



DATE 8/24/11 TIME 11:40 am  
SERVED BY Geraldine Gerschlager  
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# Agenda

**PLANNING COMMISSION**  
**September 15, 2011 – 6:00 P.M.**  
**CITY COUNCIL CHAMBERS**

- A. ROLL CALL**
- B. PLEDGE OF ALLEGIANCE**
- C. APPROVAL OF AGENDA**
- D. APPROVAL OF MINUTES AND FINDINGS/CONCLUSIONS**

**MINUTES:** September 1, 2011

**FINDINGS/CONCLUSIONS:**

Case #2011-92. 1858 Siringo Terrain Management Variance.

Case #2011-69. Village Plaza Annexation. (POSTPONED FROM SEPTEMBER 1, 2011)

Case #2011-70. Village Plaza General Plan Amendment. (POSTPONED FROM SEPTEMBER 1, 2011)

Case #2011-67. Village Plaza Rezoning. (POSTPONED FROM SEPTEMBER 1, 2011)

Case #2011-68. Village Plaza Preliminary Subdivision Plat. (POSTPONED FROM SEPTEMBER 1, 2011)

**E. ELECTION OF OFFICERS**

- 1. Chair
- 2. Vice-Chair
- 3. Secretary
- 4. Summary Committee (Three members, including committee chair and secretary)
- 5. Long Range Planning Subcommittee (Three members)

**F. OLD BUSINESS**

**G. NEW BUSINESS**

- 1. Case #2011-88. **Entrada Contenta Final Subdivision Plat and Variances.** JenkinsGavin Design and Development, agent for Herrera Associates, LLC, requests Final Subdivision Plat approval for 12 lots on 9.57± acres. The application also includes the following variances: 1) Section 14-5.5(B)(7) minimum lot depth; and 2) Section 14-8.10(G)(8)(d) general requirements for signs. The property is zoned C-2 (General Commercial) and is located at 5500 Herrera Drive. (Heather Lamboy, Case Manager) (POSTPONED FROM SEPTEMBER 1, 2011)

2. **Case #2011-89. Village Plaza Development Plan.** Santa Fe Planning Group, Inc., agent for Richard Cook, requests Development Plan approval for 100,500 square feet of retail uses, 140,800 square feet of office uses, 56,500 of community service uses, and 20 dwelling units on 61.09± acres. The property is located east of NM 599, west of Plaza Central, and north and south of Jaguar Drive. (Heather Lamboy, Case Manager) **(POSTPONED FROM SEPTEMBER 1, 2011)**
3. **Case #2011-90. Village Plaza Final Subdivision Plat.** Santa Fe Planning Group, Inc., agent for Richard Cook, requests Final Subdivision Plat approval for 12 lots on 61.09± acres. The property is located east of NM 599, west of Plaza Central, and north and south of Jaguar Drive. (Heather Lamboy, Case Manager) **(POSTPONED FROM SEPTEMBER 1, 2011)**

## **H. BUSINESS FROM THE FLOOR**

### **I. STAFF COMMUNICATIONS**

### **J. MATTERS FROM THE COMMISSION**

### **K. 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.**

**Index Summary of Minutes  
Santa Fe Planning Commission  
September 15, 2011**

<b>INDEX</b>	<b>ACTION TAKEN</b>	<b>PAGE(S)</b>
<b>Cover Sheet</b>		1
<b>Call to Order</b>	Chair Lindell called the meeting to order at 6:10 pm	2
<b>Roll Call</b>	A quorum was declared by roll call.	2
<b>Pledge of Allegiance</b>	Pledge of Allegiance was led by Commissioner Bordegaray	2
<b>Approval of Agenda</b>	<u><b>No Staff or Commission Changes</b></u>	2
Approval Minutes, September 1, 2011.	Motion by Commissioner Spray, seconded by Commissioner Villarreal	2
<b>FINDINGS/CONCLUSIONS:</b>		
<u><b>Case #2011-92. 1858 Siringo Terrain Management Variance.</b></u>	Motion by Commissioner Spray, seconded by Commissioner Ortiz	2
<u><b>Case #2011-69. Village Plaza Annexation. (POSTPONED FROM SEPTEMBER 1, 2011)</b></u>	Motion by Commissioner Spray, seconded by Commissioner Ortiz	3
<u><b>Case #2011-70. Village Plaza General Plan Amendment. (POSTPONED FROM SEPTEMBER 1, 2011)</b></u>	Motion by Commissioner Spray, seconded by Commissioner Ortiz	3
<u><b>Case #2011-67. Village Plaza Rezoning. (POSTPONED FROM SEPTEMBER 1, 2011)</b></u>	Motion by Commissioner Spray, seconded by Commissioner Bordegaray	3
<u><b>Case #2011-68. Village Plaza Preliminary Subdivision Plat. (POSTPONED FROM SEPTEMBER 1, 2011)</b></u>	Motion by Commissioner Spray, seconded by Commissioner Bordegaray	3
<b>Election of Officers</b>	1. Chair – Hughes 2. Vice-Chair – Spray 3. Secretary – Ortiz 4. Summary Committee – Harris, Bordegaray, Spray	3

**Index Summary of Minutes  
Santa Fe Planning Commission  
September 15, 2011**

	Long Range Planning Subcommittee – Hughes, Villarreal, Bemis	
<b>New Business</b>		
1. <b><u>Case #2011-88. Entrada Contenta Final Subdivision Plat and Variances.</u></b>	Commissioner Spray moved to approve with conditions, seconded by Commissioner Bemis, approved by roll call vote (5:1)	3-16
2. <b><u>Case #2011-89. Village Plaza Development Plan.</u></b>	Commissioner Spray moved to approve with conditions, seconded by Commissioner Ortiz, approved by unanimous voice vote	17-19
3. <b><u>Case #2011-90. Village Plaza Final Subdivision Plat.</u></b>	Commissioner Spray moved to approve with conditions, seconded by Commissioner Harris, approved by unanimous voice vote	17-20
<b>Business from the Floor</b>	None	20
<b>Communications from Staff</b>	Informational	20
<b>Matters from the Commission</b>	Informational	20-21
<b>A. ADJOURNMENT AND SIGNATURE PAGE</b>	There being no further business to come before the Planning Commission, the meeting was adjourned at 9:30 pm.	21

**PLANNING COMMISSION  
September 15, 2011 – 6:00 P.M.  
CITY COUNCIL CHAMBERS**

**A. ROLL CALL**

**The Chair called the meeting to order at 6:10 pm, a quorum was declared by roll call.**

**Present:**

Chair Lindell  
Commissioner Spray  
Commissioner Bordegaray  
Commissioner Bemis  
Commissioner Ortiz  
Commissioner Villarreal  
Commissioner Harris

**Excused:**

Commissioner Hughes  
Commissioner Mier

**Staff Present:**

Tamara Baer  
Matthew O'Reilly  
Judith Amer  
Donna Wynant

**B. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Commissioner Bordegaray.

**C. APPROVAL OF AGENDA**

Commissioner Spray moved to approve the agenda as presented, seconded by Commissioner Villarreal. Motion carried by unanimous voice vote.

