



Agenda

CITY CLERK'S OFFICE

DATE 12/11/14 TIME 11:50am

PREPARED BY *Corradine Quirles*

REVIEWED BY *Alicia Hartley*

AMENDED

PLANNING COMMISSION
Thursday, December 18, 2014 - 6:00pm
City Council Chambers
City Councilors' Conference Room
City Hall 1st Floor - 200 Lincoln Avenue

- A. ROLL CALL**
- B. PLEDGE OF ALLEGIANCE**
- C. APPROVAL OF AGENDA**
- D. APPROVAL OF MINUTES AND FINDINGS/CONCLUSIONS**
 - MINUTES: None**
 - FINDINGS/CONCLUSIONS: None**

- E. OLD BUSINESS**
- F. NEW BUSINESS**
- G. STUDY SESSION**

1. Study Session. Presentations and discussion of development initiatives in the Southwest sector of the City; specifically Las Soleras and environs. Planning Commission discussion and policy direction regarding future development proposals.

- H. STAFF COMMUNICATIONS**
- I. MATTERS FROM THE COMMISSION**
- J. ADJOURNMENT**

NOTES:

- 1) Procedures in front of the Planning Commission are governed by the City of Santa Fe Rules & Procedures for City Committees, adopted by resolution of the Governing Body of the City of Santa Fe, as the same may be amended from time to time (Committee Rules), and by Roberts Rules of Order (Roberts Rules). In the event of a conflict between the Committee Rules and Roberts Rules, the Committee Rules control.
- 2) New Mexico law requires the following administrative procedures to be followed by zoning boards conducting "quasi-judicial" hearings. By law, any contact of Planning Commission members by applicants, interested parties or the general public concerning any development review application pending before the Commission, except by public testimony at Planning Commission meetings, is generally prohibited. In "quasi-judicial" hearings before zoning boards, all witnesses must be sworn in, under oath, prior to testimony and will be subject to reasonable cross examination. Witnesses have the right to have an attorney present at the hearing.
- 3) The agenda is subject to change at the discretion of the Planning Commission.
***Persons with disabilities in need of special accommodations or the hearing impaired needing an interpreter please contact the City Clerk's Office (955-6520) 5 days prior to the hearing date.**



Agenda

CITY CLERK'S OFFICE

DATE 11/25/14 TIME 2:00

Gerardine Quintero
Shirley Hartley

PLANNING COMMISSION
Thursday, December 18, 2014 - 6:00pm
City Council Chambers
City Hall 1st Floor - 200 Lincoln Avenue

- A. ROLL CALL**
- B. PLEDGE OF ALLEGIANCE**
- C. APPROVAL OF AGENDA**
- D. APPROVAL OF MINUTES AND FINDINGS/CONCLUSIONS**
 - MINUTES: None**
 - FINDINGS/CONCLUSIONS: None**

- E. OLD BUSINESS**
- F. NEW BUSINESS**
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PLANNING COMMISSION STUDY SESSION
December 18, 2014

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STUDY SESSION. PRESENTATIONS AND DISCUSSION OF DEVELOPMENT INITIATIVES IN THE SOUTHWEST SECTOR OF THE CITY, SPECIFICALLY LAS SOLERAS AND ENVIRONS. PLANNING COMMISSION DISCUSSION AND POLICY DIRECTION REGARDING FUTURE DEVELOPMENT PROPOSALS	Information/discussion	3-28
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**MINUTES OF THE MEETING
OF THE
PLANNING COMMISSION
December 18, 2014**

A study session of the City of Santa Fe Planning Commission, was called to order by Chair Michael Harris, at approximately 6:00 p.m., on Thursday, December 18, 2014, at City Hall, 200 Lincoln Avenue, in the City Councilors Conference Room, City Hall, First Floor, in Santa Fe, New Mexico.

A. ROLL CALL

MEMBERS PRESENT:

Commissioner Michael Harris, Chair
Commissioner Renee Villarreal, Vice-Chair
Commissioner Dan Pava, Secretary
Commissioner Brian Patrick Gutierrez
Commissioner Lawrence Ortiz
Commissioner John Padilla
Commissioner Lisa Bemis
Commissioner Angela Schackel-Bordegary
[Vacancy]

OTHERS PRESENT:

Lisa Martinez, Director, Land Use Department
Tamara Baer, Planner Manager, Current Planning Division – Staff liaison
Zachary Shandler, Assistant City Attorney
Greg Smith, Director, Current Planning Division
Zach Thomas, Senior Planner, Current Planning Division
R.B. Zaxus, City Engineer, Land Use Department
Melessia Helberg, Stenographer

AUDIENCE:

Daniel Chacon, Reporter, *The Santa Fe New Mexican*
Jennifer Jenkins, JenkinsGavins Design & Development
Jess Jesionowski, AMC Development, Ross's Peak Subdivision, Albuquerque
Christine Kreuz, with Linda Zenke
Richard Lang, Nava Adé HOA
John Mahoney, Partner, Las Soleras
Mary E. Schruben, Rancho Siringo Neighborhood Association
Dorothy Seaton, Nava Adé HOA Board
Jim Siebert, Siebert & Associates, representing several Las Soleras owners
Skip Skarsgard, Land Use Attorney, Albuquerque, Partner in Las Soleras
Linda Zenke, Albuquerque, Beaty South Land

There was a quorum of the membership in attendance for the conducting of official business.

B. PLEDGE OF ALLEGIANCE

C. APPROVAL OF AGENDA

MOTION: Commissioner Padilla moved, seconded by Commissioner Villarreal, to approve the Agenda as presented.

VOTE: The motion was approved unanimously on a voice vote.

D. APPROVAL OF MINUTES AND FINDINGS/CONCLUSIONS

1. **MINUTES – NONE**
2. **FINDINGS OF FACT AND CONCLUSIONS OF LAW – NONE**

E. OLD BUSINESS

Chair Harris asked Zachary Shandler, Assistant City Attorney, what are the requirements for a study session, and said he wondered if a quorum was needed. He asked if it is a requirement or a past practice..

Mr. Shandler said, "I have quorums for study sessions. I have also seen subcommittees appointed for specific things, but I think a quorum is appropriate, and your meeting has been properly noticed, and you are free to proceed."

Chair Harris asked what happens if there is no quorum present for a study session, what is the appropriate action or inaction.

Mr. Shandler said, "If a quorum is not present, you could still discuss the matters, but the approval of the agenda couldn't have been done. And that is probably the only material difference."

Chair Harris said, "So a discussion related to the agenda occurs, but we just wouldn't necessarily have a formal approval of the agenda. Is that right."

Mr. Shandler said, "Correct."

Chair Harris said, "Thank you. Other Commissioners may have a question or two as we move through the evening regarding this. I want to welcome everybody here. Again, as a Commissioner for the City of Santa Fe Planning Commission, this is the first time that I have been involved in a study session. In my business life, I have been involved in many study sessions for School Districts and local public bodies such as school districts. At our November meeting we really discussed the appropriateness of having one. What I felt was important was to try to establish a format that allowed the Commissioners to talk a little bit... to speak more freely. We will be reminded once again by Mr. Shandler, of the kinds of constraints we have being a *quasi judicial* body, that we have some real constraints about how we can communicate with one another, how we can communicate with applicants and events such as that."

Chair Harris continued, "My hope is that when we have a study session, this evening we're starting to create a format where we can have a dialogue to get out ahead of some of the events that we are dealing with, and some of the cases we're dealing with on a regular basis. And that's really what I hope, and I appreciate everyone who is attending this evening to listen to what's being said."

Chair Harris said, "So do any other Commissioners want to add to that. I put it under Old Business because we talked about it in a previous session, and want to give people the opportunity expand a little bit upon what I've said."

Chair Harris continued, "Well, we've talked about it. I think we all have an understanding of what we are going to try and accomplish this evening, or what we're going to start to accomplish. It would be my intention to do this periodically, and really that's the appropriate word. And I think that, as a reminder, for instance, because of the lead time with the notice.... We made the decision at the November Planning Commission meeting to have the study session at this second formal meeting date in December. If we had talked about it in December, there would not have been sufficient to notice the meeting. Correct."

Mr. Shandler said, "Correct."

Chair Harris said, "So, again when I say periodically, if we think we want to have one in May or February or whatever it may be, we need to get out ahead of it a month in advance. Okay. Thank you."

F. NEW BUSINESS

There was no New Business.

G. STUDY SESSION

A Memorandum dated December 11, 2014 for the December 18, 2014 meeting, with attachments, to the Planning Commission from Tamara Baer, Manager, Current Planning Division, is incorporated herewith to these minutes as Exhibit "1."

A Memorandum dated December 8, 2014 for the meeting of December 18, 2014, with attachments, to the Planning Commission, from Greg Smith, Director, Current Planning Division, regarding variances and other types of exceptions to standards, is incorporated herewith to these minutes as Exhibit "2."

Page 4 to be added to Mr. Smith's Memorandum, Exhibit "3," Item F Alternate Compliance Approvals by the Land Use Director or Land Use Boards, entered for the record by Greg Smith, is incorporated herewith to these minutes as Exhibit "3."

1. STUDY SESSION. PRESENTATIONS AND DISCUSSION OF DEVELOPMENT INITIATIVES IN THE SOUTHWEST SECTOR OF THE CITY, SPECIFICALLY LAS SOLERAS AND ENVIRONS. PLANNING COMMISSION DISCUSSION AND POLICY DIRECTION REGARDING FUTURE DEVELOPMENT PROPOSALS

Chair Harris asked Mr. Shandler to please elaborate a little on the Memo he distributed prior to this evening, and thanked him for the Memo which was a very clear and concise statement. He said he wanted a sense of what we can do as well as what we cannot do. He noted Ms. Brennan told us a number of things that were important to hear but "they kind of felt like constraints, and so he felt like in the Study Session, he wanted to hear a little bit more about what we can do and also, he knows Mr. Shandler is going to remind us of the limitations.

Mr. Shandler said, "You kind of wear two hats in government. We know the 3 branches of government – the executive, the legislative and the judicial. By serving on the Planning Commission you wear two of the hats at the same time, the judicial hat and the legislative hat. We sometimes call that *quasi judicial* and legislative. And so what I want you to be mindful of today is that we really can't be wearing our *quasi judicial* hat today. That means if there is a case in front of you, whatever phase it is at, we really can't talk about that case, because it would be as if we're having a court session without being formally noticed, and without all of the parties being able to present."

Mr. Shandler continued, "So we're really focusing on our legislative hats today, but I understand you will probably be informed from your judicial experience in the legislative matters, so we'll be working through that today. But the bottom line is if you're wearing your judicial hat, and if you want to talk about a pending case, I'm going to interrupt you and stop you, because that's not appropriate according to City Code, and some of the principles even stated in your own agenda and case law. You really can't be seen as pre-judging a case and having those types of remarks. So hopefully, most of the session will focus on your legislative hat, members of congress if you will, in thinking about what you've seen in your experience and maybe what you would like to see implemented in the Code."

Mr. Shandler continued, "So the third branch of government here is kind of executive, the executive team is present here somewhere. And so, as legislators you would write the Code to instruct the Executive Branch on how to enforce that Code. So if there are things you like or you don't like, this would be the opportunity to wear your legislative hat and we can start thinking about that process to allow the executive branch to implement these changes. And I think that's kind of the overall picture of the three branches of government that we're going to be working through tonight."

Chair Harris thanked Mr. Shandler asked him if he would like to add any further explanation on any of the guidelines for this session.

Mr. Shandler said, "Yes. Now that I've given the kind of the overarching, I guess my advice to you is that you're free to comment during this study about former and completed cases and you can certainly comment during the study sessions about aspects or characteristics you would like to see in future subdivisions, master plans or plats, and you would like to see these that characteristics or aspects may be adopted as legislative changes and recommend it to the Governing Body to further the instruction to the executive branch here."

Mr. Shandler continued, "The things that you can't do, and what I'll be listening closely for are any of those types of remarks where it shows some type of pre-judgment of a current case that is in the process. Because the down side to that, if it's seen that you're prejudging a case, you'll probably be recused from any final decision on that. And in any cases or things that you might have heard about the grapevine, I'll interrupt you on that, because you really can't comment on cases that we may not have heard and may be in the judicial pipeline. And then afterwards, there may be some things that you've heard or thought, and certainly you can meet with the parties and your other Commissioners, as long as there is not a quorum, about these legislative changes wearing your legislative hat. But you really can't talk to the parties, citizens or your other Commissioners wearing your *quasi judicial* hat. And that's imbedded in the City Code about *ex parte* communications. And it really also applies to communications between other Commissioners, because the overall principal is that every Commissioner should be operating from the same kind of base of knowledge, once we have that open judicial hearing. And so that's why, even as we go forward and we leave this meeting, you can talk to each other as your legislators but really can't talk to each other as your judges of cases."

