

BERNALILLO COUNTY  
BOARD OF COUNTY COMMISSIONERS  
ZONING MEETING  
Tuesday, February 21, 2017 3:23 p.m.

VINCENT E. GRIEGO CHAMBERS  
ALBUQUERQUE-BERNALILLO COUNTY GOVERNMENT CENTER  
ALBUQUERQUE, NEW MEXICO 87102

Before: Paul Baca  
PAUL BACA PROFESSIONAL COURT REPORTERS  
500 Fourth Street, NW, Suite 105  
Albuquerque, New Mexico 87102

A P P E A R A N C E S

COMMISSIONER DEBBIE O'MALLEY,, Chair  
COMMISSIONER STEVEN M. QUEZADA, Vice Chair  
COMMISSIONER MAGGIE HART STEBBINS, Member  
COMMISSIONER LONNIE C. TALBERT, Member  
COMMISSIONER WAYNE A. JOHNSON, Member

1           CHAIRWOMAN O'MALLEY: Good afternoon,  
2 everyone. I do appreciate your patience. We were  
3 in another meeting.

4           I call this February 21, 2017 meeting of  
5 the Bernalillo County Board of Commissioners. We  
6 will begin with a silent invocation, a Pledge of  
7 Allegiance led by Commissioner Lonnie Talbert.

8           (Whereupon, there was a moment of  
9 silence.)

10          (Whereupon, the Pledge of Allegiance was  
11 led by Commissioner Lonnie Talbert.)

12          CHAIRWOMAN O'MALLEY: Thank you,  
13 Commissioners, we will go to Item 3, which is  
14 announcement of additions or changes to the agenda.  
15 Are there any changes or additions to the agenda?

16          MR. GRADI: Good afternoon, Chairwoman  
17 O'Malley, Members of the Board of County  
18 Commissioners. We have no modifications or changes  
19 to the agenda this afternoon.

20          CHAIRWOMAN O'MALLEY: Thank you,  
21 Mr. Gradi. On the Board's approval of minutes, we  
22 don't have anything for that. I also for five, so  
23 that takes us to Item 6, which is a public hearing.  
24 And so I should read this first or did you want to  
25 speak?

1           MR. GRADI: You can read the format into  
2 the record for everybody.

3           CHAIRWOMAN O'MALLEY: I will go over the  
4 public hearing procedures. So, procedures for  
5 public hearing on legislative matters are as  
6 follows: A, the County Manager or designee should  
7 describe the agenda item to be considered and state  
8 the staff recommendations for the items.

9           Chair should then inquire as to whether  
10 any Commissioners have questions for the County  
11 staff.

12           Following presentation by County staff,  
13 Chair shall accept public comment on the agenda  
14 item.

15           Following public comment, if any, Chair  
16 shall close the public hearing and inquire as to  
17 whether any Commissioner wishes to make a motion on  
18 the item. If motion is made, which is seconded  
19 discussion on the item occurs among Commissioners.

20           For closing discussion on item, the Chair  
21 inquires as to whether or not any further discussion  
22 or final comments or addition from County staff, if  
23 any.

24           Chair then inquires as to whether the  
25 Commissioners are ready to call the question and if

1 the Commissioners are ready to call the question,  
2 the Chair ends the discussion and calls for the  
3 vote. Thank you.

4 Welcome. Would you please state your  
5 name.

6 MR. PEIRSON: Madam Chair, Commissioners,  
7 my name is Robert Peirson. I am program planner  
8 with Bernalillo County Planning and Development  
9 Services. The next item before you is a public  
10 hearing for CSU2016-0028. There is request for a  
11 special use permit for an overnight campground  
12 (temporary) for RVs, Specific O-1 use of parking lot  
13 and office, Specific C-2 use of automobile, truck  
14 and recreational vehicle, and trailer storage,  
15 Specific C-LI use of equipment storage and a single  
16 family dwelling.

17 The request would allow the use of the  
18 parking lot and campground by Balloon Fiesta for  
19 about three weeks a year. The application was heard  
20 by the CPC on January 4, 2017.

21 The issue that let staff -- the issue is  
22 that staff neighbors had were all addressed and the  
23 application was forwarded to BCC with recommendation  
24 for approval.

25 Concerns have been with the property

1 access to Edith Boulevard ensuring there would be no  
2 drainage towards Edith Boulevard which appeared to  
3 have been resolved.

4 After the appeal period expired, it came  
5 to the attention of staff there was an issue with  
6 the final drainage grading plan. The plan requires  
7 a review and approval by the Army  
8 Corps of Engineers. Reviews are budgeted each year  
9 and the outcome is in the queue to house a request  
10 to drain the water into the the flood control  
11 channel, which is part of the drainage plan but  
12 requires cutting a hole in the wall of the flood  
13 control channel to allow the property to discharge  
14 water into the channel.

15 The application will have to wait for new  
16 budget cycle before the request can be reviewed.  
17 Final grade and drainage plan can be before the  
18 final grading and drainage plan can be implemented  
19 which will take approximately 18 months. This new  
20 information influenced staff to recommend the issue  
21 be heard before the BCC rather going on the consent  
22 agenda.

23 Although the final plan is still to drain  
24 the storm water to the drainage facility to the  
25 east, it will not occur immediately. Staff has

1 provided additional planning and modified condition  
2 of approval that indicates that the internal plan is  
3 acceptable and the final grading and drainage plan  
4 will be followed.

5 The term drainage plan has been reviewed  
6 and considered adequate by County staff. There is  
7 some concern from local residents who could be  
8 affected by large storm runoff.

9 Staff does recommend approval of this  
10 application, but downgrades from grading drainage is  
11 here for you to speak to the new plan to answer any  
12 questions that the Commission may have.

13 CHAIRWOMAN O'MALLEY: Any Commissioners  
14 have any questions? Sir, if you would come up and  
15 address the concerns the community members may have  
16 in terms of the event, is that what this is about?

17 MR. BRIGGS: Chairman O'Malley,  
18 Commissioners, my name is Don Briggs. I am the  
19 Bernalillo County drainage engineer and floodplain  
20 administrator. Essentially the original grading  
21 drainage plan will be implemented at the start of  
22 this project without the connection to the north  
23 diversion channel.

24 The interim plan includes along with that  
25 system pockets or small ponding areas that will

1 catch the runoff prior to getting to the storm  
2 drainage system. Using this plan we actually have  
3 redundant systems. We have the original parking lot  
4 catchments, we have the storm drainage system that  
5 will outlet to the AMAFCA maintenance road where  
6 runoff will run down the side of the road to an  
7 alternate entrance or actually to a ponding area  
8 down by the railroad. And then we also have a  
9 smaller -- we have a secondary pond here that is not  
10 going to be used for the final grading and drainage  
11 plan, but is in place as the emergency pond. So,  
12 essentially we have three systems working here to  
13 prevent runoff from getting to Edith.