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

**MINUTES: September 1, 2011**

Commissioner Spray moved to approve the September 1, 2011 minutes as presented, seconded by Commissioner Villarreal. Motion carried by unanimous voice vote.

**FINDINGS/CONCLUSIONS:**

**Case #2011-92. 1858 Siringo Terrain Management Variance.**

Commissioner Spray moved to approve Case 2011-92 – 1858 Siringo Terrain Management Variance, seconded by Commissioner Ortiz. Motion carried by unanimous voice vote.

**Case #2011-69. Village Plaza Annexation. (POSTPONED FROM SEPTEMBER 1, 2011)**

Commissioner Spray moved to approve Case 2011-69 – Village Plaza Annexation, seconded by Commissioner Ortiz. Motion carried by unanimous voice vote.

**Case #2011-70. Village Plaza General Plan Amendment. (POSTPONED FROM SEPTEMBER 1, 2011)**

Commissioner Spray moved to approve Case 2011-70 – Village Plaza General Plan Amendment, seconded by Commissioner Ortiz. Motion carried by unanimous voice vote.

**Case #2011-67. Village Plaza Rezoning. (POSTPONED FROM SEPTEMBER 1, 2011)**

Commissioner Spray moved to approve Case 2011-67 – Village Plaza Rezoning, seconded by Commissioner Bordegaray. Motion carried by unanimous voice vote.

**Case #2011-68. Village Plaza Preliminary Subdivision Plat. (POSTPONED FROM SEPTEMBER 1, 2011)**

Commissioner Spray moved to approve Case 2011-68 – Village Plaza Preliminary Subdivision Plat, seconded by Commissioner Bordegaray. Motion carried by unanimous voice vote.

**E. ELECTION OF OFFICERS**

1. Chair – Chair Lindell nominated Commissioner Hughes to serve as the Chair, seconded by Commissioner Spray. Motion carried by unanimous voice vote.
2. Vice-Chair – Commissioner Villarreal nominated Commissioner Spray to serve as Vice-Chair, seconded by Commissioner Bordegaray. Motion carried by unanimous voice vote.
3. Secretary – Chair Lindell nominated Commissioner Ortiz to serve as Secretary, seconded by Commissioner Villarreal. Motion carried by unanimous voice vote.
4. Summary Committee – the following individuals volunteered to serve on the summary committee:

Commissioner Harris (introduces himself and is welcomed to the Board by Chair Lindell)  
Commissioner Bordegaray (will try – depends on work schedule)  
Commissioner Spray

5. Long Range Planning Subcommittee

Commissioner Hughes  
Commissioner Villarreal  
Commissioner Bemis

**F. OLD BUSINESS**

None

## G. NEW BUSINESS

1. **Case #2011-88. Entrada Contenta Final Subdivision Plat and Variances.** JenkinsGavin Design and Development, agent for Herrera Associates, LLC, requests Final Subdivision Plat approval for 12 lots on 9.57± acres. The application also includes the following variances: 1) Section 14-5.5(B)(7) minimum lot depth; and 2) Section 14-8.10(G)(8)(d) general requirements for signs. The property is zoned C-2 (General Commercial) and is located at 5500 Herrera Drive. (Heather Lamboy, Case Manager) **(POSTPONED FROM SEPTEMBER 1, 2011)**

Ms. Lamboy – is the case manager assigned to this case. Brief introduction of staff to include the City Engineer, Mr. Eric Martinez, Mr. Keith Wilson, and Mr. Stan Holland. Ms. Lamboy gives a description of the property, which is located off Cerrillos Road. This project was originally part of the development plan for Walmart, but has since been split off. It is a 9.57 acre site. The request is to subdivide this into 12 lots. The original intent was a condo style ownership but the applicant found that very difficult to market. The retail entities prefer to own their own lots. The site is zoned commercial. Staff has provided the development plan to the commission for review.

There are three existing platted lots that were previously approved. The part being considered this evening is located in the center portion. There are two bus stops that were platted that are located on Herrera Drive. The first issue from final subdivision plat discussion and review was the construction of the trail (shows photos of site). There was a condition that required the construction of the trail at the site which would connect to the existing underpass tunnel. Since then the applicant had concerns and challenged the construction of the trail. The trail has been discussed throughout the planning. The guiding policy that staff looks to is the 2010-2035 Metro Development Plan. The master plan speaks to the Arroyo Chamiso trail. There is a requirement in that plan to develop a trail network. In 2007, after the creation of the original development plan, there was a requirement for trail development and development for parks and recreational facilities. Public trails apply to development plans. Las Soleras has agreed to conduct the connecting trail from their side (shows views of where underpass would be located).

The second issue is the water budget. There is also a detailed water budget included in the staff report. It is possible that as users change the minimum number of acre feet could exceed 5 acre feet, which then requires the development to bring in water rights. Staff has requested a disclosure note be included on the plat.

The third issue is the street name. The applicant is requesting to change the street name from Las Soleras to Villa Contenta. We want to make way finding relatively easy. This is supported by code. The code requires consistent names across arterials. Staff does not support the change of name.

The fourth issue is the bus shelters. Large volumes of transit riders are expected in the future. The big box development also requires it. Bus shelters were not accommodated for in the letter of credit. The developer has offered \$10,000 to Santa Fe Trails for the bus shelter on Herrera property. Santa Fe Trails has accepted this proposed condition.

Finally, with reference to variances, the applicant was required to apply for two variances - the minimum lot depth and the 45 feet to 25 feet variance. Staff supports the variance applications.

Staff recommends conditional approval for the subdivision plat.