The Commission commented and asked questions as follows:

- Chair Harris said, "I had a couple of questions as I read through this. And so, for instance, on the first bullet under the can-do guidelines, when is a case completed. We know we recently, and periodically will be asked, maybe from the Director's office, about an extension being requested for a particular subdivision or recording of a final plat. When is a case completed In these circumstances."

Ms. Baer said, "I would say, Mr. Chair, that a case is complete once your final decision has been made. In the case of a time extension, for example, that is simply a reporting to the Planning Commission. You're not actually making decisions, it's just being reported to you, because that's a requirement per Code. Once the Findings are approved that typically is the last action of the Planning Commission, and that's when it's completed, as far as the Planning Commission is concerned. There may be other steps, but for your purpose it is completed."

- Chair Harris said, "So when Findings of Fact and Conclusions of Law have been approved by the Commission, the case is completed."

- Commissioner Padilla said, "So it's not at the conclusion of our deliberation on a specific case at a Planning Commission meeting. It's not until we actually approve the Findings of Fact and Conclusions of Law."

Mr. Shandler said, "Mr. Chairman, I agree."

- Chair Harris said, "Again the time extensions are administrative, or that's part of the executive authority that the Director would have, and report it to us."
- Commissioner Pava said, "Mr. Shandler your memo was very informative, and I particularly appreciated the information toward the end as I recall, about email. And then associated with that, I would take a jump to electronic devices. When we are meeting as a public body up there on the dais, is it appropriate for us to store those devices, and sever the umbilical for a little while on those. Shall we take some cues from the Governing Body. What is the protocol there. Does the public think maybe we're getting text messages about stuff *ex parte*."

Mr. Shandler said, "The Taos School Board was reported for an alleged violation because the citizens thought that they were texting each other before votes. I'm not sure what the final disposition of that was, but that's the 21st Century world we live in. But, if you are using your computer to access the file, I don't know if some of these are sent on disks or not, but certainly I won't stop you from using your computer as a resource to access the material. But, yes, in the 21st century you really should be mindful of appearance, because if you're tweeting someone, because people are going to.... as an official doing public business, it doesn't matter if it's your personal device, that is subject to public review."

- Chair Harris said later this evening, and over the course of the year, we're going to talk about the General Plan update. He asked if those discussions are a legislative matter. So for instance, if he wanted to call Mr. Pava or whomever, and just kind of talk through, would that be considered legislative.

Mr. Shandler said, "I would agree generally. I know that there was a case out of Albuquerque where there was one particular area where there was a pending judicial case going on at the time, I can't remember the case citation. *[an inaudible response was given by someone]*. That's right, that's the case. So, I'm not ready to give you a black and white answer, but say generally, yes, that's going to be a legislative action."

- Chair Harris thanked Mr. Shandler for his direction to the Commission. He said it's always good for those of us who have been doing it for a while as a reminder. But Commissioner Gutierrez is new to the Commission, and it is important to understand our role and how we are to behave.

Mr. Shandler said, "And let me say one more comment. So staff here is kind of acting as a congressional hearing, so we almost have congressional witnesses here. So if you do have a kind of legislative type question, or a factual question, as always, they've available to answer those questions. But if your reply gets into your judicial hat, then I'll have to stop you. So I'll be listening to the back and forth between questions, but generally staff is available to answer questions."

- Chair Harris said he understands there can be an open dialogue between a Commissioner and staff regarding, not just legislative, but also a particular case. "If we want additional information prior to it, we can go directly to staff to discuss that."

Mr. Shandler said, "I agree."

Presentation by Tamara Baer

Chair Harris we are going to discuss Las Soleras, particularly an update on the Las Soleras Master Plan. He said we've had information presented to us in the past, we're at the podium, we had a lot going on that evening, and many of us felt it was important to review the Las Soleras Master Plan. He has questions on things he didn't know before, and asked Ms. Baer how she wants to handle that.

Ms. Baer reviewed the information in the Commission packet. Please see Exhibit "1" for specifics of this presentation.

Ms. Baer said Las Soleras is 545 acres, and the Planning Commission originally approved the Master Plan, the Annexation, the Rezoning, and then it went to the Council and was approved in 2009. She said since then a number of the parcels have been developed, and so we thought it might be helpful to point out what those are, so when you see them on the map you can picture them.

Ms. Baer reviewed the map in the packet. Please see Exhibit "1" for specifics of this presentation.

Ms. Baer said there are a number of people here from Nava Adé who can answer specific questions, and you can ask them questions because it is approved. She noted the location of Ross's Peak, commenting the Commission approved the Preliminary Subdivision Plat for 204 single family units. She noted the location of community commercial, noting Dollar Tree is in for a permit, and none of the individual parcels came before the Commission for review, because all of them are under 10,000 square feet. She said none of this is next to residential, so the trigger would have been 30,000 square feet and none of these come close to that. Ms. Baer noted the location of Del Norte Credit Union.

Zach Thomas, Current Planning Division, noted it is actually the State Employees Credit Union.

Ms. Baer continued her review of the map in Exhibit "1."

The Board commented and asked questions as follows:

- Commissioner Schackel-Bordegary asked if the public is interacting with the Commission this evening.
- Chair Harris said it is primarily a dialogue among the Commission, and the public is here to learn and listen.
- Commissioner Pava said he would like to know who from the public is in attendance.
- Commissioner Schackel-Bordegary said, “Maybe I should make a request officially. Commissioner Schackel-Bordegary requests introductions of everybody who is not on the Commission – your name and who you are with, and where you live.”
- Commissioner Pava said he seconds that thought.

[STENOGRAPHER'S NOTE: Chair Harris called for a vote, although it was not published for action, and there was unanimous consent among the Commission.]

- Chair Harris asked the members of the public to introduce themselves [See Others Present and Audience on page 1 of these minutes].
- Ms. Baer demonstrated the location of the VA Clinic at the request of the Chair, and continued her review of the Map in Exhibit “1.”
- Chair Harris said the map notes a proposed Rail Runner station, and asked if there is any understanding of what may happen with that.

Ms. Baer said the MPO received a letter from the State in 2013 saying that they are not moving forward with that Station.

Ms. Baer continued her review of the Map in Exhibit 1, and demonstrated the proposed school site at the request of the Chair.

- Chair Harris said he thought there was another site committed to the Santa Fe public schools, noting 3 acres wouldn't meet the standard of a new school.

Jennifer Jenkins, JenkinsGavin Design and Development, said it was supposed to be in combination with the existing Monte del Sol campus, as an expansion opportunity – contiguous with Monte del Sol.

Ms. Baer noted the heavier red line. She said at the time of the annexation and the Master Plan approval, it wasn't part of the proposal. But at the last minute, the City Council at the hearing asked for another 20 acres of active park, and the Applicant agreed, but it wasn't determined where it would be. The City Council said the Applicant should come back and work with the staff and the Planning Commission to approve the location of that 20 acres. The Applicant came back in 2010 and proposed this location, 20 acres for the park, with a further request that the Planning Commission would consider breaking it up so it wouldn't be all in one location, if it turned out there could be better locations as plans became more firm for the other tracts. She said then the Land Use Staff, MPO Staff, Public Schools and Parks would have to recommend approval and the Planning Commission would have to approve it if it were to be broken up, and that has not happened.

- Commissioner Schackel-Bordegary said this is important because there is no other active park site anywhere on the residential areas.

Ms. Baer said there are, and demonstrated the site of the original regional park. It was envisioned this would be a combination of active and passive.

- Commissioner Bemis asked if that includes trails.

Ms. Baer said, not really, but there are trails in the park, noting they have a graphic showing the locations where trails were approved.

- Chair Harris asked, regarding the Regional Park site, the 21.4 acres, if that still holds true, and Ms. Baer said that is correct.
- Chair Harris said then 20 acres is the proposal and asked about the alternate proposal.

Ms. Baer said it isn't an alternate to the Regional Park, at all. It is a stand alone additional 20-acre park.

- Chair Harris said, "But that can be dispersed."

Ms. Baer said, "With all of those various approvals I mentioned."

- Chair Harris asked Mr. Thomas, if any thought has been given by staff as to what would be preferable.

Mr. Thomas asked the Chair if his question is what would be preferable for the 20 acre site.

- Chair Harris said yes, or how to use that 20 acres, to concentrate it, or to spread it throughout in some fashion. He assumes the regional park will remain a true park.

Mr. Thomas said as Ms. Baer explained, we have the approved regional park. The red outline is an additional park for conditional approval, and the approval is spelled out in the Findings of Fact and Conclusions of law that basically say, here's what we have today. And as the land gets developed, staff can look at alternatives.

Mr. Thomas said, "To answer your question, have we really thought of it. Well we're just now seeing this land getting developed. So I think, as proposals come in we may begin to look at that to see. Well, it depends, I guess is the answer. Today what is approved is this location. No there hasn't been a lot of discussion I don't think, at least between staff in the past year, regarding would it be better to have one 20-acre park, or four 5-acre parks, for example. That really hasn't been reached, because we haven't had a point of development in this parcel."

- Chair Harris asked Mr. Thomas, in his experience, if he is pre-disposed to spreading that 20 acres, not just here in Santa Fe, but just from his general experience.

Mr. Thomas said, "Truly, it really depends. If it is a regional park, those tend to be something like 20 acres and upwards, but that isn't the case here. It just really depends. It's situational, and really depends on what the decision makers would want at that time. Again, at this point, we don't have a plan that says one way is better or another. So, on a personal level, if that's what you're asking, I think there are advantages to both. For example, SWAN Park currently is under construction as a regional active park. It definitely is an active park that is being built. We don't have an idea yet of maybe what perhaps would be the most beneficial there."

- Chair Harris said, "I just know, from my own neighborhood, which was one of the third phases of Villa Caballero and having been there for 25 years, there is a 4 acre parcel within the neighborhood that just lay fallow for quite some time. The City, 4-5 years ago, made it into a passive park, and really all they did was to add some trails and benches and it's very nice. People are using it all the time. Again, I think it would be an important discussion. What I'm saying in part is I'm pre-disposed. We have a regional park of 21 acres, and we have an additional 20 acres committed, I would think we would want to look at how we might spread it out a little bit."
- Commissioner Schackel-Bordegary said, she understands a big purpose of tonight is to gather our thoughts and what we want to see. So that's one. And absolutely we want a break. We want more parks accessible to neighborhoods. She said, "So, right off the bat, I'm with Chair Harris and the 20 acres is a placeholder. But, as the neighborhood is developed, absolutely, and this is my vision, I don't know what the Commission feels about this, but that we have smaller parks, break it up. We don't need any more regional parks. We don't need a regional park, in fact, we have a regional Park in SWAN. It's huge, and I don't even know how the City's going to pay for it. So I'm going to express it now, that absolutely these should be smaller parcels that are woven into whatever subdivisions that come in."

Ms. Baer said, "Point of clarification. When some of these other parcels come in, and you've already seen them, they will have their own parks. So it's not to say that we need to borrow from them to create a pocket park or a tot lot, something like that. That's not necessary. That should happen anyway. And the other points I'd like to make are a couple. One is that this checkered piece has already been set aside as open space. But it has a lot of difficult topography right in there. This piece that is adjacent to it in yellow, is actually much flatter and more conducive to play fields. And one of the reasons that this line was drawn where it was drawn was because of its contiguity to the schools. And the idea was that it could provide play fields for the school which they don't have."

- Commissioner Schackel-Bordegary said okay, "Because I've already done that, I'd like to continue learning more about the plan. I think for you need to lay it out in terms of transportation and land use like you were before we jump off into this stuff. *[inaudible because of noise overlay]*. It is nice to know what's here, what the thinking has been, what the current process is..... and you can tell us the status of things, how it's meant to fit together how it's being built. That is what I would like to hear."

Ms. Baer said, "Unfortunately, we don't always know. Sometimes things happen we don't know about until it comes in as an official application to the City, so we don't always know. So for example, I have heard the State has purchased this piece. I don't know how much of it actually, so if you would like maybe someone should speak to that. And there was at one time the discussion of the State moving the Health and Human Services office complex, and it was hundreds of thousands of square feet. I hear things. I really don't want to say it because it's hearsay."

- Commissioner Schackel-Bordegary said then Ms. Baer can speak to the status of things as we know it.