14           There is an existing County pond right  
15 here (indicating) that originally captured water  
16 from this site and also from runoff from Edith  
17 Boulevard. There are a couple of drop inlets that  
18 allow water from Edith to get into this pond and  
19 that has been in place for a number of years.

20           It did not work as good as we would have  
21 liked, but it does provide some protection.

22           The runoff from this site that goes to  
23 that pond will be cut off, will no longer go to that  
24 pond.

25           CHAIRWOMAN O'MALLEY: So that pond exists

1 that you just pointed out, you're saying that that  
2 can be used in the interim.

3 MR. BRIGGS: It will not be used in the  
4 interim.

5 CHAIRWOMAN O'MALLEY: Because you have  
6 another area that you feel that you could  
7 adequately...

8 MR. BRIGGS: If you see all of these  
9 little arrows here in the plan in the hatched areas,  
10 those are little ponding areas in the parking lot  
11 that will catch the 100-year six-hour runoff.

12 CHAIRWOMAN O'MALLEY: So essentially you  
13 are recommending this because you feel comfortable  
14 that you know within the large event that we would  
15 not have flooding, residential flooding.

16 MR. BRIGGS: Yes.

17 CHAIRWOMAN O'MALLEY: I just have a  
18 question. Legal may not know the answer to this.  
19 If we approve a drainage plan are we liable for any  
20 damages to anyone if that is not successful, just  
21 out of curiosity.

22 ASSISTANT COUNTY ATTORNEY GARCIA: Chair  
23 O'Malley, Members of the Commission, that is a  
24 question that I think I can answer that is probably  
25 unlikely, but I don't want to say too much more on

1 the record than that.

2 CHAIRWOMAN O'MALLEY: Okay. Very good.  
3 Because you can't stop anybody from suing you. I  
4 think that is the answer to that.

5 I don't have any other questions.  
6 Commissioners, any questions about this item?

7 MR. PEIRSON: Chair O'Malley, would you  
8 like me to read -- the staff has proposed an  
9 additional finding to the application and one  
10 revised condition. Would you like me to read those  
11 into the records?

12 CHAIRWOMAN O'MALLEY: Yes.

13 MR. PEIRSON: Finding Number 18 will read,  
14 "The applicant has provided final grading and  
15 drainage plan that indicates a connection to the  
16 AMAFCA and the north diversion channel. This  
17 connection is delayed due to Corps of Engineer  
18 permitting requirements, therefore the application  
19 provided the applicant -- I apologize -- therefore  
20 the applicant has provided an acceptable interim  
21 grading and drainage plan that will allow them to  
22 continue the project with minimal impacts on the  
23 site plan. The interim grading and drainage plan  
24 does not include a connection to the north diversion  
25 channel."

1           Then, Condition Number 4 would be revised  
2   to read as follows: "The final grading and drainage  
3   plan must be submitted to Bernalillo County Public  
4   Works. Once the connection to the north diversion  
5   channel is approved, the applicant is required to  
6   implement the final grading and drainage plan  
7   associated with this request."

8           CHAIRWOMAN O'MALLEY: Are there any  
9   questions?

10          COMMISSIONER TALBERT: Madam Chair, move  
11   approval.

12          COMMISSIONER JOHNSON: Second.

13          CHAIRWOMAN O'MALLEY: We have a motion and  
14   a second to approve Item 6. All those in favor say  
15   aye.

16          ALL MEMBERS: Aye.

17          CHAIRWOMAN O'MALLEY: Opposed say nay.

18          MS. JULIE ANNE BACA: Madam Chair, we have  
19   a few signed up for public hearing. They would like  
20   to speak.

21          CHAIRWOMAN O'MALLEY: I'm sorry, go ahead.

22          MS. JULIE ANNE BACA: When your name is  
23   called, make your way down to the podium starting  
24   with Jim Strozier, Evelyn Harris, Pat Hauser.

25          MR. STROZIER: Good afternoon, Madam

1 Chair, Commissioners. My name is Jim Strozier. I  
2 have the honor of representing the Albuquerque  
3 International Balloon Fiesta regarding this project.

4 I want to start off with a big thank you  
5 to both staff and the neighbors. This has been a  
6 very long and collaborative process. We have  
7 worked, we have had countless meetings and work  
8 sessions, gone back and forth and it is, I think, it  
9 is -- ultimately it has resulted in a really good  
10 plan and so I want to thank everyone who worked on  
11 it.

12 We are in agreement with the proposed  
13 additional finding and condition as recommended by  
14 staff, and I also want to speak to we even met as  
15 late as last night with some of the neighbors. And  
16 so, relative to maintenance and in response to the  
17 neighbors' concerns, we have committed to having our  
18 engineer, Mr. Hugh Floyd prepare a maintenance plan  
19 for this, specifically for the drainage system.

20 He will train AIBF staff on the  
21 maintenance and implementation of that plan and Paul  
22 Smith, the AIBF executive director has committed to  
23 follow and implement that maintenance plan.

24 So, not only are we -- have we done the  
25 plan, we have got this interim plan, AIBF has

1 committed to make sure that they are maintaining  
2 that system over time. And so I think that is  
3 important and so just to let you know, Paul Smith,  
4 the executive director of the International Balloon  
5 Fiesta is here. Mr. Hugh Floyd, professional  
6 engineer with respect is also here. Mr. Jerry  
7 Lovato, executive director with AMAFCA is also here.  
8 We are all available to answer any questions that  
9 you have after you listen to some of the other  
10 public comment. Thank you.

11 MS. JULIE ANNE BACA: Evelyn Harris, Pat  
12 Hauser, Christine Benevidez, Jerry Lovato.

13 MS. HARRIS: Good afternoon,  
14 Madam Chairwoman and County Commissioners. My name  
15 is Evelyn Harris. I am the representative for North  
16 Edith Corridor Association and a resident who lives  
17 in my grandfather's hundred-year-old adobe home at  
18 10401 Edith Boulevard within 200 feet of the  
19 proposed site.

20 Although there was never substantial  
21 neighborhood support for this project, we are aware  
22 that it is inevitable.

23 Through a series of meetings, the parties  
24 agreed to a number of commitments and restrictions  
25 to minimize the impact on our surrounding properties

1 and ensure that this project was acceptable to both  
2 the applicant and the neighborhood.