For the Applicant:

Ms. Jennifer Jenkins  
130 Grant Avenue, Suite 101  
Santa Fe, New Mexico

Ms. Jenkins: I am here on behalf of the Herrera family in request for final plat approval. (Ms. Jenkins introduces Mr. and Mrs. Herrera, Nancy Long, Mike Gomez, Judy Herrera and her husband)

Ms. Jenkins: I am going to expound on the history of the project to make sure everything is accurate (passes out photograph). The main street portion is the area along Cerrillos Road. Walmart owns the neighboring property. This project was approved in 2005 as one project. In 2005 a subdivision was approved at the same time as the development plan. There were two Walmart tracts and four Herrera tracts created at this time. Previous to this all of the property was annexed along with the Tierra Contenta Annexation in 1985. It was amended in 1994. These were the Herrera properties as an adjoining owner to the Tierra Contenta property.

With respect to Staff's request of a trail connection under Cerrillos Road to the bus stop – after we submitted our preliminary application to create an individual parcel for each building (makes easier for construction financing and marketing purposes), the issue of the trail connection was brought up. This was early on in the discussions with the City. The City informed us that they discovered there was a \$100,000 line item in Walmart for infrastructure for Entrada Contenta (this covered trails and the City was not aware of it). The City said they would direct those funds for improvement. Therefore, we did not oppose trail improvements. There was nothing for us to oppose. After the preliminary hearing and approval, a decision came down from the City Attorney's office that indicated that was in conflict with the terms of the contractual agreement between the City and the Herrera family (annexation agreement). The annexation agreement absolutely contemplates trail improvements.

The Herrera family has committed that when the rear residential parcels are developed the trail contribution will be based upon the number of units developed. There is commitment for trail improvement. It has been in place for years to contribute financially to trail improvements. In 2005 when the Entrada Contenta project was developed the City requested a trail easement. Knowing there would be an extension there needed to be a way to get from the Arroyo to the sidewalk network. We granted the trail easement and did minor amendments, tweaking the site plat. We were told that when we pull the building permit the City wants us to build that connection. We agreed.

On August 22 we were notified that the City's attorney's office made a decision that the trail agreement was contrary to the annexation agreement. We left the meeting thinking it was all resolved. A couple days later Ms. Lamboy called and said the City had an idea. She asked whether the Herrera's would be willing to construct a connection from the pipe to Herrera Drive. In the additional information that was passed out to you this evening is



our letter which our engineer did of the cost. We made an offer – an accommodation – that we will give the City the value of the improvement (\$35,000). We will write the City a check to use as they see fit for trails they deem most necessary. We have received no response to the offer. Upon issuance of the first building permit for the Entrada Contenta main street project we will transfer those funds to the City of Santa Fe for trail improvements. It is also important to recognize that the Herrera family has always been highly responsible land owners in our community. Upon the sale to Walmart they gave \$250,000 to the south side library, and \$50,000 to The Boys Club. The Herrera family is not attempting to shirk their responsibility. The commitments are already in place.

With respect to the water budget, the project was approved in 2005. Infrastructure was all built and we were informed by staff that we need to provide a water budget for 12 lots (which we did). We were then told that because we are close to 5 acre feet it is important to put a note on the plat that users over the 5 acre feet would have to transfer water rights. When we saw the language we – it was not my recollection of what was discussed. In researching what they are asking for – let's say we end up with more sit down restaurants – that restaurant is going to have to transfer water rights for everything that came before it. The provision on page 2 (of handout) that talks about that is very standard. The standard only applies to phased projects. We built the entire infrastructure at the same time. There is not a phasing project. This is new information for us. We were encouraged to do a phasing plan. We said no, we are fine. Now we are being told we are a phased project. Today we are handed a memo that says “intent was to have concept apply whether phased or not. We are currently writing a clarification for the administrative procedures that explain this concept.” I am extremely concerned that something is being imposed on us that are not supported by ordinance. The Herrera's just want to follow the rules as the rules are written today. Not after a clarification. The rules clearly say “for phased projects” and, again, we are not a phased project.

If we need to put a note on the plat it needs to state that when and if we exceed 5 acre feet all the users after 5 acre feet have to transfer water rights. We are fine with that. It is consistent with the code as it is written today. We request this be the note placed on the plat to address this issue. We appreciate staff's support.

With regard to sign variance we are requesting that the sign setback look similar to the drawing. With the 45 foot setback required the monument sign is not visible. The sign will serve its purpose at 25 feet.

Ms. Jenkins' briefly addresses the request to change the street name. Following the approval of the project in 2005, it was conditional upon the Entrada Contenta project and the Las Soleras project working together to form a comprehensive plan. While working through a master planning process they recognized that the intersections needed to line up. A traffic plan was worked on and the names were developed. In 2005 the traffic plan was done. The roads do not exist until they are actually built. If you platted the road and platted a street change a name change was permitted. We are asking for the same consideration. These are two significant neighborhoods. Entrada Contenta and Las Soleras. We are the first gateway to Tierra Contenta. Hence, the name Entrada Contenta. Las Soleras drive will extend into Tierra Contenta. With that we are proposing Via Contenta. The code provision that says street names must match up does not apply – there is no street that we must match up with. Therefore, we ask for consideration to modify the street name to make it more relevant to neighborhoods.

Chair Lindell: This is a public hearing. Does anyone want to speak regarding this project?

Dave Thomas – Project Engineer for Tierra Contenta.

Tierra Contenta supports having the street name continuous on both sides. The Villa Contenta name was heard this evening for the first time and I like it. However, the Tierra Contenta and Las Soleras need to have some input into what the name is.

Public hearing closed.

Commissioner Bordegaray: Mr. Thomas did you say you want Las Soleras to be in agreement with name?

Mr. Thomas: Las Soleras needs to agree with whatever name is chosen. I do like Villa Contenta.

Commissioner Bordegaray: Question for staff regarding the memo presented tonight. The applicant is willing to provide payment of \$35,000 in lieu of constructing the trail. I would like to know if this is possible.

Ms. Lamboy: Eric Martinez looked at the proposal. There is no response because we were studying it up to this morning. I will defer to Mr. Martinez regarding the estimate and whether it can be built. The connection would be in lieu of providing access to transit stop.

Commissioner Bordegaray: We are seeking connections up to the trail? We are hoping to get it tunneled through half way and Las Soleras has agreed to go half way and we want Herrera to meet them there? That's what we are asking for? The transit connection is an added step? What specifically are you asking them to do?

Ms. Lamboy: On Las Soleras they have committed to construction of the trail which will cover the term of their build out connect near Nava Ada and Santa Fe Place. They have committed to trail construction and to improving the tunnel. They are currently working out the details with DOT. On the Entrada Contenta side we would like to see commitments fulfilled. We are trying to put all the pieces together by connecting the Arroyo Chamiso trail to the bus stops. There is a lot of language in our plans to connect transit, bike and pedestrian trails.