Ms. Baer said, "As we know it, this subdivision has occurred. If you see lines on the map on the diagram, those have been subdivided. We have a subdivision and an application for 204 units on Ross's Peak. The VA Clinic has been built. The school is there, the road, Beckner, is constructed to "this" point I believe. Is it further."

Unidentified said Ms. Baer is correct.

Ms. Baer continues, "Currently this is what we have. Nothing to 'this' side has been built in terms of roads or trails, but Beckner with some trails on either side has been built to Las Soleras Drive."

Ms. Baer continued review of the Map in Exhibit "1."

- Commissioner Bemis said she just heard about a nonintrusive business, the Incubator, that is employing a young man from Mora. This is very exiting to her, and thinks that sort of job will expand. She was thinking about the people who will be living here, and asked if there will be mixed housing prices.

Ms. Baer said, "Two things about that. One, the City has an Affordable Housing Program, called the Santa Fe Homes Program, which currently provides 20% of housing be affordable if there are more than 10 units. Beyond that, it is market driven and it is up to the developer to determine the mix, other than the affordable units."

- Commissioner Bemis said as far as this being a prototype for new industry, we will need more schools, fire protection and such. She would like for us to think ahead as to how that will affect all of this, because it is very important.
- Commissioner Villarreal said, "It's really about planned community focused on affordable housing, and there's probably no one like Homewise or any group that is actually planning something that would be all affordable housing, or tiered affordable housing that you know of."

Ms. Baer said Homewise owns a tract of land on the other side of Richards, and there is a development called Desert Sage with 80 lots, which is a Homewise development. She said they haven't heard from Homewise for Las Soleras, but there is that development across the street.

- Commissioner Schackel-Bordegary said we need to talk about roads coming in from Nava Adé, and connectivity.

Ms. Baer said one of the big issues right now is access to the school through Nava Adé. She said Walking Rain does connect to the school currently, and it is the only way in and out, and twice a day it is very congested on Walking Rain. She said this is an issue that will be solved in the long term, and there is some discussion as to how that may or may not happen.

Responding to Commissioner Schackel-Bordegary, Ms. Baer said the idea right now is Walking Rain would connect down to Beckner.

- Commissioner Schackel-Bordegary asked if there is a problem with that.

Ms. Baer said Beckner isn't built to "here" to this point, as yet and it is a ways away, but it is on the Master Plan. She said we don't know when something will develop and we have to wait to hear about it until it comes in as an application. She said when Beckner may be completed will depend, not even on the development of individual tracts, but moreso on the amount of traffic that's generated by the development on any one tract. She said, "John Romero, the City Traffic Engineer, can say the amount of development that is going to happen 'here,' for example, is going to require say they came in and it was a big regional shopping center, for example, or some big commercial development. He wouldn't just say oh you have to build the road right in front of your property. He might say, you're generating enough traffic that you have to continue Beckner all the way from where it ends now to Richards. So, until we know exactly what's coming in we don't make those calls, because the Traffic Engineer does them."

- Commissioner Schackel-Bordegary said, "The question is where is there more residential in this master plan. And I would like to know because the reason we're here is that we've got our first one to look at, Ross's Peak, and it's going to drive decisions about roads, linkage with everything. I'd like to know if there's other residential development that's being proposed for the residential tract."

Ms. Baer said, "You see the blue line that is all the way down to Beckner. I don't know if that property has been sold. It's being discussed as one piece of property currently. And two nights ago there was an Early Neighborhood Notification meeting with Pulte Homes, a house-builder, for proposals that they may or may not be bringing forward for that entire piece which has not yet been submitted."

- Commissioner Schackel-Bordegary asked if that is residential and Ms. Baer said yes.
- Commissioner Schackel-Bordegary said this great we're talking about this now, and that we look at all of this right now and continue to study this area. She asked if it will come to the Commission in isolation just like Ross's Peak did.

Ms. Baer said it will come to us in quite a few cases.

- Commissioner Schackel-Bordegary said it will be all residential and we need to think through together and get information on how this relates to what is there, commenting this is the reason for tonight's session. She said that relates to the streets and we have to have the backbone streets, and we need to know what Rail Runner Road is going to be, because that has really driven a lot of the design of this subdivision that is not walkable and doesn't access Governor Miles. So those are urban design and community issues and neighborhood issues. She said she doesn't mean to lecture, and she is saying it is really great we're doing this, and it's great we know that there is possible housing coming in and we don't want to approve housing in isolation of each of these projects.
- Commissioner Pava said we have an opportunity to build a new, something maybe uniquely Santa Fe, but different from what we've done and to depart from some of the errors. He said it would be astounding to him if the Rail Runner Station could not be built through cooperation with the State and the developers. He said this is a huge opportunity, particularly if the State comes in at some point with thousands of jobs on this parcel. He doesn't see Nava Adé or any other developments in here that are going to appreciate the amount of traffic that could be accommodated by heavy rail which the Rail Runner is. He said, as a Planning Commissioner, he would like to recommend that the City with all of its powers coordinate with the MPO and the State and build that thing, because it's the future of Santa Fe – not more roads built with maximum capacity, with lousy walkability, which we've created in many other parts of the City.
- Commissioner Villarreal noted the blue line which are a couple of properties.

Ms. Baer said that is the reason she said there would be quite a few applications, because there would be lot line adjustments, rezoning, master plan amendments, as a part of that application.

- Chair Harris said then it would not come to us all at once, but we would see the big picture, the master plan or proposed changes to the master plan.

Ms. Baer said she would hope so, commenting things develop incrementally, so when you say all of that, who knows what would happen over 'here.'

- Chair Harris said he was thinking of the parcel outlined in blue.
- Chair Harris said, "Could I stop and maybe ask someone in the audience, since we do have people who are familiar, what is the status of the parcel that the State was interested in. Mr. Skarsgard, or Mr. Mahoney or Mr. Siebert."

Jim Siebert said, "I'm not going to talk about specific cases, in terms of what is going on. As Tamara pointed out, this is a commercial [development] along Cerrillos. The black indicates roads that have been constructed. Beckner has been constructed up to the end of the hospital tract, 'this' being the hospital tract. The Veterans Clinic sits here. We have been working with the City regarding a fire station site that would fit in 'this' area. And you were talking about a State office complex, and that would sit in this area here. And I'm going to let Skip Skarsgard talk about the status of where that is, but it would require the extension of Beckner to provide the necessary infrastructure to service the State office complex. 'This' is the park and the open space we talked about. 'This' is Ross's Peak, and 'this' is the future Pulte site 'here.' So the discussion is, at what point does Beckner get constructed, and would it be necessary to connect over to Richards Avenue."

Mr. Siebert continued, "And with respect to the Rail Station, I guess that in our opinion it's pretty much dead in the current State administration, but that doesn't go on forever. And when.... there is a change in administration, there may be a change in minds, so we haven't given up on that. So let me have Skip talk about what the status of the State office complex is."

Skip Skarsgard, Manager, Las Soleras, said, "Under the Richardson administration we were about 6 days away from having it completed and read to construct.the Martinez administration, they put it on the back burner. And we continued to talk to the GSD about how it should be designed and *[inaudible]*. And we are in constant contact with the GSD. After the Legislative session this Spring, I think everything will start together on that. But right now, there is a general understanding of what we're going to do. There are no written documents. Nothing is final."

- Chair Harris said then the transaction hasn't closed.

Mr. Skarsgard said, "You were asking about.... the estimate for employees out there is 1,400 in the first phase, and in the second and third phase, we'll take it up to 4,500 employees. John, was it that 30% of them live in Albuquerque or Rio Rancho."

John Mahoney, Las Soleras member, said, "Yes, and 10% of them would ride the train. That's what the Rail Study showed when we went through the approval proposal.... those numbers were based on people who rode the train downtown. This stop is just 20 minutes shorter than going to the end of the line. 15 minutes less than the DOT stop. It adds 5 minutes that you have to slow down and stop."

Ms. Baer asked if the State purchased the property or if that is also pending.

Mr. Mahoney said it is pending, noting it is a combination of a gift and exchange of property at a different location.

- Chair Harris said between Ms. Baer's presentation and Mr. Siebert and Mr. Skarsgard, he thinks we have a pretty good understanding of where it stands right now. We know there was an ENN, so there is activity for a large percentage of Las Soleras that is being considered.

Chair Harris said he would like to hear from the folks from Nava Adé about their thoughts.

Richard Lange, Nava Adé, said he would like the Chair to be a bit more specific in what he would like him to address.

- Commissioner Harris said he knows they are concerned about the school traffic, and that would hope that any development of Las Soleras would provide some relief.

Mr. Lange said, "It is a major concern, and it has been since the beginning. Because our involvement with Las Soleras, before that even happened, the issue of Governor Miles moved into Nava Adé. We were not told by Gerber that the road going into Nava Adé was planned to go through. There are 184 of us, I believe, who did not think to come downtown and look at the Future Land Use Plan. That got us involved with Al Pitts in the 1999 Extraterritorial Zoning Authority's Plan for the arterial network in this area. So we had that background going into when John approached us and said, we would like your input with the City to design this, and what your feelings are. My response was, we would love to, but I'm on the Committee and it's going to need to be *[inaudible because of noise overlay]*."

Mr. Lange continued, "So that came up with the 2002 Annex Plan. And in between the Plan, the Applicants went to the county with a different plan. We were not really involved in that, except to demonstrate our concern and how it differed from what we had previously agreed on. That then went to the 2008 Plan, and was in our estimation a sizeable change, because we lost just under I think 140 acres of open space, park and highway corridor to the transit oriented design that is before you now in 2010. What we have felt very good about, in terms of what we were most concerned about, in addition to land issues and open space, parks and trails, was in fact the arterial road network."

Mr. Lange continued, “ And I’m very pleased to say that, although that change happened, that we were very disappointed in, the current Arterial Road Network and the Plan, and the connectivity of Governor Miles over to Rail Runner, then down to Beckner, we think from everything we have understood in these different iterations, working with Traffic Engineering, back to Al Pitts, is that presents an opportunity automatically for traffic to be mitigated going through Nava Adé. That street, Dancing Ground, does have properties backing onto to it. So, for traffic to do anything other than what the overall design is, which is what the problem is now, the road is not designed for our neighborhood, which is only 104 [people] that stay, and for Monte del Sol School, we have [traffic] back up all the way to Walking Rain – traffic congestion.”

Mr. Lange continued, “And I think some of you were present, and I know the entire City Council was, when this was brought forward. Therefore, this was proposed, and actually this existed in another form previously, with an issue that has always been before us to relieve traffic throughout the entire neighborhood so there was direct access. So, in other words, people coming from the north, specifically the north and the east to get their kids to the school, as well as everybody else that wants to do business there, would therefore, rather than coming down and going over our speed humps over Governor Miles and down Dancing Ground to get to the school, they would have Beckner and its four lanes to connect to Richards. There won’t be stoplights. We’re talking about traffic circles. Dancing Ground doesn’t have stoplights, so this becomes an invitation for traffic that wants to get to Albuquerque or all of the commercial offices spaces and the people who will be working there as well as living there, will have easy access out. So, we are very much in favor of the existing plan and we’re well aware of the potential problems that will be created by anything that would encourage more traffic, a design that would encourage more traffic through Dancing Ground, or that would not relieve traffic from the school.”

- Commissioner Ortiz asked staff if every street in Nava Adé was accepted by the City for maintenance.

Ms. Baer said yes.

- Commissioner Ortiz said the reason he asked is because, with his maintenance background, it is always some difficulty for the maintenance personnel as to what’s accepted and what is not. He said, “It takes a horrendous time to get certain things accepted, and when accepted it is a product that has been used for many many years, that puts a tremendous strain on the general public, because it’s got to maintain that particular roadway that got accepted after many many years. So that’s why I was wondering, because I left City government in 2007, and everything north of Governor Miles, I believe, was accepted, but nothing south of Governor Miles was accepted, so I don’t know what the status is on that, and that’s why I was asking on that.”

Ms. Zaxus said, “We have accepted all of that.”

- Commissioner Padilla said, “Mr. Lange, you are in favor of, or you support the extension of what would be Walking Rain down to Beckner as a means of mitigating traffic and congestion and so forth so far as the school is concerned.”

Mr. Lange said, "Mr. Commissioner, to be really politically correct, because we just came from a meeting of the new Board of Directors which involved some members who have a history with Nava Adé, over this very issue, basically, we support, literally, what is written in the condition of approval that does not specify Walking Rain *per se*, but says, 'An arterial connection from Monte del Sol School to Beckner.' Based on when Beckner is done, and when the phase comes in, that must happen at that time. And that was the condition of approval. It may not look exactly like that, but...."