3 Our first and foremost concern as the  
4 neighborhood is the grading and drainage plan and  
5 how it will affect our homes in case of flooding.  
6 This area of Edith is notorious for flooding when it  
7 rains. This is a very complicated piece of property  
8 that sits high above our homes. We are still not  
9 comfortable with their plans of placing a retention  
10 pond above our homes. I think Mr. Don Briggs showed  
11 you the one retention pond that would be directly  
12 above our homes that would collect water. We want  
13 to make sure that the interim plan will be  
14 sufficient enough until the original plan is  
15 implemented. This will have a serious impact on our  
16 safety and that of our homes if not done correctly.

17 Thank you for your time.

18 MS. JULIE ANNE BACA: Pat Hauser,  
19 Christine Benevidez, Jerry Lovato.

20 MR. HAUSER: Good afternoon, Madam Chair.  
21 My name is Pat Hauser. I am president of the Maria  
22 Diers Neighborhood Association that abuts the other  
23 properties, and I would like to just take a moment,  
24 and this is a picture of some grading and drainage  
25 was done on and Sandia Pueblo, which is just less

1 than half a mile from this location. This is the  
2 grading and work that they had done on that  
3 property. And this is 18 months ago when we did not  
4 get a 100-year flood in there and this is what the  
5 drainage did to that property.

6 The issue that we are talking about is the  
7 water in itself is not problematic, it is the  
8 velocity with which water does flow and causes  
9 damage. So, we are asking that the people who  
10 process the procedures put in place to make sure  
11 that the ponds are maintained and that they are  
12 looked at and yes, Mr. Smith has said he would do  
13 those things, but we don't have those types of work  
14 items in the pipeline to make sure that happens.

15 This is a little closer version of what  
16 that water does when it does come downstream. That  
17 is the concern of the neighbors that says if this  
18 happens and all of this is conjecture because I am  
19 not aware of any other location that we could go to  
20 and say this is what has been done. And once this  
21 happens it affects these people's homes, it affects  
22 their livelihoods and their families forever. It  
23 cannot really be undone.

24 I would ask that it be deferred for 30  
25 days until we have the opportunity to review the

1 people, the process and the procedures that says  
2 this is what we are going to do, here is the people  
3 that are going to do it, here is the time frame that  
4 it is going to be done so we make sure that the  
5 people are protected from this massive undertaking  
6 that is going happen.

7 Thank you very much for your time. I  
8 appreciate it.

9 MS. JULIE ANNE BACA: Christine Benevidez,  
10 Jerry Lovato.

11 MS. BENEVIDEZ: Good afternoon, Madam  
12 Chair and Commissioners. My name is Christine  
13 Benevidez. My address 10417 Edith, Northeast. My  
14 property is within 100 feet of the proposed special  
15 use permit. Due to the fact that my property has  
16 been bequeathed to me from generation to generation,  
17 I know exactly what happens when it rains; the water  
18 runs like a river.

19 We met with the AIBF, engineers and  
20 consensus planning yesterday. They explained yet  
21 another drainage plan and we can only pray this plan  
22 will work for all residents in this area. The only  
23 contention right now is the overflow pond located on  
24 Edith above the homes of our residences. It is  
25 eroded hillside that gives way every time it rains.

1 This makes residents uneasy. We asked for a plan to  
2 be put into place for inspections and a responsible  
3 person to be trained to do so.

4 This drainage plan is dependent on these  
5 inlets to be clear of debris. The AIBF, Mr. Paul  
6 Smith, has agreed to this, especially for the  
7 interim 18 months this plan will be used. With the  
8 acceptance of this plan, we hope you as  
9 Commissioners will hold them responsible for their  
10 commitments to this historical neighborhood.

11 Thank you.

12 CHAIRWOMAN O'MALLEY: Thank you. You  
13 know, the folks here bring up some very important  
14 points. I would like them addressed by the  
15 applicant. Mr. Strozier, I am assuming or the  
16 engineer.

17 MS. JULIE ANNE BACA: We have one more  
18 public hearing speaker, Jerry Lovato.

19 CHAIRWOMAN O'MALLEY: Jerry, I am sorry.

20 MR. LOVATO: Good afternoon,  
21 Commissioners. My name is Jerry Lovato. I am one  
22 of the executive engineers for AMAFCA, the flood  
23 control authority. I kind of want to give you kind  
24 of an idea of what is going on here. We did not try  
25 to do a bait and switch. This is something that was

1 very fluid over the last couple of months.

2 Balloon Fiesta over the last year when  
3 they came up with the design of their pedestrian  
4 bridge or their access bridge were told that if they  
5 touch that concrete channel it would kickoff a MEPA  
6 process with the Corps of Engineers and the  
7 Corps of Engineers would have to do that. They did  
8 a very good job making sure that bridge was over the  
9 channel and everything was really in good shape in  
10 December.

11 Come January we saw there was a public  
12 meeting, there was some concerns about the water  
13 moving towards Edith and using the existing pond  
14 because we had a plan to tie a pipe into that pond  
15 and tie it back into the lower diversion channel.  
16 After a public meeting, that drainage had to be  
17 moved from along Edith and they wanted it directly  
18 piped to the east into the north diversion channel,  
19 which changed the grading plan, which the Balloon  
20 Fiesta engineer did happily but once he did that we  
21 went into that concrete channel.

22 The Corps of Engineers holds kind of an  
23 insurance policy with AMAFCA. It is called the 408  
24 permit, and basically they have to authorize any  
25 modifications to that channel. It takes between 18

1 to 24 months. We are in the process of doing this  
2 in three other locations in town.

3 Our Board of Directors are very concerned  
4 about how slow this process is and putting people in  
5 floodplains and you heard some of the residents  
6 today just complain about or are concerned about  
7 that temporary condition.

8 Therefore, the Board of Directors agreed  
9 to work in partnership with Balloon Fiesta and have  
10 temporarily put the water into our maintenance road  
11 so we can control it and we would maintain it. So  
12 to address some of those concerns, once the water is  
13 in the pipe it will either stay there or it will get  
14 into our facility and we will maintain our  
15 maintenance road. We understand that is going to  
16 have high maintenance. Is that it?

17 CHAIRWOMAN O'MALLEY: Sorry. Please  
18 continue.

19 MR. LOVATO: So we will go ahead and take  
20 care of that. What Balloon Fiesta will do is give  
21 us, you know, approximately \$20,000, whatever the  
22 cost estimate is for that pipe penetration and give  
23 AMAFCA that money and then AMAFCA will then pursue  
24 that permit with the Corps of Engineers to make sure  
25 it gets done.