Commissioner Bordegaray: Other than connecting to the bus stop and trail, what else do they have to connect to?

Ms. Lamboy: They would need to go along the dedicated bicycle lane on Herrera Drive and continue to Tierra Contenta. Also looking at opportunities across the road.

Mr. Martinez: I had an opportunity to give the estimate provided to us on the slide earlier a cursory review. I could not verify the quantities used in the estimate. Given that, I came up to a number that was close to double what they had offered (\$55,000). Whether that would actually afford a trail connection at the tunnel is up in the air. I cannot answer whether those funds would afford that connection.

Commissioner Bordegaray: This estimate does not provide for a design that would link it to the trail?

Mr. Martinez: That's correct -- only from bus stop to the property line.

Chair Lindell: Can you please show us on the map.

Ms. Jenkins: (Shows on the map what they are proposing.) In response to the suggestion we had an estimate prepared on the connection we already agreed to. We are estimating 220 linear feet of area as a comparable in what we would be improving. At \$55,000 that would be \$225 linear foot for a trail. The easement exists and will stay in place. We will give the money to the City to be used for the City's priority. When we pull our first permit the money goes in.

Commissioner Bordegaray: Nothing is currently on the land. Those will be developed and the proximity to the trail is more immediate. Would you not like to see the very best connections to any of the development that facilitates movement across Cerrillos road in all different modes?

Ms. Jenkins: Of course.

Commissioner Bordegaray: what is the allure of connecting a trail to a bus stop? If someone is going to ride the bus, they probably are not going to use the trail. That is a waste of money for the trail segment and not the best use of trail dollars. How do we ensure that we are going to get the best trail planning with this development? For the success of a project you do not want to build your trails later. (Gives an example of the amount of money being spent on the Zia and St. Francis crossing and it is still not safe). How do we avoid this? You need to make the trails work. I am not here to discuss what you don't have to do. The code does not require it but you are all bright minds and I think it can be figured out.

Ms. Jenkins: What we are offering is let the City be in charge of where the connections happen. It is a City network, not Entrada Community Development. This is City responsibility and the Herrera family is committed to contributing to the trails. The timing may not be perfect but there is money coming and there is more of it. We have 24 acres and there are commitments on the trail that these tracts have to give real dollars toward trail improvements. The flood plain is not dedicated to the City of Santa Fe as open space. The mechanisms are in place and I cannot guarantee that all the pieces will come together at the same time.

Commissioner Bordegaray: Can staff ensure that the trail system will work? The tunnel got buried and I am on record for being very disgusted. If you are confident I will go with it but tell me you are confident.

Mr. Martinez: I guess the main reason for our recommendation is because we have a golden opportunity to make the connection. We have a developer on one side ready to make the connection. This would take advantage of the opportunity. It will provide access to the development on each side. It serves the public at large and we are looking to take advantage of the opportunities we have in front of us.

Commissioner Harris: With regard to the conditions recommended by Mr. Martinez – I read that “to the existing pedestrian pipe” shall be improved. Mr. Wilson’s language seems to read the same way. “Staff supports roadway, that the existing tunnel under Cerrillos Road be required”. Are we requesting the Herrera’s development to the tunnel or to a midpoint?

Mr. Martinez: To the tunnel and within the tunnel and to make the connection from the tunnel somewhere to Herrera Drive. We are open to discussing where with the applicant.

Commissioner Harris: I heard you say to and within? The language says “to”.

Mr. Martinez: Made reference to the remaining half of improvements within the tunnel. As an effort to realize full public use to design and construct ... opening and constructing from ... and continuing with the remaining half.”

Commissioner Harris: You are recommending to a midpoint, thank you. I look at the recent letter from Ms. Jenkins to Ms. Lamboy – on 8/22 we met to resolve the issue. It was agreed that the only trail improvement ... within the existing 20’ easement... accordance of note 16. I don’t know how that required for this subdivision is construction of a trail connection within the existing twenty-foot easement on Tract 5-B1 in accordance with Note #16 on the Entrada Contenta Development Plan Amendment #1. I ask for verification that this is an accurate statement.

Ms. Baer: That was not my impression of the meeting. My understanding was that the annexation agreement did not require them to build the trail per the annexation agreement. It wasn’t that they didn’t have to do it. The agreement was that the annexation agreement did not require them to do it.

Harris: Note 16 reads?

Ms. Jenkins: As I mentioned, originally the easement was granted in 2005 and when we did administrative amendments last year they wanted to include a 20 foot unmotorized easement to be built by the property owner. When we amended in 2010 that was added as a new note to clarify.

Ms. Baer: I have a different understanding. I agree about the intent of the note. It was always intended to connect the trail through open space which continues to be owned by the Herrera family but dedicated as open space. My reading implies that it is not shown on the open space because exact location and design was not determined. As I read it the exact location ... would mean from where that easement ends into the open space. It was undetermined where it would end. The timing is fortunate – the tunnel is open – it is not filled with dirt – it is just closed at either end. The timing is fortunate because we have two applicants to develop on either side of the pedestrian tunnel. We now have an opportunity and are pushing to get it done.

Commissioner Harris: There is a real significant difference of opinion on this matter. Is it fair to say that the main point of contention is whether the Herrera’s should continue the trail under Cerrillos Road? There is currently a commitment from the bus stop to the existing tunnel?

Ms. Jenkins: No. We are having a difference on Note 16 “the 20’ easement shall be constructed”. We did not know where that connection point would be. That is why the language left flexibility to relocate the easement as necessary.

Commissioner Harris: The yellow highlight is the approximate 220 feet?

Ms. Jenkins: Yes. We are not opposed to trails or trail connections. We have committed to financing. The annexation agreement is very clear “residential projects contribute to trail improvements.” The three lots in the rear were originally zoned residential. They are subject to that. The parcel was rezoned to commercial but we agreed that the parcel would still contribute to trails. We are contributing based on the original plan. It is already in place. We have agreed to construct a way from the arroyo to the sidewalk. In lieu of that we will give the money for the City to use as they see fit. That is our position. The annexation agreement is a contractual agreement between Herrera family and City of Santa Fe. Additional requests (bus shelters) are accepted. If we volunteer to contribute it is one thing but if you impose something contrary to a contractual agreement it is not permissible.

Commissioner Harris: There was a commitment to construct 220 feet and now we have as a compromise an alternative location of 182 feet from sidewalk to tunnel?