- Commissioner Padilla said, "A follow up question would be.... and I agree with you that definitely would ease or mitigate the problem there, but let's look at the reality of the economic downturn that we just came out of, and the development and so forth. I'm sure Mr. Skarsgard and others would have wanted to be much farther along with the overall development and the development of the property. We should all be aware that these are probably years down the road for Beckner to go past Las Soleras Drive. It's just economics that is going to drive that, and I think we all need to be aware that yes, it is an option and it is a plan, but economics is going to drive it, and it could be years down the road."

Mr. Lange said, "Because I need to be careful, because I don't want to say anything specific in terms of what we're seeing as being a proposal with that area, our concern is, right now there is a traffic problem. In fact, if you're aware of how wide some of our roads are, and the fact that we have hammerheads, which are now *verboten* throughout Santa Fe because of their failure in Nava Adé. Rather than there being a traffic circle, there are hammerheads. Fire trucks, I know, with ladders do not have adequate room to navigate without much difficulty. And the roads are so narrow, and of course people park where they shouldn't, so with the traffic backup, it is a problem. So our feeling is that of course the Las Soleras developers and whomever they sell to, are in this for profit. I believe it is required that the City Officials and Commissioners to consider what the disruptive effect is of not doing so in the process of putting in the arterial backbone. Because, from the beginning, Beckner Road along with Governor Miles, we designed to get traffic off Rodeo Road and disburse it so that people don't have to come down Cerrillos to get to us."

Mr. Lange continued, "So there are numerous reasons why in fact I think we are in favor of the sellability of the land out there. Not only to help disburse traffic that we're talking about, but for that section to become true [??]. Because this is on its way to happening, Beckner coming over the hospital. And of course, if and when anything happens in this projected area it has to be done for them to access it. So it all, in perspective, is how much further would it have to go."

- Commissioner Padilla said, "It's all if and when. I wish we had a crystal ball to be able to look forward and target the year this would be developed, but economics just drives a lot of that. But thank you for your input. I appreciate that, and I see where you're going with the idea of relief for that school traffic being mitigated somehow."

Mr. Lange asked to comment on that.

- Chair Harris said, "In closing, please."

Mr. Lange said, "In closing. And that is also, I just want to say that it goes beyond it.....when that is in and then automatically there is an arterial connection, four lanes. And Governor Miles, whoever built it, it was not build to City standards completely, but it was an asphalt paved road that permitted traffic to get to I-25 to come down off Rodeo and Cerrillos. Thank you."

- Commissioner Pava said a long time ago there was a plan to have an interchange with Richards. He said he assumes that is no longer on the drawing board.

Ms. Baer said she is unsure of the status of that.

Mr. Siebert said, "I can answer that. I want to say when I came to work for the City [inaudible 4 or 40] years ago, there actually was initiated the interchange at Richards and I-25, and there was funding and it was moving forward. The County Commission at that time didn't want to see it, because there was no cooperation between the City and County. So it's been back and forth several times. The latest study that went from Old Pecos Trail to Cerrillos Road and selected certain interchanges in terms of priority, Richards and I-25 ended up very low in that priority. It is not on the 5-year STIP the State Transportation Improvement Plan. So this means there is absolutely no chance of it getting built for the next 5 years. In my opinion, it is still 10-15 years down the road."

- Chair Harris said he thinks he has a better understanding of Las Soleras. It seems that we will have more specific discussions before too long, quite possibly. We know there was an ENN the other evening. It's a large parcel about which all the questions which were raised will come up again fairly soon – arterials, the master plan, the schools, parks – because we'll be dealing with the 20 acres potentially. He said, "I'm going to ask, again, for staff to make another stab at this. I could not read this very well, when we get to the point of perhaps looking at a development on this parcel that is outlined in blue, could we get this enlarged where we can read it."

Too many people talking at the same time to transcribe

- Chair Harris said, "We are going to be seeing this fairly soon it seems. We know there is going to be perhaps a discussion. We know we have a case with Preliminary Subdivision Approval and it will come back around and perhaps we'll have a discussion at approximately the same time as the other. I really don't know. I think it's important to have a better understanding of what's gone on so far, what is anticipated, how it's changed, and so I do appreciate it."
- Commissioner Schackel-Bordegary said she also has a better understanding in terms of the master plan. She said she is interested in a little more background on how Monte del Sol School was sited there.

- Chair Harris said it would have come up during development of Nava Adé. He said it is similar to Pinon Elementary where it is at the back side of the subdivision. It is poorly cited. His children attended Pinon Elementary, and Monte del Sol has some of the problems now that they did then. He said the only way to resolve the problem that Monte del Sol has, is for the neighborhood of Nava Adé is a road to provide another way in and another way out. Any emergency at Monte del Sol School would be a true emergency because emergency vehicles really can't get in there.
- Commissioner Schackel-Bordegary said the Pinon situation is a good parallel, noting Pinon is landlocked. She said there is more opportunity here for us to choose and be more creative.
- Chair Harris said there is even a lot of opportunity for Pinon, but it takes the political will to put it in place.
- Chair Harris said we didn't answer Ms. Bemis's question, noting there is a graphic in your packet about trails, and asked if she needs further explanation, and she said no.

General Discussion on the General Plan

Chair Harris noted Commissioner Pava attended the Neighborhood Law and Policy Program, and said he joined him for the Land Use portion, and there was discussion on the General Plan. He said in Councilor Lindell's presentation, she said in her mind, a reasonable goal for having an updated general plan was the end of 2015, and asked Commissioner Pava and Ms. Martinez if that's what they heard.

Commissioner Pava and Ms. Martinez said that is what they heard as well.

Chair Harris said he looked at the information provided by Greg Smith regarding our roles, and we certainly have a real role in reviewing the General Plan and providing direction and comment on that. He said if that is occurring apace during the next year, that would be the appropriate time to also look at the whole issue of innovation in our Land Use Code. This is the third topic. He said the Land Use Code and regulations that are embodied within are to be responsive to the General Plan. He said it even uses the word "ensure."

Mr. Smith said he would be happy to discuss that and other issues, and suggested the Chair and Commissioners might pause to all the Nava Adé people who aren't interested in a discussion of the function and role of the Commission to leave, although he isn't encouraging people to leave.

Commissioner Schackel-Bordegary she thought we were going to talk about the trails, because she would like hear about plan for the trails on this site.

Ms. Baer said, "The pink is the responsibility of the primary developer, Las Soleras, Mr. Mahoney and Mr. Skarsgard. And then the blue in your packet, is the secondary trail, and as those parcels come in with the development plan, it is the responsibility of the developer of that parcel to put those connections in. That's the short version."

Mr. Thomas said he agrees. He said a preliminary plat has been approved for Ross's Peak. He said as projects come through, as identified in blue, those trails are developed by each individual developer. He said as different components within the Master Plan are developed, the trails are the responsibility of the primary developer, not the individual applicants that might come in.

Commissioner Schackel-Bordegary asked what has been built and what is the status.

Commissioner Villarreal said she has a question about the primary trail and asked if that means they just have a sidewalk right next to the street.

Mr. Thomas said the primary trail cross section actually is to be built to that standard, so it is identified in the upper right hand corner.

Commissioner Schackel-Bordegary said then in lay-terms, it is next to the street.

Mr. Thomas said it could be in portions. He said, for example, along Beckner Road it is adjacent to the street. However, there is also primary trail noted to the south of the regional park there too, so it varies upon location, depending on where it would be.

Commissioner Schackel-Bordegary asked Mr. Thomas if staff has looked at how this connects with Governor Miles, and how that is going to happen.

Mr. Thomas said, without getting too much into project specific discussion, when projects do come in, trails are required to ensure that connection.

Too many people talking at the same time here to transcribe

Discussion on Innovation

- Chair Harris said, "We have about 30 minutes, and I think that is a sufficient amount of time for a broader discussion on innovation and how it might be embodied. Is it embodied in the current code. And we have a document that was prepared by Greg Smith that I found very useful. But I have to say that I jotted down a few things before the last regular meeting. And a lot of people spent a lot of time, staff members and certainly former Commission members, reworking the Land Use Code that only had an effective date of a little over a year and a half ago."

Ms. Baer said the last version was effective on October 21 of this year.

- Chair Harris said, "Yes, the supplement. By the way, I just have Supplement 24."

Ms. Baer said she will provide the missing supplements.

- Chair Harris said, "I'm talking about the big picture, the big document, not just the changes we've had in the last year and a half. I find the construct fairly rigid. And I think that the process that we have... I know that I have felt like, as a Planning Commissioner, we are in a reactive mode. And I've heard that in the past from other Commissioners. I think discussions like this, particularly as it applies to Las Soleras, really helps us get out ahead of it. I think that's important, not just for Las Soleras, but we've had a tour, for instance, of the Southwest Sector. We know that there's another initiative from Councilor Dominguez, this quality of life initiative that brings in Senator Heinrich's staff on this. So there are a lot of things going on in our town that I believe that the Commission has a responsibility to not just understand, but to help guide and to really set the tone."
- Chair Harris continued, "And again, just my own sense of things is that the Land Use Code, the construct is a bit rigid. I guess one of the things I would point to, to defend that position, is I look at the projects that have been brought before the Commission since I've been involved that are responsive to the Code, and I have yet to see a really truly innovative solution that's been proposed. And maybe I'm wrong, and maybe this is just me. Probably the closest that I saw, was I consider the Stagecoach Motel project that the Housing Trust did in partnership with others as really.... That to me was probably the most innovative project that I've been involved in that was approved. I've seen one, so that's completed, we could talk about that. Manderfield is completed. I thought that the Manderfield proposal to reuse that old school had been sitting idle at kind of a unique location in our town, that really, I thought could use a Red Bull. I thought it needed new energy quite frankly, and I thought what was proposed was innovative and would have provided that energy. Unfortunately, it was not approved as was proposed originally, and so it's going forward as a project, but it's a more familiar project with the type of residential uses that we see at that particular location."
- Chair Harris continued, "Again, I looked over my notes. I just jot things down and one of the things I jotted down quite some time ago is flexibility equals better solutions. I don't know again if that's absolutely the case, but I do think that our Land Use Code could use a bit more flexibility. I appreciate what Greg put together for us in terms of alternate compliance. I had missed that term, and I realized that it shows up, in large part, under the Director's purview. But the Commission has the same level of discretion, I suppose, in terms of alternate compliance that the Land Use Director has."
- Chair Harris continued, "So these are some of my thoughts. And I did want to say, too, that with an ongoing discussion over the course of the year of the General Plan, and with the themes.... Councilor Lindell, who long ago spent many effective years on the Planning Commission, I thought did something very interesting. In her presentation at the Neighborhood Law Program, she just took those themes that were listed, and almost gave them a pass/fail grade. She offered her.... I'm looking at you Director Martinez, because you were sitting next to her, and I'm sure you were listening. So certain things like affordability, which was the first theme that is listed under the Land Use Code Portion of the General Plan, she thought had been pretty successful. She gave it a passing grade. When it came to economic development and however it's stated, she didn't say fail, but she certainly didn't give it a passing grade. So, there are a lot of things there that I think

probably need greater attention. If we've been successful with affordability, then we've got that model, we've got that vehicle in place, and I think we can carry it forward."

- Commissioner Harris continued, "When it comes to innovation, whether it's at Las Soleras to look and see what might happen, to really develop a more dynamic community there, I think in part that's what our General Plan should speak to."
- Commissioner Pava said, "Given the hour and all, I think you kind of summarized. It was great to hear Councilor Lindell talk about the General Plan. That's probably why we need to make sure we have a full membership on the Long Range Planning Group. And again, I made the point, and I'm not going to belabor it at this point, but I'm sure you are looking at ways to integrate better the Long Range and Current Planning staff. I think I said at the time, it probably would be wise to actually go outside and solicit many of the capable planning groups in New Mexico that have done this for other cities. Thank you Mr. Chair."
- Commissioner Bemis said, "I would like to second what you said about visiting the site. For me, those were really wonderful. Maybe we could do that with this. I think seeing the sites changes everything, and gives us a good idea of what's good and what's bad, what should be and shouldn't be."
- Commissioner Padilla said, "I've got a couple of questions for you on what you said. You said that we are reactive. What do you mean by reactive. We are to react to what is being proposed to us that has been reviewed and brought forward to use for either a recommendation for denial or approval, after significant staff review. What do you mean by we are reactive."
- Chair Harris said, "Well, I think that again tonight's discussion was in response to that. The Ross's Peak, there was some dissatisfaction within the Commission members. I think Commissioner Schackel-Bordegary certainly has not been shy about that particular case. I have some real issues. I know... I do have a lot of confidence, and respect for John Romero in the discipline that he represents, but I think, too often we get engineering solutions, and the engineering solutions are basically spelled out in our Land Use Code."
- Commissioner Padilla said, "So reactive is not negative. Are you seeing it as a negative, of something that we..... we have to react to what is being provided to us after review and recommendation that comes forward from staff. So how else can we be, other than reactive, so that's one question for clarification."
- Chair Harris said, "That's a fair question. And I think, even though I made the point of saying that, as Commissioners we could reach out to staff to have a better understanding of the discussion, I have known about that, but I don't do it very often. If I feel that way, I think my responsibility would be to go to staff."