1           So once that procedure is completed, we  
2     get the permit, then AMAFCA will then make sure that  
3     that pipe penetration is in to try to alleviate some  
4     of the issues under the association. But we do --  
5     it was something of a surprise in January when  
6     things got changed around. This is the best  
7     solution we could come up with and our Board of  
8     Directors were really trying to look out for the  
9     public there along north Edith.

10           CHAIRWOMAN O'MALLEY: Commissioner  
11     Talbert.

12           COMMISSIONER TALBERT: Thank you, Madam  
13     Chair. Mr. Lovato, the concern brought up regarding  
14     maintenance of that, those ponds on Balloon Fiesta,  
15     so you are committed to AMAFCA being responsible for  
16     that oversight and ensuring that it follows the path  
17     that is being laid out.

18           MR. LOVATO: To address that, Counselor  
19     Talbert, I cannot be on their property taking care  
20     of it, but I guarantee you that we are concerned  
21     about the water quality and making sure that pipe is  
22     going to work. So we will look over the fence and  
23     make sure that things are working right. We do not  
24     want a lot of sediment in that pipe because then I  
25     will have to try to maintain it, keep it clean. So

1 it is better that it stays up in the parking area  
2 and not inside the pipe. To answer your question,  
3 we will keep an eye on it.

4 CHAIRWOMAN O'MALLEY: Commissioner  
5 Quezada.

6 VICE CHAIRMAN QUEZADA: Madam Chair. So,  
7 do you think the 30 days that they are asking for is  
8 not needed or do you think that that is a compromise  
9 in order to make sure that they feel safe and that  
10 they feel that the job, that we are keeping our word  
11 to doing the job correctly and that everybody  
12 involved will be doing their due diligence.

13 MR. LOVATO: Commissioner, I think the 30  
14 days is a safety net. But in reality there is a lot  
15 of time constraints to try to get the bridge built  
16 and get this done for Balloon Fiesta this coming  
17 year. I think if we delayed it another 30 days, the  
18 project will be put off for probably a year and a  
19 half, that is why AMAFCA is entering into agreement  
20 on this Thursday with Balloon Fiesta to make sure  
21 that everything gets built.

22 I would like to say that I don't think you  
23 need the 30 days. I think everything that will be  
24 presented today speaks for itself and we will make  
25 sure that it gets built if you need to.

1           VICE CHAIRMAN QUEZADA: Pushed back for a  
2 year and a half, how would that affect the  
3 residents.

4           MR. LOVATO: I don't have the answer to  
5 that.

6           VICE CHAIRMAN QUEZADA: Depending on water  
7 and rain and water flow, right?

8           MR. LOVATO: Yes, sir. Today there would  
9 be no improvements to the site. So there is no  
10 improvements to the site, they are probably a little  
11 bit more at risk today than if you did more  
12 improvements. I think the design that was completed  
13 is basically belts and suspenders that contains the  
14 entire 100-year event and then spills into the pond,  
15 that is additional storage and then we put it into a  
16 pipe that takes it out to my maintenance road. So  
17 it is belts and suspenders at this point.

18           CHAIRWOMAN O'MALLEY: Mr. Strozier.

19           MR. STROZIER: Thank you, Madam Chair and  
20 Commissioners. I certainly appreciate Mr. Lovato's  
21 comments on this. So, I think with regard to -- in  
22 response to the comments, as you have heard what the  
23 plan is and Mr. Briggs, your County drainage  
24 engineer, has reviewed the plan is to have basically  
25 multiple small ponds created basically terracing, if

1 you will, of the entire site in order to make sure  
2 that we don't have to deal with large quantities of  
3 water in this interim condition.

4 The other thing that has been committed to  
5 is that the storm drain system, the inlets and the  
6 pipes that will take it up to the AMAFCA property is  
7 going to be built upfront as part of the -- as part  
8 of the construction for the project.

9 The pond that is of concern is really  
10 above and beyond those two systems. So, Mr. Lovato  
11 referred to belt and suspenders last night at our  
12 meeting. Hugh Floyd, our engineer, referred to this  
13 plan as belt, suspenders and a guy standing next to  
14 you holding up your pants. So that, that pond is  
15 really that last -- and it is really meant as a fail  
16 safe measure to protect the neighbors ultimately  
17 from any water coming off of this site. And I think  
18 the other thing that is important to recognize is  
19 that there are concerns, legitimate concerns with  
20 what happens when it rains in the present condition.

21 All of these improvements that we are  
22 talking about will make that situation better for  
23 those folks that live along Edith and down below  
24 this property. So these improvements are all  
25 designed to help alleviate any impacts from future

1 flooding.

2           With regard to the maintenance agreement,  
3 I think -- I don't know that 30 days accomplishes  
4 anything. You have our commitment on behalf of the  
5 Albuquerque International Balloon Fiesta that they  
6 will do that, they will prepare that maintenance  
7 plan, they will train their staff to implement it  
8 and they will follow it.

9           And so that is their commitment to the  
10 neighborhood and to you all and the County that they  
11 are going to do that. That is really outside, above  
12 and beyond the typical County drainage plan process.  
13 And so that is another thing that is in addition to  
14 that plan and the process.

15           I will say that time is important, as was  
16 stated, in order to get the bridge designed, built,  
17 and constructed and operational in time for next  
18 year's Balloon Fiesta, we need to move -- we need to  
19 move forward and we would respectfully ask that you  
20 allow us to do so. We will also commit that we will  
21 continue the conversation with the neighborhood. We  
22 will continue to work with them. We will continue  
23 to make sure that they are aware of the construction  
24 schedule. As this project goes forward, we are  
25 going keep them in the loop. The AIBF and AIBF

1 representative attends every one of their  
2 neighborhood association meetings and keeps them up  
3 to date. And I think since they have been doing  
4 that the issues between the neighborhood and the  
5 Balloon Fiesta have gotten much better in terms of  
6 that relationship. And so we certainly want to  
7 continue that.

8           So, with that I would be happy to answer  
9 any other questions. Once again, we have people  
10 much more technically knowledgeable than I here to  
11 answer specific questions about the drainage  
12 improvements.

13           CHAIRWOMAN O'MALLEY: Thank you.  
14 Commissioner Johnson.

15           COMMISSIONER JOHNSON: Thank you, Madam  
16 Chair. Just very quickly. I heard a lot of  
17 assurances here and I have heard the neighborhood  
18 asking for deferral in this particular case wanting  
19 additional assurances. If I could have somebody  
20 from the neighborhood come up, maybe the last  
21 gentleman. I'm sorry, I missed your name. Come up  
22 and tell me exactly what additional assurances that  
23 you might need to work with that they are proposing.