Ms. Jenkins: Over 200 feet.

Commissioner Harris: We also have a difference of opinion on the cost of the improvements? Do you have a sense of the approximate cost of the work in the tunnel to halfway point?

Mr. Martinez: Basically it would entail to build a 10’ wide sidewalk within the tunnel and provide lighting. We are not just looking at improvements outside but inside as well. Not certain of the numbers to the middle of the tunnel. I am skeptical that 35,000 would afford building the connection.

Commissioner Harris: Thank you.

Commissioner Ortiz: For the sake of keeping the trail – and I agree we need to get this done – I see that potentially it could be a burden on the City if that is not enough and we cannot continue the trail. It is important that we take advantage of infrastructure already there. The easiest way is to do this, and based on the recommendation of City staff, is to put that condition in there. I believe that is the only way we will get consistency there.

Commissioner Villarreal: I am curious about when the development for Walmart was coming up, were you involved?

Ms. Jenkins: No.

Commissioner Villarreal: If trails were so important to the Herrera family why was there never a condition put in Wal-Mart’s court that there be a stipulation for trails in the sale of that property. Why was Wal-Mart not required to contribute?

Ms. Jenkins: When the Entrada Contenta was being approved in 2005 there was the 20’ trail easement that we discussed this evening. That was what came out of that agreement.

It was a function of residential density. That is how the calculation was determined. At that time easements were requested but no additional requirements imposed in 2005. That is based on the annexation agreement.

Commissioner Villarreal: That is a missed opportunity.

Ms. Lamboy: I read the staff reports from that time. There was a chart that was done – big box criteria – there were a lot of issues that were put off until building permit. One of the criteria was pedestrian. It was listed as not addressed but would be dealt with at building permit. You have to put everything into a historical context.

Commissioner Villarreal: I don't agree on public vs. private burden. Private sector has a play in that. It goes back to justifying a sound development and looking at it comprehensively. Here is an opportunity where two different sides have an opportunity to make a trail system work. I am deferring back to the policy criteria that staff gave us about comprehensive trail systems. Also, I am curious about the water requirements.

Ms. Lamboy: We want to avoid a situation where everyone tries to get out of the regulations – 5 acre feet. You have to pay your way when it comes to water. Once the 5 acre threshold is met – the regulations state anything over 5 acre feet there is a requirement to bring water in.

Commissioner Villarreal: Is there a preference of who develops first can get the name? I could care less what name it is as long as it is one name. Is there a sequence that the first developer picks and the second conforms?

Ms. Lamboy: the Las Soleras Roads were platted as annexation plat and were recorded. The name has been along for some time. At one time it did not line up so there was flexibility. However, Mr. Romero is adamant about lining up roadways. Defacto – first person in names the road.

Commissioner Villarreal: Basically who plats first? I am not really feeling like a name change is appropriate in this case.

Mr. O'Reilly: Not on the road name change. I just want to point out – with regard to the trail, this commission sees a lot of projects and there are times the commission decides to impose a certain condition on a project – even with regard to trails. At Las Soleras they are building trails. There is a significant difference here – the Entrada Contenta project is part of the master plan of Tierra Contenta. It is referred to as an adjacent owner and they were subject to the Tierra Contenta annexation agreement. These agreements are often silent on agreements. If the city adopts a commercial green building code – buildings in Entrada Contenta would have to build to that code. It is not necessarily addressed by the annexation agreement. However, the annexation agreement specifically addresses how trails are to be paid for. The contribution is based on the number of residential units approved for that owner's property. This annexation agreement which governs all of Tierra Contenta only anticipates contributions to the trail system by owners who have residential units on the property. This project does not. That is the difference between Las Soleras and what is happening here. The annexation agreement is very specific how trails are treated. If the annexation agreement were silent they would have to comply. It is the opinion of the City's attorney's office that this annexation agreement specifically says how trails are handled and commercial projects are not required to contribute. I point that

out because if the planning commission goes in a different direction that could potentially be a problem. Secondly, with regard to water, the city's ordinances and the administrative procedures are clear. Exceeding the milestone must bring entire project water rights in. This applies to phased projects. This is a phased project. The administrative procedures did not say for development plans with phases. This project has built in phases. Walmart brought water rights just for Walmart. The buildings in Entrada Contenta will be built one by one in a phased fashion. We are suggesting a note on the plat that lets potential buyers of these plats know is a matter of consumer protection so they know they may have to bring water rights. The other way this developer could ensure that none of its potential buyers have to bring water rights is to be very careful to whom they sell the tracts. If they sell to buyers that propose a certain use they must conform to water regulations. If the owner sells these different lots and they are used the ways they are projecting there will not be a need for water rights to be tendered to the city. That is what the purpose of the note on the plat is intended to insure.

Ms. Jenkins: I appreciate Mr. O'Reilly's clarification on these issues. With respect to the question of a phased project or not, that is a sticking point, all of the infrastructure was built at the same time. We had one financial guarantee for all of these improvements. Every piece of infrastructure was one financial guarantee, one set of building plans. Wal-Mart was first because it was the first lot that was sold. I reject the characterization in any way that this was a phased project. Therefore I respectfully request that the note be modified to read: "Once the cumulative water budget for the subdivision lots 1 – 12 exceeds 5 acre feet annually then each successive user will be required to offset in accordance – those successive users would be required to transfer water rights in order to offset their use."

Ms. Jenkins: The memo acknowledged that the intent will be applied to us even though it does not apply to us.

Chair Lindell: Asks legal for comments regarding City Attorney's opinion on restated annexation agreement.

Ms. Amer: I agree with the City Attorney's opinion that the annexation agreement did speak to the contribution of the adjoining owner for trails. It specifically states the contribution will be based on the residential units.

Chair Lindell: Ms. Jenkins you did say that on those three tracts 4A1, 4A2, and 4B1 that they were all three originally RM1 zoning? But with the rezoning 4A2 has been changed to C2 zoning but the owner has agreed to the original contribution that would be required of 390 dwellings?

Ms. Jenkins: Yes.

Chair Lindell: Was that a condition of the rezoning?

Ms. Jenkins: It never came up when we rezoned. Mr. O'Reilly brought it up when we met. We cannot make guarantees but we have gone on record with staff that contributions will be based on the formula regardless of how these tracts are developed.

Chair Lindell: On the water budget, it doesn't mathematically make sense to me. A building square footage of 3,600 requires the same acre feet as a building with a square footage 3.5 times that size 12,600 sq. ft. Why do they require the same amount of water?