- Commissioner Padilla said, "I think a number of us have done that in the past, I know I have, with staff members that are presenting, so, obviously getting the packets early enough to be able to review them and be able to develop those questions, so that we are not reactive, but we are asking and deliberating."
 - Chair Harris said, "For me, part of the reactive mode too is the *quasi judicial* side of it. Again, to be able to engage a bit broader and prior to just being on the podium. Now, one thing that I did read also is that if we have a particular point of view on a case, I really can't call a Commissioner and talk to them about it to make my case. What I can do, is put it in writing, and my advocacy of that particular point of view will be included in the packet. So that, instead of in the heat of the moment, you know how it can get at times, especially if the heat of the moment is 4 hours later, we can't always express ourselves as well as we want to. So, it's true Mr. Shandler that if I have a particular point of view and if I have an argument to make either pro or con, I can put that in writing and it goes into the packet."
- Mr. Shandler said, "Mr. Chairman, you read the City Code correctly. Yes. Yes."
- Mr. Harris said the one thing he wondered about is within the prescribed time limit, and doesn't know what that would be. He said, "What I do know is that we get letters at the podium too, that come up at the final hour. And I never really appreciate that, quite frankly. I don't like to get things at the final hour. That would be another example of being reactive."
 - Commissioner Padilla said, "Good. You mentioned getting out ahead of it, and to allow us to guide and set the tone. What did you mean by that, to get out ahead of it."
 - Chair Harris said, "Well again, to have a better understanding of what Mr. Shandler is kind of reminding us of, and explaining perhaps to Commissioner Gutierrez for the first time, what we can and cannot do. Then also looking at particular situations, whether it is through a tour as Commissioner Bemis said, or as a discussion in the study session. Again, I'm looking for ways to engage this body that is not just at the podium once a month."
 - Commissioner Padilla said, "And you're looking at the larger type projects. You're not looking for the pretty simple, one acre, two acre developments, or are you looking at wanting to get out ahead of all those projects."
 - Chair Harris said, "No not all of them."
 - Commissioner Padilla said, "Okay, but the larger ones, Las Soleras and such that we've been doing here on the Board and that we have in the packet, and we've had this study session on. I think the larger projects really require that, to get out ahead of it, and just to be aware of the ideas and concepts that are coming forward in that development plan."

- Commissioner Padilla said, "And then the last item is innovative solutions. You've talked about innovative solutions. We have the ability to look at and deliberate on innovative solutions to design. I think what happens, and you mentioned Manderfield and so forth, I think what happens is, through neighborhood meetings and neighborhood associations, they are reacting, they are reactive. And a lot of times what happens is that we seem to take it to the lowest common denominator of what everybody can accept, and what everybody will accept. Oh, that's something that we can accept in Santa Fe. I think we have to be a little bolder, and a lot of it comes from my colleagues in the design community. They need to be bolder and willing to break the mold, and look at the Code, design within the Code, but be innovative for everything as far as access to circulation, vehicular access, pedestrian access, to actually design massing and use of materials and those types of those things to be innovative. I think that's important. But not to give up innovation just to get to the lowest common denominator that you know that this will be accepted, we can get this through, because it looks 'brown and round'."
- Commissioner Bemis said to bring up the thing she talked about, the business down off of 599. She said she thinks, as a Planning Commission, we have to think about what jobs people are going to have, and we build these things and we have communities and schools to think about. Other than that we are the capitol, the biggest employer I think, but that's not sort of not all the time year-round. So how much do we in our responsibility to sort of think about attracting business. Is that not in our purview, if it were, it's something we should consider.
- Chair Harris said, "In terms of the General Plan, this is the section dealing with land use in the current General Plan, and I won't read all of the themes, but the fourth bullet is, 'Economic diversity, develop and implement a comprehensive strategy to increase job opportunities, diversify the economy and promote arts in small business.' That's how it reads right now. Okay."
- Chair Harris continued, "For whatever reason, I think it is. If we look then in the Land Use Code, and what it's to accomplish, in the broadest stroke, it is really to... we are to here to ensure that the regulations adopted pursuant to this chapter are in accordance with the General Plan. So, these themes that are listed here, whether it's economic diversity or character, maintain and respect Santa Fe's unique personality, sense of place and character. Those are the things that are in the regulations that are our responsibility that we are to respond to. That's my opinion."
- Ms. Bemis asked if the development "we are discussing tonight is because we do have a need, there are not enough homes and places for people who are wanting to live here, or if this is going to be built hoping that people will come."
- Chair Harris said he thinks the numbers are in, and that we have the homes but we don't have the jobs.
- Commissioner Bemis said that's what she's getting at. She said we don't want to be another Albuquerque. She said, "What are we going to do. We have the Legislature at a certain time of the year, and a big employer and the Taxation Division and all those things. But, for the future, how are we going to attract a clean business, a business appropriate for us. Is that part of our

responsibility or do we just wait until we get somebody who wants to do something and then vote yea or nay."

- Commissioner Padilla said, "I don't think it's our responsibility to develop or create business. I think, in our deliberation, we need to take those points into consideration as we deliberate and look at a case, and what effect it might have in economic development. That's kind of one of our checklist items, okay, yes, this looks like it would stimulate the economy. A lot of times, a developer will propose buildings or a development, but not really know what kind of building he'll build, or what kind of business he'll attract – kind of build it and they will come is, I think, the hope of a lot of developers. But I think as a case is further developed and brought to us for review and approval, that's one of the checkpoints. How will this impact the economics of the City."

Mr. Shandler said, "We met internally to think about some of these answers. In terms of getting out in front of it, two items that probably provide that opportunity is when you're approving a master plan, or even the preliminary plan. Maybe that's the time to put that at the top of the agenda, and spend a lot of time on those particular documents. And being legislators, some of the things you may not have liked, you know, you might want to go back and change the Code, and maybe with a couple of sentences there could be improvement. So, for example, at an early stage, maybe you have to require something like a job report, and I'm just throwing out ideas, to be provided to staff. Because the executive branch doesn't have these criteria, they can't demand these things to be turned in."

Mr. Shandler continued, "Maybe a greater report about connectivity in that earlier stage, but it would have to be in Code. Because again staff could say oh I'm turning down this project unless there is a sentence in the Code saying greater detail."

Mr. Shandler continued, "And then last time, there was a lot of debate about innovation. And I think what Mr. Smith's report shows is that there are not a lot of places in the Code for that. And I think that was the frustration last time, because it was a PUD that had to be innovative but it wasn't. So, maybe working off Mr. Smith's document, maybe there's one or two places that you could put a Code sentence in there to better define when innovative would be and when it would occur."

Mr. Shandler continued, "And then, for these bigger projects they do have to come back for approval after approval after approval, so you do have the opportunity to see things again. And if you're dissatisfied, it's not like they're getting away with it without a chance. So think that these are some of the tools you might have to make sure that you can be more proactive, and also feel like you have a stick involved as well in the game."

- Chair Harris said, "Thank you. Would you make sure those comments go in full into the minutes so that we can follow up on those."

Ms. Martinez said, "To add to that as well, a lot of what is in the Code are engineering solutions that people follow, and a lot of those are very prescriptive, which is the way most Codes are written. And that doesn't create the opportunity for the innovation that we are looking for. I think a lot of Codes in different ways.... I think about the people looking at green codes. They are moving toward performance based measures. They give you that opportunity to have some creativity, to think very differently about things."

Ms. Martinez continued, "So I think as we go in and start to look at the general plan, I think that's an opportunity to step back and find examples that we think really work, that are true success stories, and look at what has made them successful. At the same time, look at things that are problematic and haven't worked. What are those Code sections, and change those or get rid of them. I think we need to look at a lot of different options that are out there. Maybe not all of them are right here in front of us, maybe they're in other cities. There's lots of success out there, and sometimes I think we have a tendency to look at what is right in front of us, and don't look for the view or creative ideas, and so I think we have a great chance here, and that is certainly what I'm interested in doing. That's part of my nature to want to move in that new direction. So I think we have some great chances here and some exciting times ahead."

- Chair Harris thanked her, noting she also said that during the Neighborhood Law Program as well. And he said to Mr. Smith, the Commission has done an injustice to you in the past when we have these Code revisions occurring at the end of a meeting. He said when we these have code revisions they should be in a separate study session to really talk it through and to hear what Mr. Smith has to say, his reasoning and for us to ask questions.

Presentation by Greg Smith

Mr. Smith thanked the Chair for finding his Memorandum useful. He passed out a page 4 to that Memorandum [Exhibit "3"]. He said the consensus of staff, and certainly his opinion, is that our Code Chapter 14 is geared toward disaster prevention.

Mr. Smith reviewed Exhibit "2." Please see Exhibit "2" for specifics of this presentation.

Chair Harris thanked Mr. Smith for his presentation. He said, "I might be going a little too far when I say things like I think the construct is too rigid and a few things like that. So when you say it is disaster prevention versus the creative."

Mr. Smith said the other in that disaster prevention mode, often is connected to a Code that is orientated more toward a designer *[inaudible]* in broader scope of design expertise and design authority. That is the case with Chapter 14 in the recent past with the practices with the Planning Commission. It is often to write Code standards that ensure design *[inaudible]*. And often that is the focus of the community development review process that the community supports a Commission or some other third board that gets into design review. *[inaudible]*

Chair Harris said having been a part of the development and construction community in the work that he has done over the past 40 years, he's seen where the pendulum was, and it seems like the pendulum has moved pretty far in the other direction. He said, "So I think, over the course of the year, we work on the General Plan and do some of the things you have talked about Ms. Martinez. And what I hope this body can accomplish is that we can come up with something that will provide a higher degree of design excellence and in fact, will preserve the character of our community throughout the community, and not just Canyon Road."

Wrap-Up Discussion

- Chair Harris said it is now 8:00 p.m., and he wants everybody to say what they want in closing, and to see what we want to talk about, in terms of getting out ahead of. We know we've got a meeting in January, and asked if we want to also want to have a study session in the second meeting of January, or February, and asked the thoughts of the Commissioners.
- Commissioner Pava thanked the Chair and the staff in giving of their time to prepare all of this, commenting it is above and beyond. He said, "Director Martinez, I am very pleased to hear about the idea of exploring, at least in some way, shape or form, alternatives to the prescriptive kind of Euclidean zoning that we have in Chapter 14. And you mentioned performance based, or maybe even form based. And maybe there's an opportunity if we do a planning process with public input to explain to and educate the public, that might be appropriate for larger developments or as an alternative, based on the proper reviews, of course. Thank you very much."
- Commissioner Padilla said, "Ms. Martinez said one of the things which might be beneficial, as we identify successes and innovative design in planning and subdivisions and so forth, is that we identify them as best practices to be able to share with our development community if they come in, and look at street design, look at trail design, look at Parks and so forth and provide them with best practices."
- Commissioner Villarreal said, "I have a question about process for these study sessions, and how they are structured. Is the Chair going to be the one that leads all of the discussions, or does staff take the role on certain topics. I wasn't here for the last meeting, because I working. But, did you all decide what the structure would be for this study session."

Too many people talking at the same time here to transcribe

- Commissioner Villarreal said, "We have limited time here, and I don't want it to become soap boxes, and I don't want it to become pontification. I want it to be more not just structured but focused and that we come out with maybe some action items. I don't know if that's possible. But staff time is valuable and our time is valuable. I am a little frustrated with this session. I just think a lot of us are knowledgeable, but really, honing in on how to structure these so they are valuable for everybody, and we can take away something from it."

- Commissioner Bemis said, "And we don't go wandering off."

Ms. Martinez said, "This is was the first study sessions we've had, and I think what we'll take from it, I think it's been some very good discussions. You did a great job, Mr. Chair, keeping things on track in terms of time. But I also think it's a learning opportunity for us, and I know that I would certainly appreciate feedback from each of you about what you think works, and what you thought we should do differently. And I think this is something that will evolve, and I think there is enough benefit to what we're doing, but we want to make sure it is time well spent, that we cover the issues that you're for and that we don't go off into some forest some place that doesn't benefit anyone. So please, send us your feedback and we'll continue to work on this."