24           MR. HAUSER: Thank you, sir. Pat Hauser,  
25 and I am president of the Maria Diers Association

1 which abuts them. As we said, we have people  
2 processing procedures. What we are asking for is  
3 they said that they are going to do these things but  
4 I don't a name or I don't have a job title. We  
5 don't know how they are going to be inspected. We  
6 heard from Mr. Briggs we don't want any sediment, we  
7 don't want items in that pipe that would cause a  
8 backflow. How are we going to test that? Are we  
9 going to do a smoke test on it? Are we going to do  
10 a hydraulic test on it? What are we going to do to  
11 make sure that that pipe is clear?

12 That is what I am suggesting is that we  
13 take 30 days so that we can put down on paper  
14 because words go away quickly, written documents  
15 stay for a long time. So if we have got the names,  
16 the job description, the date and the activity that  
17 these are going to happen and say that it is done  
18 just prior to what we have considered the rainy  
19 season or as most of the media like to call it, the  
20 monsoon season, that these are expected, we do a  
21 smoke test on it we know the water flow is there, we  
22 know our inlets are not clogged and it is going to  
23 work. That is what we are asking for is we don't  
24 have names, we don't have job titles, we don't have  
25 dates that these are going to be done. If it could

1 be done in 15 days, that is fine. I am suggesting  
2 30 days so we can put together a workable plan that  
3 we see names, places, dates and times because that  
4 is all missing. The only time we know is that they  
5 can to get this done, you know, so they can have it  
6 done for the Balloon Fiesta. We would like to have  
7 it done, but once again our goal is not to have --  
8 is not to have this happen to the people that live  
9 across the street from these things.

10 COMMISSIONER JOHNSON: I think that is  
11 everybody's goal, sir. I am a little reluctant on  
12 the people side of this thing. I felt pretty good  
13 about the assurances that have been offered here,  
14 but the people side of this is people change over  
15 time, and I am not sure that that helps you. I  
16 think what you want is an outcome here rather than a  
17 person. The process I think Mr. Lovato or perhaps  
18 Mr. Strozier could answer the question regarding how  
19 are you going tell whether there is sediment there,  
20 we can do that today. I don't want to hold up a  
21 project that is going to end up costing Balloon  
22 Fiesta a year and a half over 30 days if we can find  
23 a way to answer some of your assurances here today.  
24 This is an on-the-record meeting, so this has an  
25 actual transcript that is being written down. Paul

1 is doing a good job trying to figure out what I am  
2 saying. So, I -- this is on the record so we are  
3 creating a document that is on paper. And will be  
4 published for the public.

5 So, is there -- can you give us Mr. Lovato  
6 or Mr. Strozier, can you give us any additional  
7 information of how this would be accomplished and  
8 how you will hold the Balloon Fiesta accountable for  
9 those parts for -- I'm sorry, sir, I keep forgetting  
10 your name.

11 MR. HAUSER: It's Pat Hauser. I am just  
12 saying it needs to be in somebody's job description.  
13 And those names can change. If we don't have a job  
14 description of it is a maintenance person, if that  
15 maintenance person's name changes on an annual basis  
16 and that person is no longer around, what are we  
17 going to do to come in and train the next individual  
18 behind it? That is what is missing is we have got a  
19 map that is going take us from Albuquerque to New  
20 York City, but we don't have the roads in between  
21 and we want the roads of how we can get from Point A  
22 to Point B.

23 CHAIRWOMAN O'MALLEY: Let's see who that  
24 would be handling that. Let's kind of work through  
25 that a little bit and try to get the neighborhood

1 some reassurances if we can.

2 MR. LOVATO: My name is Jerry Lovato, I'm  
3 with AMAFCA. To address the issue would be the  
4 AMAFCA field engineer that would be the person that  
5 is in charge. The idea of the amount of pipe, this  
6 is a 36-inch pipe. It is easy to go down in a  
7 manhole, we take a look, so it would be visual  
8 inspection of the pipe. There is going to be a  
9 block wall around this property. So what you saw  
10 basically block wall will be holding a lot of that  
11 water. It would have to go into these ponds. It is  
12 not going to run down those slopes unless the wall  
13 breaches and I don't think that is going to happen.  
14 But to address those issues, I can actually put it  
15 into the agreement between AMAFCA and Balloon Fiesta  
16 which we will sign on Thursday, that there will be  
17 an interim maintenance and we can do it every six  
18 months that we will meet with Balloon Fiesta  
19 personnel and the AMAFCA field engineer to make sure  
20 everything is okay.

21 COMMISSIONER JOHNSON: You will commit to  
22 that?

23 MR. LOVATO: Yes, sir. I will commit,  
24 Board of Directors will sign that agreement on  
25 Thursday but I will modify the agreement.

1                   COMMISSIONER JOHNSON: Thank you very  
2 much, Mr. Lovato.

3                   CHAIRWOMAN O'MALLEY: Commissioner  
4 Talbert.

5                   COMMISSIONER TALBERT: Thank you, Madam  
6 Chair. Mr. Peirson, I would like you to take these  
7 suggestions right now and make that one of the  
8 additional amendments to the actual conditions,  
9 please. If we can do that, I think that can satisfy  
10 Mr. Hauser and the neighborhood that has some of the  
11 interim roads, as he mentioned.

12                   Mr. Lovato and I'm sure Mr. Strozier,  
13 Mr. Smith is here as well, can all give you  
14 specifics. Include that in there, I think that  
15 makes sense. I think that does save us time, but I  
16 think it does address some of the Commissioners  
17 here, including myself, have little concern  
18 obviously when you're dealing with flooding. You  
19 know, it is a lot of conjecture from the standpoint  
20 of if it is going to be a 100-year, it's not going  
21 to be a 100-year, but what we do know is when it  
22 rains it goes downhill, and those people are  
23 downhill from Balloon Fiesta. We know that to be  
24 true. We want to make sure we address that.

25                   What I would like is if we could maybe add

1 that real quick, state it into the record and I  
2 think that would give us -- would give us a better  
3 feeling that we now have some specifics.