Ms. Lamboy: Antonio Trujillo explained that in the code it is per site. That is the reason that you get those buildings theoretically using the same amount. There is a way to measure by average consumption per year. That is what the number is based on. Retail uses very small amounts of water.

Chair Lindell: The other comment is on the 4,000 limited service restaurants how is that determined?

Ms. Jenkins: Paper vs. real – you don't have the dishwashing occurrence (i.e. subway would be limited) full service is a sit down restaurant.

Chair Lindell: I would throw caution with 4,000 limited service – assume as a business person if someone wanted a full service restaurant there you would sell to them. 4,000 is enough room for full service.

Ms. Jenkins: On the water budget there is a 4,000 square foot shown – reflective or current development plan.

Commissioner Spray: “Once the cumulative water budget for the subdivision lots 1 – 12 exceeds 5 acre feet annually then each successive user will be required to offset in accordance – those successive users would be required to transfer water rights in order to offset their use.”

Ms. O'Reilly: Staff would disagree with that language.

Commissioner Spray: Any middle ground – or modification?

Mr. O'Reilly: the applicant has submitted a water budget which addresses usage on the 12 lots. If at any point the water usage exceeds 5 acre feet the administrative procedures clearly state the entity responsible would be responsible for bringing the entire project amount in water rights. As an example, across the street at the Las Soleras property they are bringing many acre feet of water rights for their entire project. The purpose is that someone cannot go and build a building without them. If 5 are restaurants that would equal 12.5 acre feet of water usage. The intent is when a commercial exceeds 5 acre feet they have to bring water rights. That is the intent of the water ordinance and the administrative procedures. Staff would recommend that if the commission did not want to put staff's recommended note on the plan that it put no note on the plan. The city would go ahead and require water rights as each project comes in.

Commissioner Spray: You view that as consumer protection so anyone is well aware in advance before they bought?

Mr. O'Reilly: That is the intent of the note. Not to bind the applicant to anything.

Commissioner Spray: The Cerrillos corridor variance is to change to 180 feet – looking at development plan dated May 16, 2001 - I assume that the code was in place at that time?



Ms. Lamboy: That's correct.

Commissioner Spray: Why was this not discussed prior to development plan?

Ms. Lamboy: The lot itself was one tract. The individual buildings did conform to Cerrillos Road standards and there was not an issue. When the proposal was made to subdivide those lots they are thinner than the required 225 feet. That is when the question came up for the need for the variance. In review of the preliminary plat it was determined that it needed to be done. \

Commissioner Spray: I appreciate your work on the visuals for that.

Chair Lindell: The wording that would be acceptable to staff as a note on the plat.

Ms. Lamboy: once the development exceeds 5 acre feet, the individual user who brings the total over 5 acre feet will be responsible for providing water rights for the entire 12 lots of this platted development.”

Mr. O'Reilly: If the commission has difficulty with that note staff recommends that it simply be removed and no note be added.

Chair Lindell: When you spoke before did you talk about some other credits.

Mr. O'Reilly: The entity responsible would be reimbursed for water credits previously obtained for the project.

Chair Lindell: We are talking about 12 lots. Say after lot 7 we have exceeded 5. Lot 8 pays for all 12 then?

Mr. O'Reilly: Brings water rights for all projects but would be reimbursed.

Commissioner Bordegaray: I don't understand how that works in the way you described it. How does that work if lot 7 hits that threshold?

Mr. O'Reilly: Right now if someone came in on lot 1 and needed 2.5 acre feet of water they would not have to provide that in water rights – they could pay a fee to the city and they would get their permit. You can buy from the water bank. How we get water from the bank is we take water rights from people and bank them. They have to bring water rights. At some point it is possible they could exceed 5 acre feet. It may be built out just this way and get to 4.7 acre feet. That is what the note was intended to alert people to who might be buying the tracts.

Ms. Jenkins: The section of the administrative procedures – the “for a phased project” that requires water rights. We have very clearly demonstrated that we do not meet the standard for a phased project. We are not a phased project. I am actually interested in a note. It needs to be clarified. Obviously there is a lack of clarity.

Commissioner Harris: Continue your example Mr. O'Reilly. The last is .06. That takes it to 4.67 so it is close. The last person who buys #12 and they come in with a restaurant.

They then bring the whole project up and are purchasing 5 acre feet but they get credit for the previous payments? Is that correct?

Mr. O'Reilly: What the administrative procedure says is they would be reimbursed for water credit.

Commissioner Harris: What does that mean? Ms. Amer?

Ms. Amer: They could also get money.

Ms. Baer: My understanding is they would get the credit and could sell to another developer. Another way you can get the water credits in the first place - toilet retrofit credits and water conservation credits.

Commissioner Harris: I am trying to get the math right now. They are required to purchase 5 acre feet?

Mr. O'Reilly: They would receive water credits and they could sell those. Difference between what came before and what they would use. The actual cost is less than the 4.6 + 2.5 that's the intent of the ordinance, the reason this can be difficult is it is a harder process to find water rights that are transferable. It is much easier to give the city a check. If people kept bringing us a check we would run out of water.

Chair Lindell: What is in the note that the City proposes that you find objectionable?

Ms. Jenkins: We agree to leave the note off. The ordinance would govern as it should and we would be fine with that. Depending on the pleasure of the commission I would be happy to speak to objection – based upon a provision that is not applicable to this project. The note is essentially a rewording of 3.3.4 that is not applicable to this project.

Commissioner Spray: In trying to move forward here on final subdivision plat conditions (ex. A) I assume that staff is recommending that we do not include the conditions noted on page 1 of metropolitan planning or roadway and trail engineering? Correct?

Mr. O'Reilly: Staff feels that if these conditions are included they would be in conflict with the specific provisions of the annexation agreement of how trails are to be paid for. They are party to the annexation agreement so, yes, staff would recommend that those conditions not be included. Again, we have Ms. Amer here who could potentially speak to problems if they were included.

Chair Lindell: We have addressed 5 different issues identified during the review process. These include: trails; bus shelters; street name; water; and variances.

Ms. Jenkins: One other condition on the last page of chart – Exhibit A, second page of chart – condition 1 under current planning conditions – we were confused by this condition and maybe staff can clarify – if there was going to be a condition for trail – removed – letter of credit would not be necessary.

Commissioner Spray: Is that acceptable – is that characterization correct?

Ms. Lamboy: This condition actually relates specifically to that portion on the Herrera property. They should be involved and there should be a financial accounting.