- Commissioner Villarreal said, "I'm not saying it's not valuable, I'm just saying that there should may be more structure. I know there were points, and I don't know if we really got through all of them. So I'm just saying I don't know how to figure this out, and if the Chair has to take that role, depending on who has specific interests, that they would take a lead role, I don't know. I'm just wondering, kind of putting it out there."
- Commissioner Padilla said, "So maybe it's where somebody, whoever is the lead is the moderator of the study session, as opposed to the one that is bringing and speaking to all the topics, could be moderators.... get everybody engaged. Chair Harris did a great job tonight with time and getting points out there, but maybe we need to look at a moderator for those."
- Chair Harris said, "And I use the word dialogue. I didn't know if we needed a quorum. The study sessions I've been involved in with school districts were much more open than this. There was an agenda, a topic or two, but what I also said is, and Tamara was out ahead of me on this one, we don't want to do it from the podium. I want to be at eye level across the table, trying to develop a dialogue, open it up a little bit more so people can say something that perhaps they aren't saying at the podium. So to me, it was about format tonight, seeing if it works, seeing what Commissioners think and what Director Martinez said is exactly right. I think we should get back to her, however we choose, and say this is what we found to be valuable, what we'd like to do differently, or not."

H. STAFF COMMUNICATIONS

There were no Staff Communications.

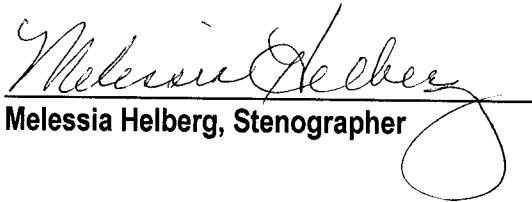
I. MATTERS FROM THE COMMISSION

There were no Matters from the Commission

J. ADJOURNMENT

There was no further business to come before the Commission, and the meeting was adjourned at approximately 8:10 p.m.


Michael Harris, Chair


Melessia Helberg, Stenographer

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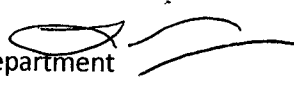
03/2013 03/2015


City of Santa Fe, New Mexico

memo

DATE: December 11, 2014 for the December 18, 2014 Meeting

TO: Planning Commission

VIA: Lisa Martinez, Director, Land Use Department 

FROM: Tamara Baer, ASLA, Manager, Current Planning Division 

RE: Study Session Packet Material

As discussed by the Planning Commission at the meetings of November 6 and December 4, 2014 it is anticipated that the December 18, 2014 Study Session will be structured in three parts as follows:

1. Ex Parte and other restrictions to communication among members. Zack Shandler, Assistant City Attorney. There is no packet material on this matter.
2. Las Soleras Master Plan. The following material is provided for your use and information:
 - A. Las Soleras Master Plan showing constructed, approved, and anticipated developments, including the required 20-acre park approved in 2010.
 - B. Findings of Fact and Conclusions of Law for Case #2010-138 locating the park.
 - C. Exhibit to Case #2010-138 showing approved park location.
 - D. 2010 Annexation and Master Plan Conditions of Approval. These are organized in three groups in relation to when the condition applies. See especially Conditions 45 and 46.
 - E. Open Space and Parks Plan approved as part of the Master Plan in 2010.
 - F. Trails Plan approved as part of the Master Plan in 2010.
3. Role of the Planning Commission. Discussion of code requirements as they relate to project outcomes. The following material is provided for your use and information:
 - A. SFCC 1987 Section 14-2.3, the City Code section that delineates the powers and duties of the Planning Commission.
 - B. Memorandum from Greg Smith: Variances and Other Types of Exceptions to Standards, including "Types of Exceptions to Chapter 14 Standards."

Exhibit "1"

* Original
is available
in the
Clerk's office.

City of Santa Fe
Planning Commission
Findings of Fact and Conclusions of Law

Case #2010-138

Owner's Name – Beckner Road Equities, Inc.

Applicant's Name – James Siebert for James W. Siebert & Associates, Inc.

THIS MATTER came before the Planning Commission (Commission) for hearing on October 7, 2010 upon the application (Application) of James Siebert for James W. Siebert & Associates, Inc., as agent for Beckner Road Equities, Inc. (Applicant).

The Applicant seeks the Commission's approval for the location of a 20-acre active recreation park (the Additional Park) at the development approved by the City's Governing Body on February 11, 2009 for the property known as Las Soleras located in the area north of Interstate 25, east of Cerrillos Road and west of Richards Avenue with a section extending north to Governor Miles Road along the east side of the Arroyo de Los Chamisos (Property). On February 11, 2009 the Governing Body approved a general plan amendment (Case #M 2008-27); annexation and master plan (Case #M 2008-28); lot line adjustment and road dedication (Case #M 2008-15); rezoning (Case #ZA 2008-11); and variances (Case #M 2008-44) (collectively, the 2009 Applications) for Las Soleras, subject to certain conditions, including the condition that the Commission approve the location of a Additional Park prior to the submission of any further development applications for the Property.

After conducting a public hearing and having heard from staff and all interested persons, the Commission hereby FINDS, as follows:

FINDINGS OF FACT

1. The Commission heard testimony from staff, the Applicant, and members of the public interested in the matter.
2. On February 11, 2009 the Governing Body delegated to the Commission responsibility for approving the location of the Additional Park in accordance with the vote of the Governing Body approving the 2009 Applications.
3. The Applicant consulted with Santa Fe Public School District (School District), City staff from the Parks and Recreation Division (Parks) and Current Planning Division and the Metropolitan Planning Organization (MPO), and proposed a location for the Additional Park close to the Monte del Sol Charter School located adjacent to the Property on the north and the projected K-8 City public school projected for Parcel 14 on the Property to provide additional sports and recreation facilities for the schools (the Proposal). As an alternative, the Applicant proposed distributing part or all of the Additional Park across the Property as it is developed in smaller-acreage parcels totaling 20 acres, subject to School District, MPO, Parks and City Land Use

Department (LUD) staff approval in conjunction with the development review process (the Alternate Proposal).

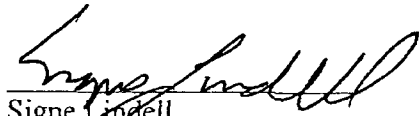
4. Commission staff provided the Commission with a report (Staff Report) evaluating the Proposal and the Alternate Proposal and recommending the Alternate Proposal for the reasons set forth in the Staff Report.

CONCLUSIONS OF LAW

Under the circumstances and given the evidence and testimony submitted during the hearing, the Commission CONCLUDES as follows:

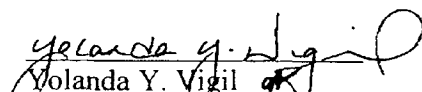
The Commission approves the Proposal, subject to the right of the Applicant or its successors or assigns to request the Commission's approval for the distribution of the Additional Park across the Property as it is developed in smaller-acreage parcels totaling 20 acres in conjunction with the development review process, provided that LUD staff recommends such distribution to the Commission and that the School District and the MPO have consented to such distribution.

**IT IS SO ORDERED ON THE 4TH OF NOVEMBER 2010 BY THE
PLANNING COMMISSION OF THE CITY OF SANTA FE**


Signe Lindell
Chair


11/4/10
Date:

FILED:

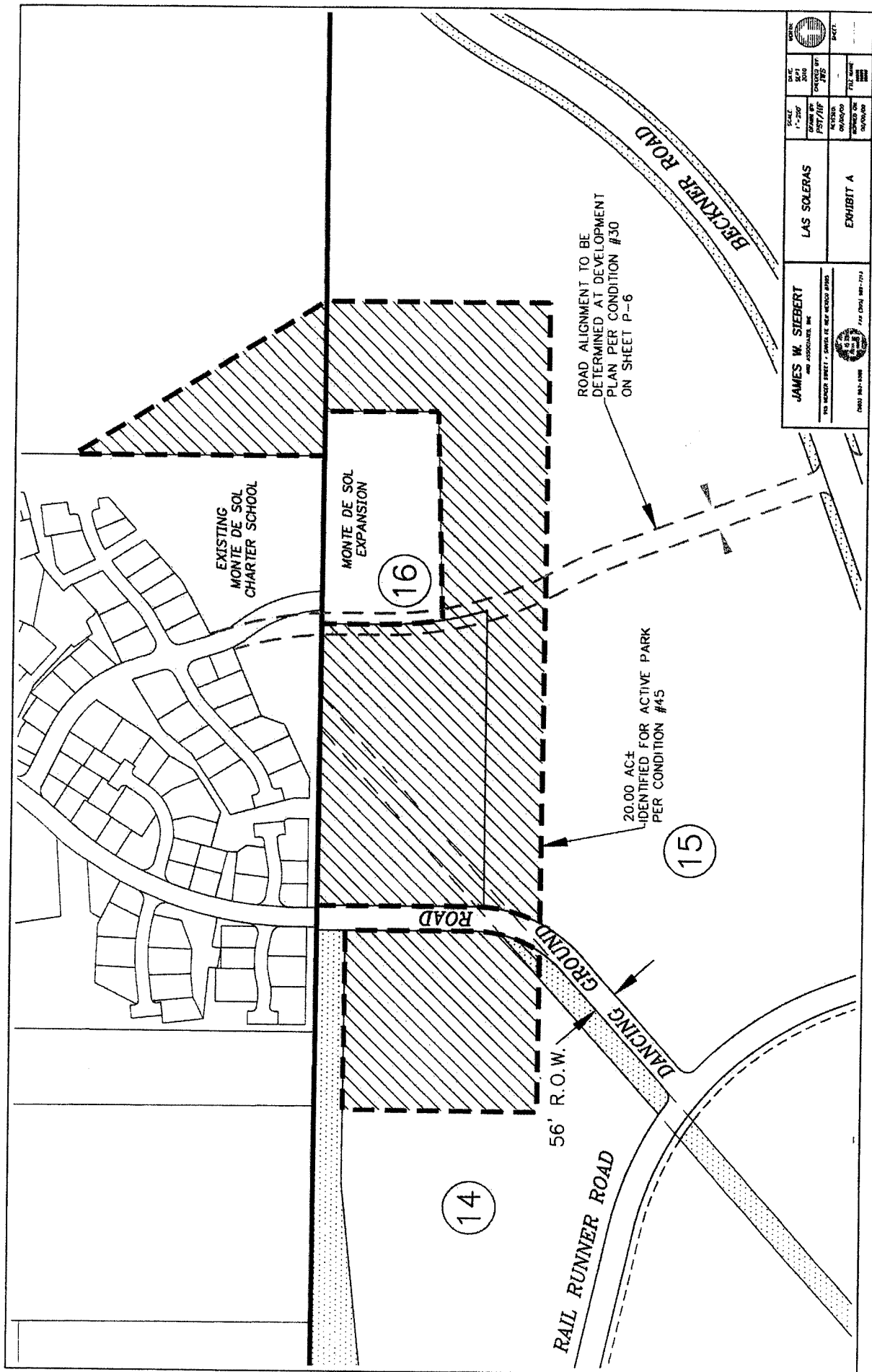

Yolanda Y. Vigil
City Clerk



11/5/10
Date:

APPROVED AS TO FORM:


Kelley Brennan
Assistant/City Attorney

11/4/10
Date:



JAMES W. SIEBERT AND ASSOCIATES, INC. 100 WILSON STREET - SUITE 100 - NEW BRUNSWICK, NJ 08901 (908) 840-1000		SCALE 1" = 200' DRAWN BY JWS/JPB CHECKED BY JWS	DATE 05/11/10 DATE 05/11/10 DESIGNED BY JWS	SHEET 1 OF 1
		LAS SOLERAS		
CADD 004-A-0000 100 WILSON STREET - SUITE 100 - NEW BRUNSWICK, NJ 08901		SCALE 1" = 200' DRAWN BY JWS/JPB CHECKED BY JWS	DATE 05/11/10 DATE 05/11/10 DESIGNED BY JWS	SHEET 1 OF 1

FOR GENERAL PLAN AMENDMENT, ANNEXATION, LOT LINE ADJUSTMENT & REZONING
SET FORTH AT THE CITY COUNCIL MEETING OF FEBRUARY 11, 2009.