4 Thank you, Madam Chair.

5 CHAIRWOMAN O'MALLEY: Thank you.

6 Mr. Strozier, do you mind coming up, I would like to  
7 ask you a question.

8 The neighborhood folks have asked for  
9 deferral for 30 days. There is a possibility to  
10 defer this until the 14th, which is, what, three  
11 weeks from now. I need to know, I mean and we run  
12 across this all the time, an applicant is, you know,  
13 this is of the essence, we have got to get this done  
14 or else a year and a half, which I find hard to  
15 believe. So, I am asking you, is this delay, I  
16 think you would certainly make -- at least we could  
17 say hey, you know, we did give the neighbors some  
18 more time, it is not going to be a problem.

19 MR. PEIRSON: Madam Chair, Commissioners,  
20 so the critical think about the time is the length,  
21 the amount of lead time necessary in terms of the  
22 design, ordering, the construction and the  
23 installation of the bridge. And I believe that we  
24 are -- that window is closing up as time goes on in  
25 order to make it so that bridge is operational and

1 the parking lot is constructed, all these drainage  
2 improvements are in place in time for the next  
3 Balloon Fiesta. If we miss that window, it is --  
4 then there is another Balloon Fiesta a year later  
5 and if it is not, if it is not constructed and  
6 available for this next Balloon Fiesta then it will  
7 be a year later when it is available for the next  
8 Fiesta.

9 CHAIRWOMAN O'MALLEY: I'm not asking that.

10 MR. PEIRSON: So our preference would  
11 be --

12 CHAIRWOMAN O'MALLEY: I know what your  
13 preference is, I'm just asking a definitive yes or  
14 no, you know, there is an opportunity to give the  
15 neighbors more time, I think that would be very  
16 generous. If not, that is a fact. I just want to  
17 know the real story here that is all.

18 MR. SMITH: Madam Chair, Commissioners, my  
19 name is Paul Smith. I am the Balloon Fiesta  
20 Executive Director. There is actually two issues  
21 with the problems with deferral. One is the amount  
22 of time that we have to design, build and install  
23 the bridge in addition to do the drainage and  
24 grading. The other one is one piece of this  
25 property, there's actually a nine-acre parcel that

1 we own currently, there is a ten-acre parcel that we  
2 are trying to buy. A condition on buying that piece  
3 of property is approval of the special use permit.  
4 That agreement actually expired back in December, we  
5 got a 30-day deferral or an extension on that time  
6 and we have got a second extension on that time  
7 until the end of this month. So as the contract is  
8 now written, we have to close by the end of  
9 February.

10 CHAIRWOMAN O'MALLEY: Okay. So you have a  
11 purchase agreement with the condition on it.

12 MR. SMITH: Yes.

13 CHAIRWOMAN O'MALLEY: So you have already  
14 extended your purchase agreement and this would go  
15 beyond the purchase. What did you say you wanted to  
16 close by the end of the month?

17 MR. SMITH: Yes, ma'am.

18 CHAIRWOMAN O'MALLEY: Commissioner  
19 Johnson.

20 COMMISSIONER JOHNSON: Thank you, Madam  
21 Chair. It looks like we've got some language or  
22 something. I've seen the heads go together and see  
23 what we can come up with.

24 MR. PEIRSON: We would add to the end of  
25 the bid for the record, AMAFCA field engineer will

1 help Balloon Fiesta staff be able to oversee and  
2 inspect the drainage facilities related to the  
3 special use permit during the interim drainage plan.

4 The AMAFCA engineer has informed me that  
5 after everything is completed they will be in charge  
6 of overseeing the drainage facility maintenance and  
7 after that. They have agreed to help in the interim  
8 training folks to ensure that everything runs  
9 smoothly.

10 COMMISSIONER JOHNSON: That sounds pretty  
11 good to me, Mr. Hauser, do you have any comments on  
12 this?

13 MR. HAUSER: Thanks again for your time.  
14 I appreciate it. That is the items that we were  
15 looking for is, once again, people process and  
16 procedures. If you don't have them in written  
17 format, then words are lost very quickly. That is  
18 what we were looking for. If we could get that done  
19 rapidly, then I think we can solve the issues that  
20 we have. We're trying to get that done so we don't  
21 have an issue that we have to deal and the only  
22 people that have to deal with that are the folks  
23 that need it. Thank you very much. I appreciate  
24 your time.

25 COMMISSIONER JOHNSON: We can make that a

1 condition of approval, yes.

2 MR. LOVATO: Madam Chair, Chairman,  
3 Commissioner Johnson, yes, we will add that in as a  
4 condition of approval for your --

5 COMMISSIONER TALBERT: I was just  
6 thinking, we have got another appeal here. Maybe we  
7 give you guys 20 minutes, work it out or 30 minutes,  
8 however long the appeal is going to take, come back  
9 right at the end of that, then we can approve it,  
10 but I want to make sure. So you guys are used to  
11 working -- not so much you, Mr. Peirson, I'm looking  
12 at Mr. Strozier and Mr. Smith on tight deadlines.  
13 Basically let's get this figured out in the next 30  
14 minutes, bring it back, let's get it approved, make  
15 sure Mr. Hauser and the neighbors are good. Okay?  
16 We can get this done today. We don't come back on  
17 the 14th, we feel good Mr. Peirson, you feel good  
18 and zoning feels good and we will here the next  
19 appeal and have you guys right after that. Fair?

20 MR. PEIRSON: Commissioners, that is fine  
21 by staff.

22 COMMISSIONER JOHNSON: Mr. Strozier, are  
23 you good with that?

24 MR. STROZIER: Excellent.

25 COMMISSIONER JOHNSON: Thank you, Madam

1 Chair.

2 CHAIRWOMAN O'MALLEY: Do we need to move  
3 to table this until we hear this one.

4 COMMISSIONER TALBERT: I will move that.

5 COMMISSIONER JOHNSON: Second.

6 CHAIRWOMAN O'MALLEY: We have a motion and  
7 a second that we table for 30 minutes this item.

8 All those in favor say aye.

9 ALL MEMBERS: Aye.

10 CHAIRWOMAN O'MALLEY: Opposed?

11 Motion carries.

12 (5/0 Vote. Agenda Item 6 tabled for 30  
13 minutes.)

14 CHAIRWOMAN O'MALLEY: It will take us next  
15 to the appeal.

16 This is an appeal based on the evidence in  
17 the record. Ordinarily no new evidence will be  
18 accepted before the County Commission. However, if  
19 that new evidence or testimony is accepted, the  
20 Clerk will swear any witnesses who may testify  
21 concerning it. The order of presentation time  
22 limits are set forth -- our rules of procedure as  
23 follows: Staff presentation, five minutes;  
24 Appellant's presentation, ten minutes; Opponent's  
25 presentation, 15 minutes; Appellate summation or

1 rebuttal, five minutes; Staff closure, two minutes;  
2 followed by Board questions and discussion and then  
3 action.

