier for you.

Commissioner Kapin personally liked the tables and criteria - those are what we need for findings. That was helpful to see - I know it was complex but the table rather than so much narrative helps.

Chair Kadlubek agreed. An executive summary if possible on the first few pages so we don't have to flip back to exhibits.

Ms. Martínez said they did a lot of research and tried to pick and choose the elements they felt were most effective.

Commissioner Kapin felt like she was well equipped coming into this meeting. This is heading in the right direction and having our technology working is a plus. A laser pointer would help.

Commissioner Hogan said having staff available to go through the fact s was helpful.

Commissioner Hogan has a green laser that works on the screen.

Commissioner Gutierrez reported that three cases were at the Summary Committee and all three cases were approved. He commended Commissioner Propst for more detailed reports - they are getting more detailed.

Ms. Martínez announced that Ms. Wynant's mother passed away day before yesterday. Our condolences to her and thanks to Mr. Esquibel for taking charge tonight. He put graphics together that defined the key issues so thanks for doing that at last minutes.

## H. MATTERS FROM THE COMMISSION

Chair Kadlubek asked what is coming in September.

Mr. Smith said a list will be coming including urban farm maybe.

Mr. Esquibel said the Alma Duro 9-lot subdivision is also scheduled for September.

## I. ADJOURNMENT

The meeting was adjourned at 10:15 p.m.

Approved by:

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Vince Kadlubek, Chair

Submitted by:

  
Carl Boaz for Carl G. Boaz, Inc.