Mr. O'Reilly: If it is the intent of the commission not to include the requirement for trails to be constructed then I believe this condition becomes moot. I would like to recommend to the commission that this applicant has stated on the record that they will contribute \$35,000 and put back in the residential component of 390 units which was removed when they rezoned in 2009.

Chair Lindell: Did you say 390?

Mr. O'Reilly: Yes. If the planning commission makes a condition acceptance of the applicant's offer to provide \$35,000 in the form of a check to the city at the time the first building permit is pulled the city would use as it sees fit. The city will spend the money and do the improvements. I would say that in the final note in the matrix on page 2 of the conditions that note 1 in the final note be deleted.

Lindell: Does anyone have a motion to bring forward?

**Commissioner Spray: I move for approval of Case #2011-88 – Entrada Contenta Final Subdivision Plat and Variances with these conditions:**

- 1. No note regarding water on the plat itself;**
- 2. Accept as a condition the \$35,000 offer from Herrera family;**
- 3. That we approve the conditions shown in Exhibit A with the exception of roadway, metro recommendation and delete #1 of the current planning block on Exhibit A.**

**Chair Lindell: One addition – the formalization for tract 4A2 to include appropriate contribution to trails for 390 residential units.**

**Commissioner Spray: Amend that to the motion.**

**Commissioner Harris: I thought I heard during the presentation that there was an offer and an agreement that there is an agreement that a \$10,000 contribution be included.**

**Commissioner Spray: I did read that – it is not on the grid and should be.**

**Ms. Baer: Santa Fe Trails agreed to that.**

**Commissioner Spray: Add that as well – as approved from SF Trails.**

**Commissioner Villarreal: Point of clarification – as SF Trails wishes to use?**

**Ms. Jenkins: Yes, that is correct. The newer shelters are in prototype. They may hold on to the money or use it now. It is up to their discretion for the best way to utilize funds.**

**Commissioner Spray: That concludes my motion.**

**Commissioner Bemis seconds the motion.**

**Commissioner Bordegaray:** *To be clear about conditions – as I reread the language of roadway and trails – it discusses the large diameter pipe and bullets say a conceptual trail design – my question has to do with semantics. We are not saying we wanted them to build it – the actual cost of designing – what would it cost to design that?*

**Mr. Martinez:** *Both our estimates included an amount for design - \$5,000 and basically carried over what the applicant was proposing.*

**Commissioner Bordegaray:** *I am not willing to delete that condition because designing the trail should be looked at at this stage in the process. We should not remove this condition.*

**Chair Liddell:** *Roll call vote please:*

**Commissioner Spray – yes**

**Commissioner Villarrael – yes**

**Commissioner Bordegaray - no**

**Commissioner Bemis – yes**

**Commissioner Ortiz – yes**

**Commissioner Harris – yes**

**Motion passes with a 5:1 vote.**

2. **Case #2011-89. Village Plaza Development Plan.** Santa Fe Planning Group, Inc., agent for Richard Cook, requests Development Plan approval for 100,500 square feet of retail uses, 140,800 square feet of office uses, 56,500 of community service uses, and 20 dwelling units on 61.09± acres. The property is located east of NM 599, west of Plaza Central, and north and south of Jaguar Drive. (Heather Lamboy, Case Manager) **(POSTPONED FROM SEPTEMBER 1, 2011)**

3. **Case #2011-90. Village Plaza Final Subdivision Plat.** Santa Fe Planning Group, Inc., agent for Richard Cook, requests Final Subdivision Plat approval for 12 lots on 61.09± acres. The property is located east of NM 599, west of Plaza Central, and north and south of Jaguar Drive. (Heather Lamboy, Case Manager) **(POSTPONED FROM SEPTEMBER 1, 2011)**

Lamboy: We will be hearing Case 2011-89 and 2011-90 together. The request is for a development plan and final subdivision plat. The Veterans' Memorial Highway is how the site will be accessed on a new Jaguar Drive extension overpass. The Tierra Contenta master plan, which was approved in 1994, has a commercial activity area, a community use and an annexation request regarding a parcel of 4.5 acres in commercial and the remainder is residential. There are trails that the applicant has committed to. There are a variety of uses contemplated to serve the local neighborhood as well as regional area. The removal of NM 599 frontage road – the transportation policy board approved that request. Another condition was to show cross sections, design for crossings. There are plat and warranty deed amendments required. We have been working with Ed Vigil to clarify some of the platting issues. Much of this is a result of designating right of way. Those minor modifications need to be made prior to plat recordation.

Commissioner Harris: Was there a handout regarding these cases?

Ms. Lamboy: It was in the additional correspondence packet.

For the Applicant:  
Scott Hoeff  
Santa Fe Planning Group, Inc.  
109 St. Francis Drive  
Santa Fe, NM 87505

Mr. Hoeff: We agree with the conditions of approval. I can take a few minutes to walk Commissioner Harris through if that is helpful. Our way of working is to submit and meet with staff to work out the issues. The conditions in the packet are not a surprise and we agree with it.

Commissioner Harris: It is very clear to me what is being proposed and I do not need further clarification. Thank you.

Chair Lindell – Any additional public comment? The public hearing is closed.

Commissioner Spray: On Exhibit A page 3 of 4, the applicant has been made aware of the “may or may not be approved” amendment to the development plan and final plat?

Mr. Wilson: The long range transportation plan identifies future roads. That road was still within our plan. We initiated an amendment to that to remove that frontage road. There is no longer a conflict with the plan.

Commissioner Spray: You would delete that. The amendment was amending the metropolitan transportation part.

Mr. Wilson: Yes.

Commissioner Villarreal: On Ex. A page 2 I need some clarification. The first bullet says applicant failed to adequately address - these previous comments shall be fully addressed. Is this statement saying all the staff related comments will now be applicable and is the applicant in agreement with those statements?

Mr. Martinez: This was in response to the latest submittal. There were some notations in the plans that say the City will be responsible for design and construction of up trails. That negated our previous comments. I thought it was worth repeating again and giving further detail to ensure design and construction occur.

Mr. Hoeff: We concur with Mr. Martinez.

Commissioner Villarreal: On sheet 1 of 5 does that note connect – does it say the Arroyo Chamiso note is not applicable?

Mr. Martinez: I believe so – that is the intent. Going on to the subsequent bullets we go on to say that the applicant agrees – negate note so it must be removed.

Commissioner Villarreal: On page 2 of 5 sheets 3 of 2 there are recreational areas delineated – when we say recreation what does that mean? A planned area?