4 Please be aware that the time limits for  
5 each side appellants and opponents is the total time  
6 allowed, regardless of the number of persons signed  
7 up to speak. So each side will need to decide how  
8 to divide the total minutes amongst the speakers.

9 So this is -- do I read the rest of this?  
10 So this is a quasi-judicial proceeding. Commission  
11 is to act as judges of the particular facts  
12 concerning the parties before applying the existing  
13 law to the facts. The Commission is to base its  
14 decision only on the facts presented to it by the  
15 parties, not on any facts opposed by it that makes  
16 this outside the proceedings.

17 Commission is to act with impartiality  
18 toward each party, applying the law to the facts  
19 without favoritism or bias or in the mere desire of  
20 a given result. Thank you. Welcome. If you would  
21 state your name, please.

22 MS. JOHNSON: Good afternoon, Madam Chair  
23 and Board Members, my name is Marguerite Johnson. I  
24 am a program planner with Bernalillo County Planning  
25 and Development. I'm here to present Case Appeal

1 COA2017-0002. This is a request. The request is  
2 for a special use permit for Specific C-2 uses for  
3 Restaurant with Full Service Liquor and a Movie  
4 Theater/Brew Pub and C-1 uses on 8.18 acres of land.  
5 The property already has a special use permit for  
6 these uses and C-1 uses, however the request  
7 includes an increase in signage requirements for all  
8 building mounted signs to allow sign areas of up to  
9 12 and a half percent total of the building facade,  
10 including those facades that abut residential zones.

11 Site plan changes for this request include  
12 an increase in building area from 7,200 square feet  
13 to 8,900 square feet for Building A. The agent had  
14 also included additional information regarding  
15 changes to the uses on the site. Uses included day  
16 care center in Building A and a concealed wireless  
17 telecommunications tower on Building B not to exceed  
18 15 feet above the existing building. However, after  
19 further review with staff, it was determined that  
20 the proposed concealed wireless telecommunications  
21 facility as submitted will require additional review  
22 through the administrative amendment process, and  
23 therefore is no longer part of this request.

24 The special use permit request was heard  
25 and recommended approval by the County Planning

1 Commission at the January 4, 2017 CPC hearing.  
2 However, the request was appealed by the Alban Hills  
3 and Taylor Ranch Neighborhood Associations. General  
4 concerns included in the appeal are related to the  
5 findings and conditions which include the location  
6 of the subject site in relation to the community  
7 activity center, the lack of substantial input  
8 support from the Alban Hills and Taylor Ranch  
9 Neighborhood Associations and the negative impact  
10 this request has had on the neighborhood.

11 More specifically the appellants have  
12 requested that a finding that limits the amount of  
13 drive-through facility has included in the previous  
14 BCC Notice of Decision dated November 24 of 2015 be  
15 included in this request.

16 It was also requested that the expansion  
17 of Building A be denied as well as retaining the use  
18 of a restaurant and a C-2 use for full service  
19 liquor.

20 Lastly the appellants made a request  
21 altogether to prohibit concealed wireless  
22 telecommunication facilities for the site.

23 The appeal also states that the appellants  
24 would agree to increase the signage request of up to  
25 12 and a half percent of the building facade with

1 the conditions that the developer insert glass  
2 windows for Building D as previously approved and  
3 provide landscaping to screen the drive-through lane  
4 and menu port from the street.

5 It has also been requested that these  
6 changes include elevations to be submitted with the  
7 final set plan.

8 A number of every land use approvals and  
9 amendments have occurred on the site since the first  
10 approval for a special use permit for C-1 and R-2  
11 uses. The original site plan was approved the five  
12 commercial buildings and 26 single family dwellings.  
13 The administrative amendments were approved for this  
14 site between 2008 and 2016, which included a  
15 decrease in the site area to 13.6 acres,  
16 modifications, layout and structures and the  
17 addition of townhomes for the R-2 portion and a new  
18 special use permit for a specific use for  
19 restaurant, proposed full service liquor and a movie  
20 theater brew/pub in addition to the existing C-1  
21 uses.

22 Recently in 2016 the site was approved for  
23 two administrative amendments to remove the R-2  
24 residential portion which included a 5.5-acre parcel  
25 from the special use permit and a separate approval

1 to increase the square footages for Building C, D  
2 and E.

3           Following a meeting between the applicant  
4 and appellants to discuss the concerns as listed  
5 above in the appeal, both parties have agreed to  
6 work together to arrive at a compromise. As a  
7 result, both parties have agreed to the following:  
8 Clarification to Finding Number 13 regarding the  
9 location of the subject site in relation to nearby  
10 community activity center.

11           Clarification to Finding Number 15, on  
12 required neighborhood support.

13           The inclusion of Finding Number 18 in  
14 regards to limits on drive-through facilities for  
15 the site.

16           The addition to Condition Number 1, to  
17 include limits of uses and square footage to  
18 Building A.

19           Addition to Condition Number 17 to limit  
20 the height for Building A to 26 feet.

21           Additions to Condition Number 22 to  
22 require an administrative amendment application and  
23 a public hearing and for the zoning administrator  
24 for a concealed wireless telecommunications facility  
25 within the existing building, if requested.

1 Additional grime and construction  
2 requirements for Buildings A and D are to include  
3 extra glass on the north facade of Building D.  
4 Additional drawings will provide the addition of a  
5 playground area to accommodate Building A.  
6 Alternate parking layout for Building A and B to  
7 illustrate the location of drop off areas and  
8 additional parking and elevation drawings for  
9 Building A and D.

10 In conclusion, it appears that there is  
11 justification for the approval of this request. It  
12 appears that the request would not conflict with the  
13 County adopted plans and policies and is consistent  
14 with the health, safety and welfare of residents of  
15 the County.

16 The applicant and appellants have together  
17 agreed on a compromise and the specific findings and  
18 conditions that will allow this request to proceed.

19 Additionally, revisions to the site plan  
20 are minor changes that do not affect the uses or  
21 density for the site.

22 With that said, I stand for any questions.

23 CHAIRWOMAN O'MALLEY: Thank you.

24 Commissioner Hart Stebbins.

25 COMMISSIONER HART STEBBINS: Thank you,

1 Madam Chair. I just had a quick question. So our  
2 report says that the appeal was in part based on  
3 Findings 13, 15, and 16. When you talk about the  
4 agreement you refer to 13, 15 and 18. Is one of  
5 those a typo?