[illegible]

EXHIBIT 2D

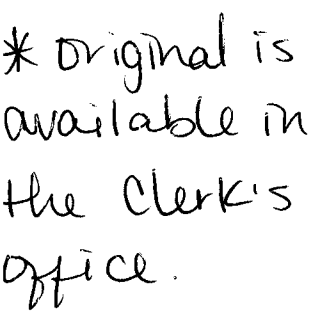


EXHIBIT 2F

14-2.3 PLANNING COMMISSION

(A) Designation

There is a planning commission of the *city*, which shall be referred to as the "planning commission".

(B) Delegation of Authority

The *governing body* hereby delegates its authority for planning within the planning jurisdiction of the *city*, and for approving subdivision *plats* within the corporate boundaries of the *city*, as specifically set forth in Section 3-19-1 NMSA 1978 and more generally in Chapter 3, Articles 19 through 21 NMSA 1978, to the planning commission, except for those powers retained by the *governing body* in the Santa Fe City Code. The *governing body* delegates its authority to the planning commission to hear appeals, variances and special use *permits* as provided for in Chapter 14.

(C) Powers and Duties

The planning commission has the review and decision-making responsibilities set forth in Table 14-2.1-1, to be carried out in accordance with the terms of Chapter 14. In addition, the planning commission is the principal *city* land use administrative board and has the powers and duties specified in this section.

(1) Development Plans and Subdivision Plats

Unless otherwise provided in Chapter 14, the planning commission shall review and approve or disapprove various specific *development plans*, requests and subdivision *plats*. When specifically authorized by Chapter 14, the decision of the planning commission is final, subject to any appeal right provided in this chapter. In all other instances, the planning commission shall provide advice and nonbinding recommendations.

(2) Amendments and Modifications of Approved Plans

The planning commission shall review and approve or disapprove amendments, modifications or time extensions of plans, designs, *plats*, restrictions and other matters previously approved by the planning commission. Nothing in this section precludes the summary committee and the *land use director* from approving minor amendments or modifications as authorized in Chapter 14.

(3) Variances and Special Use Permits as Part of Subdivision or Development Plan Review

If a request for variance or special use *permit* is part of a *development plan* or subdivision request requiring planning commission review, the planning commission shall hear and decide requests for variances pursuant to Section 14-3.16 and special use *permits* pursuant to Section 14-3.6.

(4) Appeals

The planning commission shall hear appeals of:

- (a) *final actions of the land use director* applying Chapter 14; provided that the *application* is made in conjunction with a *development* plan or subdivision request requiring the planning commission's approval;
 - (b) *final actions of the land use director* applying the terrain management regulations in Section 14-8.2 and the escarpment overlay district regulations in Section 14-5.6; and
 - (c) *final actions of the floodplain administrator.*
- (5) Variances of Specified Regulations and Waivers to Flood and Supplementary Retail Regulations
- (a) The planning commission shall review and grant or deny requests for variances from Section 14-5.6 (Escarpment Overlay District); Section 14-8.2 (Terrain and Stormwater Management); Section 14-8.3 (Flood Regulations); Section 14-8.11 (Santa Fe Homes Program); and Section 14-9 (Infrastructure Design, Improvement and Dedication Standards). When deciding variances, the planning commission shall comply with Section 14-3.16. (Ord. No. 2013-16 § 1)
 - (b) The planning commission shall review and grant or deny requests for waivers as set forth in Section 14-3.10 (Development in Special Flood Hazard Areas) and *flood* regulations set forth in Section 14-8.3 (Flood Regulations). When deciding the waiver requests, the planning commission shall comply with notice and procedural provisions referenced in Section 14-3.16 (Variances), but shall use the approval criteria set forth in Section 14-3.10(E).
 - (c) The planning commission shall review and grant or deny requests for waivers as set forth in Section 14-8.8 (Supplementary Regulations for Retail Structures Thirty Thousand Square Feet or Larger). When deciding the waiver requests, the commission shall comply with notice and procedural provisions referenced in Section 14-3.16 (Variances), but shall use the approval criteria set forth in Section 14-8.8(B)(4).
 - (d) The planning commission shall review and grant or deny requests for waivers as set forth in Sections 14-6.2(E) (Telecommunication Facilities) and 14-6.2(F) (Electric Facilities).

(6) Long-Range Policy Recommendations

The planning commission may:

- (a) provide to administrative and governmental officials of the *city* recommendations for public improvements and the financing of such improvements. Public officials shall, upon request, furnish to the planning commission within a reasonable time such available information as it may require for its work; and
- (b) make reports and recommendations relating to the *development* of the *city* to public officials and agencies; *public utilities*; civic, educational, professional and other organizations; and citizens with regard to:

- (i) growth management, land use, transportation, *development* review procedures, urban design and *capital improvements*; and
- (ii) neighborhood and community planning and other community issues as they relate to long-term planning.

(7) Other Recommendations to Governing Body

The planning commission shall review and make recommendations to the *governing body* regarding:

- (a) the adoption of the *general plan* and proposed revisions and amendments to the *general plan*;
- (b) annexations;
- (c) rezonings; and
- (d) proposed amendments to Chapter 14, except for proposed amendments to Sections 14-2.7 (Archaeological Review Committee), 14-3.13 (Archaeological Clearance Permits) and 14-5.3 (Archaeological Review Districts), on which the archaeological review committee shall review and issue recommendations; to Sections 14-3.14 (Demolition of Historic or Landmark Structure) and 14-5.2 (Historic Districts) on which the historic districts review board shall make recommendations; and to Section 14-8.13 (Development Water Budgets) on which the public utilities committee shall review and issue recommendations. (Ord. No. 2012-11 § 1)

(8) Other Powers and Duties

- (a) The planning commission may request any other committee or board to review a proposed official zoning map amendment or a proposed amendment to Chapter 14, and that committee or board shall issue comments and nonbinding recommendations in response to the request.
- (b) In the performance of its duties, the planning commission may enter on any land, make examinations and surveys and place and maintain necessary monuments and markers on land.
- (c) As authorized by *state law* and Chapter 14, the planning commission may make decisions affecting the physical *development* of the *city*, including physical *development* authorized by a public agency or official not under the jurisdiction of the *governing body*. These decisions shall be consistent with the *general plan* and other adopted *city* policies.
- (d) The planning commission has all powers necessary to enable it to fulfill and perform its functions and carry out the duties authorized in the Santa Fe City Code.

(9) Regulations; Planning and Platting; Development Review

- (a) To carry out the planning and platting duties and *development* review responsibilities granted to the planning commission, including the adoption of an amendment to the *general plan* and approval and

disapproval of *plats* and replats, the planning commission may adopt regulations, procedures and a schedule of fees; provided that such regulations, procedures and schedules of fees are consistent with the Santa Fe City Code and do not become effective and enforceable until approved by the *governing body*.

- (b) Among other regulations, the planning commission may adopt flow charts and checklists for matters within the planning commission's jurisdiction in order to provide information and assistance to the general public in complying with the provisions of the Santa Fe City Code.
- (c) Approved *plats* and *development* plans shall be signed by the chair and the secretary of the planning commission.

City of Santa Fe, New Mexico

memo

DATE: December 8, 2014 for the Meeting of December 18, 2014

TO: Planning Commission

FROM: Greg Smith, Director Current Planning Division

SUBJECT: Variances and Other Types of Exceptions to Standards

I. INTRODUCTION

At their December 4 meeting, commissioners raised questions about provisions in Chapter 14 for exceptions to development standards, including variances and innovative designs. This memo summarizes the various types of exceptions that are provided in Chapter 14.

II. BASIC PRINCIPLES

There are two basic types of exceptions provided in Chapter 14. Variances are found in virtually every zoning or land use code, and have been in common use since the earliest zoning ordinances. Variances provide a means to avoid “regulatory takings” when regulations would otherwise prevent all economically reasonable use of an owner’s property. The scope of variances and waivers in Chapter 14 is slightly broader than the “classic” test of preventing all reasonable use of the property. Variances may be approved by the Governing Body, the Planning Commission and the Board of Adjustment. Approval requires making specific findings after conducting a public hearing.

The second type of exceptions includes those that do not necessarily rely on a determination that reasonable use of the property is precluded by the regulations. Provisions for “innovative road designs” and “alternative means of compliance” are examples of this type. Although the standards to qualify for this type of exception are not as stringent as for a variance, they do require a determination that specific circumstances exist, and usually require specific written findings for approval. City land use boards (the Planning Commission, Board of Adjustment and Historic Districts Review Board) have jurisdiction over various types of exceptions for projects that they approve. The Land Use Department Director and other staff also have the authority to approve certain limited types of exceptions in conjunction with construction permits.

Exhibit "2"

EXHIBIT 3B

III. TYPES OF EXCEPTIONS

A. Variances

Variances may be approved by the Governing Body, the Planning Commission or the Board of Adjustment for most types of development standards. Variances may not be approved for use regulations, including residential density, or for procedural rules. Approval of a variance requires a two-step evaluation:

- Special circumstances must exist as provided in 14-3.16(C)(1) before an application can be filed. This determination is made by staff, subject to appeal.
- The Commission or other land use board must determine that the type and extent of the requested variance is necessary to make reasonable use of the property, based on findings required by 14-3.16(C)(2) through (C)(6).

The regulations also include procedures for approval, for conditions of approval and for expiration.

The variance procedure requires the developer to make a specific request and to include a written statement that addresses the approval criteria as part of a project's application. The application requires payment of additional application fees. Approval of a variance can only be made at a public hearing, after notice is provided to nearby owners, residents and property owners.

Waivers by the Planning Commission to the Flood Hazard Regulations (Section 14-3.10(E)) are similar to variances, although slightly different findings are required.

B. Innovative Street Design and Other Exceptions to Street Standards

Section 14-9.2 Street Improvement and Design Standards includes several provisions for exceptions to standards. Subsection 14-9.2(B)(3) allows the Planning Commission to "consider and approve innovative street designs that are not included among the street types and street sections shown or described in this Section 14-9.2 that provide adequate pedestrian and bicycle facilities, as well as necessary transit facilities."

The provision for innovative designs is intended to provide flexibility to accommodate features such as water harvesting or the use of trails rather than on-street bike lanes and sidewalks. It is not intended as a substitute for the variance process. Approval of an innovative design by the commission requires a determination, based on staff's recommendations, that the functional requirements and the purpose and intent of the standards will be met. Requests for approval of alternative standards are sometimes included in the case captions, and should be referenced in the project's findings of fact and conclusions of law.

Some of the standards in Section 14-9.2 depend on a determination that certain circumstances exist, and are sometimes viewed as exceptions. These include

- 14-9.2.(C)(6)(a) requires streets to terminate in a cul-de-sac or other turnaround unless the Planning Commission or Summary Committee determines that the street should be "stubbed out" in anticipation of future extension.
- 14-9.2.(C)(6)(c) requires new streets to be dedicated and improved to their full width (that is, no half or partial streets) unless interim improvements will provide safe and

adequate service, and there is an enforceable plan for the phased completion of the full improvements.

- 14-9.2(C)(7) provides criteria for approval of gravel surfaces instead of asphalt or concrete paving.
- 14-9.2(D)(8) states that “cul-de-sacs, and other dead-end *streets*, both public and private, may be constructed only if topography, *lot* configuration, previous *development* patterns or other natural or built features prevent continuation of the *street*.”

There is not a specific approval process for these determinations; but inclusion in the project’s findings of fact and conclusions of law is appropriate.

C. Special Standards for Planned Unit Development (PUD) Overlay Districts

Planned Unit Development (PUD) rezoning projects include approval of a development plan as part of the rezoning ordinance. Approval of PUD zoning may include variation to the development standards that normally apply in the underlying zone if the Planning Commission and City Council determine that the variation:

- Is appropriate in relation to the overall project
- Will result in development that will be superior to what would otherwise be attainable
- Will minimize the impact on surrounding properties

Note that the approval criteria are different than for variances, although a finding that variation to the standards will make the project superior to one which meets the standards should be a relatively tough criterion to meet. See Subsection 14-5.7(E).

D. Special Standards for Master Plans

Approval of master plans may include special development standards and guidelines that are “necessary to implement specific goals of the master plan.” The standards and guidelines are normally more restrictive than the general standards in Chapter 14. Tierra Contenta, Nava Ade, Las Estrellas (Santa Fe Estates) and Las Soleras all are subject to master plan design standards. See Subsection 14-3.9(C)(2).

E. Special Setback Standards for Residential Development Plans in R-7 to R-21 Districts

The Commission may establish special setback regulations as part of approval for a residential development plan in medium- and high-density residential districts. See Subsection 14-7.2(D)(1): “To facilitate creative and responsive housing types....the required yards shall be based upon their relationship to the overall development and its purpose and their relationship to surrounding properties.” There is not a specific approval process for these determinations; but inclusion in the project’s findings of fact and conclusions of law is appropriate.