Mr. Hoeff: That was for the church site. We have a designated an area in case the church would like a recreation area. It remains untouched unless the church wants to add in that area.

Commissioner Harris: On page 4 of 4 – Exhibit A, there is a statement under current planning about coordinating between the plan use and activity. We have talked a lot about trails this evening and in this particular project it is more important to have tangible working connections from Village Plaza. Who champions that?

Ms. Lamboy: Ms. McDonald is the staff with public works department. She will be collaborating with the applicant and making sure everything is lined up with the plat. The condition is to ensure that there will be good communication between the two sides. There are minor concerns relative to the design. The applicant has met with Ms. Horn and Ms. McDonald to coordinate on those issues.

Commissioner Harris: How strong a connection do you see between the proposed development and the southeast activity node – what if people park at Village Plaza and walk over for baseball game. How is that handled?

Mr. Hoeff: There are a couple of ways to make connections there. The area in question – the future activity node – there are several trail connections. The existing trail ends in the center and they are going to bring that over in their designs to here (indicates on photo). We are putting a crossing under plaza central and then the hope is to take that through the arroyo and then underneath 599. That would connect to the pavilion on the other side of 599. We need to work with DOT. The second thing is a connection to the sidewalk. The connectivity to the convenient store site has been discussed. On the feeder trail, which goes through Tierra Contenta, Homewise, the Trust and Habitat, we will coordinate with Dave when we understand the intention in that area. The last component is to have a trail that runs through the project itself in addition to the sidewalks through the area.

Commissioner Harris: In terms of pedestrians working their way through roundabouts - I don't know if they are pedestrian friendly. That roundabout is going to be heavily used. I am wondering what the safest way from the SW node to the main portion of the development is for pedestrians.

Mr. Hoeff: The sidewalk. We have discussed the roundabout with Mr. Romero and each has a leg that is designated for pedestrians.

Commissioner Harris: In my opinion pedestrian crossing through roundabouts has not been tested yet.

Mr. Hoeff: To a degree you are right.

Mr. Wilson: I grew up in Scotland where I grew up with roundabouts. Roundabout crossings are incredibly safe. Your exposure to traffic is one lane at a time. You have lots of safety factors. A regular intersection has right turns, left turns, so on.

Chair Lindell: What is the pleasure of the commission?

***Commissioner Spray: I make a motion to approve Case 2011-89 – Village Plaza Development Plan with the conditions of approval stated in Exhibit A in our packet and additional conditions of approval dated September 15, 2011. Seconded by Commissioner Ortiz. Motion passes by unanimous voice vote.***

***Commissioner Spray: I make a motion to approve Case #2011-90 – Village Plaza Final Subdivision Plat with the conditions of approval noted in Exhibit A in our packet and also the additional conditions of approval. Seconded by Commissioner Harris. Motion passes by unanimous voice vote.***

## **H. BUSINESS FROM THE FLOOR**

None

## **I. STAFF COMMUNICATIONS**

Mr. O'Reilly: I would like to welcome Commissioner Harris and congratulate the reappointed Commissioners. I would also like to thank everyone for their service and taking on new assignments on various committees.

## **J. MATTERS FROM THE COMMISSION**

Commissioner Villarreal: I would like to go back to the first case and put on record that in the future is there a way to amend the annexation agreement to include commercial, not just residential, to have more foresight for development for requirements for trails. Is there an opportunity to amend the annexation agreement?

Mr. O'Reilly: There are several parties to the annexation agreement and they would all have to agree. This annexation agreement was signed a long time ago. I believe it was 1993 – almost 20 years ago. Things change. It would require all of the signatories to agree to amend the annexation agreement. I would not be hopeful that that would happen.

Commissioner Villarreal: So we have to follow an annexation agreement that is not current for land use?

Mr. O'Reilly: Annexations are usually done for a large portion over a long period of time. Las Soleras was just done for about 30 years. It is very hard to project that far out. There are certain things you can anticipate and certain things that you cannot. It was probably thought at the time to be sufficient. As the commission considers new annexation projects it is important to look at things like this.

Commissioner Bordegaray: I understand based on your clarification tonight but I know our esteemed planner pointed out that the other guiding documents are important, we have the opportunity to follow lots of plans. Where do we need to focus our efforts for a guiding document? The plan is 14 years old.

Ms. Lamboy: The general plan is the major guiding document.

Ms. Baer: We have an ordinance that now requires trails and is required by ordinance.

Commissioner Bordegaray: Please get us a copy of that. Which trumps – do we follow an ordinance on trails or the old annexation agreement.

Mr. O'Reilly: We must follow the annexation agreement.

Commissioner Harris: Is it customary to receive this type of memorandum the evening of the commission. As critical as the trail, water, and other things being discussed at length tonight – this late memorandum perhaps enlightens but also confuses.

Ms. Baer: It is customary that some things come in at the last minute. In this case we had very complex issues outstanding and we were discussing those issues until 4:00 today. We do what we can.

Commissioner Harris: At what point is that information so critical that it would be postponed?

Ms. Baer: More often than not it is the applicant that is pushing to not postpone. There are a lot of players.

Commissioner Villarreal: We had the option to delay it. But here we are – it is what it is. The other question – when does executive session go into effect if we have to clarify an issue.

Mr. O'Reilly: It is allowable if you want. That to my knowledge has never been done. Staff would highly recommend against going into executive session since these are quasi-judicial cases. If you find there is an issue too hard to get through or the additional information provided at the meeting is too involved you can request postponement. Otherwise we could subject the city to lawsuits.

Commissioner Villarreal: We need to take the initiative when we need to. Even a friendly amendment could have been taken in to incorporate Angela's comments.

Commissioner Harris: I think that the staff who works on administrative procedures referenced in Ms. Blackwell's memo - it is staff's position, including yours Mr. O'Reilly, that this was a phased development. I tend to agree with the applicant and staff's argument was weakened by the use of the word "intent".

Mr. O'Reilly: Comments duly noted.

Chair Lindell: You each owe me \$10.00 for a plaque for former Commissioner Gonzales.

Commissioner Spray: I assume this is your final act as chair. I want to publicly thank our leader. You have done an exceptional job. She will be a tough act to follow!

Chair Lindell: It has been a pleasure – coming prepared is the bottom line. I am happy to be on the Commission for another year.



**K. ADJOURNMENT**

Chair Lindell: Meeting adjourned at 9:30 p.m.

Signature Page:

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Signe Lindell, Chair



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Fran Lucero, Recording Secretary