TYPES OF EXCEPTIONS TO CHAPTER 14 STANDARDS

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Sections of Chapter 14 that provide exceptions to development standards are summarized below in sequential order. Note that some of the listings might be considered “contingent standards” that establish different standards for different situations, as opposed to exceptions to standards. Some types of exceptions may have been omitted; not all types of contingent standards have been listed.

14-2.3(C) Variances Under the Planning Commission’s Jurisdiction. The Commission reviews variances that occur in conjunction with types of projects they review (subdivisions and development plans). The Commission also reviews all variances of certain types, including flood regulations, escarpment and terrain management regulations.

14-2.4(C) Variances Under the Board of Adjustment’s Jurisdiction. Variances that are not under the Planning Commission’s jurisdiction are handled by the Board of Adjustment.

14-2.11(C) Alternate Compliance Approvals by the Land Use Director.

The Director may approve alternate means of compliance, minor modifications to development approvals, and administrative deviations. The Planning Commission and other land use boards have similar authority for projects they review, as specified in Section 14-3.15.

(C) Approval Authority

(1) Alternate Means of Compliance

The *land use director* may allow alternate means of compliance with the requirements of Chapter 14 when:

- (a) the proposed alternate means satisfy the intent of this chapter;
- (b) the requirements include quantitative standards and those quantitative standards are satisfied by the alternate means of compliance; and
- (c) site conditions, including the configuration of the *lot*, topography and existing vegetation make following the standards prescribed in this chapter impossible or impractical.

(2) Minor Modifications to Development Approvals

The *land use director* may approve minor quantitative and qualitative modifications on an approved master plan, *development* plan, subdivision *plat*, special use *permit* or other *development* approval, subject to the following:

- (a) written request by the *applicant* explaining the need for the modification;
- (b) written finding by the *land use director* that the modifications do not substantially change the function or appearance of the *development*, and will not result in any negative health or safety impacts on the community or negatively impact a neighboring *property*;

- (c) the minor modification may not allow increased *density* or allow uses not otherwise shown on the approved plan or *plat*; and
 - (d) the minor modification complies with all standards and requirements of Chapter 14, except as otherwise allowed by this section.
- (3) **Administrative Deviations**
 The *land use director* may approve minor dimensional deviations of twelve inches or less and minor quantitative deviations from the standards in Chapter 14, including standards for the number of required *off-street parking* spaces, when it is impossible or impractical to fully comply with the standards. Approval of administrative deviation is subject to the following:
 - (a) written request by the *applicant* explaining the need for the deviation;
 - (b) written finding by the *land use director* that the deviation will not result in any negative health or safety impacts on the community or negatively impact a neighboring *property*; and
 - (c) an administrative deviation may not allow increased *density* or allow uses not otherwise permitted in the district.

14-3.9(C)(2) Special Standards in Master Plans. Approval of master plans may include special development standards and guidelines that are necessary to implement specific goals of the master plan. The standards and guidelines are normally more restrictive than the general standards in Chapter 14.

- (2) **Special Development Standards and Design Guidelines**
 - (a) Approval of the master plan may include approval of special *development* standards or design guidelines to be applied within the master plan area when such regulations are necessary to implement specific goals of the master plan.
 - (b) Special standards and guidelines must be approved as part of the master plan.
 - (c) Special standards and guidelines are normally more restrictive than the general standards contained in Chapter 14. All aspects of land use and *development* within a master planned area that are not addressed by a special guideline or standard are subject to the general standards of Chapter 14.

14-3.10 (E) Waivers by the Planning Commission to Flood Hazard Regulations. Specifies the authority to approve waivers to flood regulations in 14-3.10 and 14-8.3. Waivers are similar to variances, but require different findings for approval.

14-3.15 Alternate Compliance Approvals by Land Use Boards.

Gives the land use boards the same authority as the Director for approval of alternate means of compliance, minor amendments and administrative deviations. See 14-2.11(C).

14-3.16 Variances. Variances may be approved by the Commission or the Board of Adjustment for most types of development standards. Variances may not be approved for use regulations, including residential density, or for procedural rules. Approval of a variance requires a two-step evaluation:

- Special circumstances must exist as provided in 14-3.16(C)(1) before an application can be filed. This determination is made by staff, subject to appeal.
- The Commission or other land use board must determine that the type and extent of the requested variance is necessary to make reasonable use of the property, based on findings required by 14-3.16(C)(2) through (C)(6).

The regulations also include procedures for approval, for conditions of approval and for expiration.

14-5.2(C)(5) Exceptions to Historic Overlay Districts Regulations. The Historic Districts Review Board may approve exceptions to the historic regulations. The exceptions are similar in some ways to variances, but have different procedures and approval criteria.

14-5.6(D)(3) Alternate Siting Approvals, Escarpment Overlay District. Staff may approve buildable sites that are closer to the “viewline” than normally allowed, or that are located within the ridgetop subdistrict. Alternate siting applies to lots created prior to 1992, where a finding is made that the alternate site would result in less visual impact. All escarpment siting approvals by staff are subject to posting of a notice on the affected property, and staff decisions may be appealed to the Planning Commission.

14-5.6(K) Variance Provisions for Escarpment Overlay District Regulations. The specific provisions for variances in the escarpment district are similar to the provisions that apply to all variances (14-3.16). Staff anticipates that pending amendments to the escarpment regulations will provide consistency.

14-5.7(E) Variation of Standards for Planned Unit Development (PUD) Overlay Districts. Approval of PUD zoning for a parcel may include variation to the development standards that normally apply in the underlying zone if the Planning Commission and City Council determine that the variation:

- Is appropriate in relation to the overall project
- Will result in development that will be superior to what would otherwise be attainable
- Will minimize the impact on surrounding properties

14-6.2(E)(8) Waivers to Telecommunication Facilities Standards. The Planning Commission may approve waivers to the location, height or screening standards if six special findings are made and eight specific factors are considered. The Historic Districts Review Board may approve waivers to the H district regulations for antennas.

14-6.2(F)(12) Waivers to Electric Facilities Siting Standards. The Planning Commission may approve waivers if three findings are made, and if six criteria are considered.

14-6.2(G)(4) Waivers to Standards for Underground Electric and Cable Utility Lines. The Governing Body may approve waivers if three findings are made, and if five criteria are considered.

14-7.1(F) Visibility at Driveways and Yards. The Public Works Director (Traffic Engineer) may waive the normal sight triangle requirements for driveways and for street intersections. The waiver must be based on AASHTO Standards, and the sight triangle requirement may also be increased if warranted by the national standards.

14-7.2(E) and (F) Increases to Maximum Height and Density in R-12, R-21, and R-29 Districts. Table 14-7.2-1 establishes a maximum density of 10 units per acre, but allows the Governing Body or land use boards to development plans and special use permits for up to 12, 21 or 29 units in the corresponding districts. Similarly, the table establishes a maximum height of 24 feet but allows the up to 36 feet with special approvals. Approvals must include evaluation of five special factors.

Table 14-7.3-1 Note 4: Reduction of Setback in BIP District. The Commission may reduce required setback for buildings and loading areas from 50 feet to 25 feet, depending on the type of use, topography and other factors.

14-8.2(B)(3) Alternate Means of Compliance for Stormwater Management. The City Engineer may approve alternative methods that achieve improved environmental performance or for aesthetic purposes.

14-8.2(D)(2)(b) Disturbance of 30% Slopes for Lot Access or Utilities. The City Engineer may waive the prohibition on disturbance of 30% slopes if the applicant demonstrates that it would be impossible to provide access to the lot or to provide utility service without disturbing slopes that steeper than 30%.

14-8.2(D)(3) Reduction of Buildable Area. The Planning Commission or Summary Committee may reduce the size of the buildable area required for a new lot, to accommodate lot size averaging or for multi-family developments. No special findings are required.

14-8.2(D)(4)(e)(i) Arroyo Setback Reduction. The City Engineer may waive the requirement for a setback from the top of an arroyo equal to the depth of the arroyo plus 25 feet. The engineer must state the reasons for the approval in writing, based on evidence provided by a professional engineer that the arroyo bank will be stable.

14-8.4(C)(4) Alternate Means of Compliance for Landscape and Site Design Standards. The Director may approve alternate compliance that satisfy the intent of the regulations, and that satisfy or exceed the requirements of 14-8.4 when:

- Site conditions make full compliance impossible or impractical.
- The alternate means are appropriate to the design intent.
- Stormwater management, water conservation and water harvesting are enhanced.

14-8.6(B)(4) Parking Reduction for Shared Parking. A land use board may reduce the number of parking spaces required pursuant to a development plan or special use permit, if the reduction is supported by a parking demand study.

14-8.6(B)(4) Parking Reduction for Transit Facility. Parking requirements may be reduced by 5% if the property owner grants the City the right to use a portion of the property for a transit facility.

14-8.8(B)(4) Waivers to “Big Box” Standards. The Commission may grant waivers to the Supplementary Regulations for Retail Structures Thirty Thousand Gross Square Feet or Larger if:

- The proposed alternative building or site design would satisfy the intent as well or better than the applicable standard, or the siting of new building or parking areas in relation of the street is not possible for a remodel or addition.
- The waiver would impose significantly more negative impacts on nearby properties.

14-8.9(E)(3) Maximum Illumination Levels. The Director may approve higher illumination levels for specific or unusual situations, if the applicant provides a request and justification in writing.

14-8.10(A)(2)(b) 400-year Anniversary Banners. Specifically exempted from sign regulations

14-8.10(H)(4) Waiver to Prohibition on Fence and Wall Signs in Historic Districts. Staff may allow a sign on a fence or wall if it is “necessary to the conduct of a business.”

14-8.12(C) Exemption from Prairie Dog Relocation Requirement. The Director may grant an exemption if a relocation site or approved trapper/relocator is not available, or if relocation would delay start of a project by more than 60 days.

14-8.13(F) Development Water Budget Variances. These are heard by the Governing Body, using the variance procedure in 14-3.16.

14-9.2(B)(3) Innovative Street Designs. Requires a determination by the Commission that the innovative design better achieves the intent of the regulations; not intended as a substitute for variances.

- “To better achieve the intent of this Section 14-9.2, a *land use board*... may consider and approve innovative *street* designs that are not included among the *street* types and *street* sections shown or described in this Section 14-9.2 that provide adequate pedestrian and bicycle facilities, as well as necessary transit facilities.”

14-9.2(C)(6)(c) Exception to Requirement to Dedicate and Improve Full-width of Street. “New *streets* shall be dedicated and improved to the full width for which they are planned, except where a *land use board* or the *governing body* determines that an interim width or level of improvements provides safe and adequate service as part of an enforceable plan for the phased completion of the improvements.”

14-9.2(D)(8) Special Determination Required to Approve Cul-de Sacs. The Commission may approve a cul-de-sac rather than a through street “only if topography, *lot* configuration, previous *development* patterns or other natural or built features prevent continuation of the *street*.” This provision is not a variance or waiver, but does require a determination or finding that the specified conditions exist.

F. Alternate Compliance Approvals by the Land Use Director or Land Use Boards.

The Director may approve alternate means of compliance, minor modifications to development approvals, and administrative deviations. The Planning Commission and other land use boards have similar authority for projects they review, as specified in Section 14-3.15.

Alternate means of compliance may be approved when it is impractical to comply with a standard in Chapter 14, if an alternative method or compliance would meet the intent of the regulation and any applicable quantitative standard. Examples would be the use of trees in place of shrubs, use of a berm for screening in place of a wall, or use of engineered paving block systems in place of asphalt or concrete. There is a general provision for alternate compliance in Subsection 14-2.11(C)(1), and there are specific references including for landscaping and terrain management.

The Director or the Commission may approve minor modifications to plans approved by the Governing Body or a land use board, if the changes will not substantially change the function or appearance of the development (14-2.11(C)(2)). The Commission may also approve minor amendments to plans approved by the Governing Body as provided in Subsection 14-3.19(D).

Administrative deviations allow approval of “minor dimensional deviations of twelve inches or less and minor quantitative deviations from the standards in Chapter 14, including standards for the number of required off-street parking spaces, when it is impossible or impractical to fully comply with the standards.” Approval of a deviation requires a written determination that the deviation will not result in any negative impacts on the community or neighboring properties. The deviation process is not intended as an alternative to the variance process, but as a recognition that there are occasions when a “*de minimus*” exception to the standards is appropriate. Examples include situations where a surveying error or retrofitting with exterior insulation causes a building to encroach a few inches into the required side yard, or where uneven terrain makes it difficult to maintain a constant fence height at every point along a property line.

Exhibit "3"