6 MS. JOHNSON: Madam Chair O'Malley,  
7 Commissioner Hart Stebbins, are you referring to the  
8 appeal portion of the report?

9 COMMISSIONER HART STEBBINS: Yes.

10 MS. JOHNSON: Okay.

11 COMMISSIONER HART STEBBINS: It says the  
12 appeal has been submitted on behalf of the Alban  
13 Hills and Taylor Ranch Neighborhood Associations who  
14 express their concerns regarding Findings 13, 15 and  
15 16.

16 MS. JOHNSON: That is correct. So during  
17 the meeting that took place, additional items were  
18 discussed and agreed upon and therefore were  
19 included in the agreement.

20 CHAIRWOMAN O'MALLEY: Was 16 resolved?  
21 Condition 16, I'm sorry, the Finding Number 16?  
22 This is not a big deal.

23 MS. JOHNSON: Commissioner Hart Stebbins,  
24 Madam Chair O'Malley, yes, that has been resolved.

25 COMMISSIONER HART STEBBINS: Thank you.

1 Thank you, Madam Chair.

2 CHAIRWOMAN O'MALLEY: Mr. Gradi, do we  
3 still proceed? It looks like we have a compromised  
4 situation here. Are there still some outstanding  
5 issues or do we just continue as a regular deal?

6 MR. GRADI: Madam Chair O'Malley, Board of  
7 County Commissioners, we do have a number of  
8 agreements on a number of the findings and  
9 conditions that Ms. Johnson read into the record,  
10 however, I do think that the neighborhood  
11 association wants to cover some of those items and  
12 go over some of those details. I would proceed as a  
13 normal appeal process, however it may be shortened  
14 given the fact that there has been some agreements.

15 CHAIRWOMAN O'MALLEY: Okay. Thank you.  
16 And we will go next to the appellant's presentation,  
17 which is ten minutes.

18 MS. NELSON: Good afternoon. My name is  
19 Patsey Nelson. Commissioner -- Madam Chair, and  
20 Commissioners, my name is Patsey Nelson. I live at  
21 3301 La Ronblin, Northeast, and I am the president  
22 of the Alban Hills Neighborhood Association and  
23 Jolene Wolfley who is representing Taylor Ranch  
24 Neighborhood Association, and I will be speaking  
25 within the ten minutes or less period.

1           The Alban Hills Neighborhood Association  
2           and Taylor Ranch Neighborhood Association appealed  
3           the County Planning Commission Notice of Decision  
4           dated January 9, 2017 in order to ensure that the  
5           site development plan and the findings and  
6           conditions were revised to meet our concerns.

7           Alban Hills is a unique large lot  
8           subdivision zoned A-1 located immediately north of  
9           the subject property. The west side strategic plans  
10          states that the rural character of the Alban Hills  
11          area is an important character aspect of the Coors  
12          corridor and Bosque transition zone.

13          In 1994 a special use permit was granted  
14          on this parcel but no site development plan was  
15          submitted at that time. Since 1994 a variety of  
16          plans have been submitted on the property, some  
17          without neighborhood notification or input. A  
18          condition placed in 1994 required that the  
19          neighborhood shall be consulted in the development  
20          of the site plan. Since the approval of the site  
21          plan by the Bernalillo County Commission in November  
22          of 2015, communication from the developer to the  
23          neighborhood has been reduced. And it's been  
24          challenging to attain requested elevations in a  
25          timely manner.

1           We come before you today in the hope that  
2 this site will be developed as presented without  
3 further changes that could have negative  
4 consequences for our neighborhoods. After the CPC  
5 decision and our application for appeal, the County  
6 staff proactively coordinated a meeting among our  
7 neighborhood associations, the development team and  
8 the County. As a result of that meeting, the site  
9 plan and findings and conditions were revised to  
10 meet the issues raised in our appeal.

11           We respectfully request that you grant our  
12 appeal with the revised site plan and findings and  
13 conditions. I would like highlight a couple of key  
14 issues. Condition 1, with respect to Building A has  
15 been revised so that the building may be larger only  
16 if it is a day care center. And that it would  
17 revert to its original size if it becomes a  
18 restaurant or for any other C-1 use. We are glad  
19 this condition language appears in the conditions  
20 and is stated specifically on the site development  
21 plan. As the gentleman before stated, it is better  
22 if it is in writing rather than in words.

23           We also appreciate that the site plan now  
24 shows that the building with have a height no  
25 greater than 26 feet. Building B, which is the Flix

1     Brewhouse was built 10 feet higher than the  
2     elevations we were provided and this is an example  
3     of a change that did not include the neighborhood  
4     and now has had some negative impact on the  
5     neighborhood because the surrounding neighbors' view  
6     of the mountains has been eliminated or  
7     deteriorated.

8             There are parking and traffic problems in  
9     the development and along La Orilla in the  
10    development's current state. Even after the County  
11    put no parking signs on La Orilla, cars have  
12    continued to park on that road and on the side roads  
13    when there isn't enough parking in the development  
14    as it is. We have experienced increased traffic  
15    through our neighborhood, as well. We want to  
16    ensure that there will be sufficient parking for any  
17    businesses that might occupy Building A.

18            Condition 16 also requires new trip  
19    generation documentation to address our concerns  
20    about traffic. We want the County traffic engineer  
21    to ensure that all needed improvements are made  
22    because there will be more traffic generated during  
23    peak traffic hours with a day care center.

24            Additionally, a finding was brought  
25    forward from previous cases to help document the

1 developer's commitment to the neighborhood that they  
2 would seek only two drive-throughs. We do not  
3 support more than two existing drive-throughs in  
4 this development because it has significant problems  
5 with parking currently.

6 And I will turn it over to Ms. Wolfley now  
7 for the rest of our presentation. Thank you for  
8 your time.

9 MS. WOLFLEY: Chairwoman O'Malley and  
10 Members of the Bernalillo County Commission, my name  
11 is Jolene Wolfley, and I also feel that during the  
12 initial phases of this project the development team  
13 was engaging with the neighborhood leaders but  
14 during this amendment we have had to initiate  
15 contact with the development team and many times our  
16 calls, e-mails or texts have gone unanswered, so we  
17 appreciate the role that County staff played in  
18 facilitating an agreement.

19 I would like to talk about three things.  
20 Some of this is a little repetitive but building  
21 heights, traffic and then a new one, signage. In  
22 the appeal we included an exhibit of the zoning  
23 administrator sign off on an elevation showing a  
24 Flix Brewhouse to be 45 feet. A neighborhood could  
25 only assume that would be the height, yet, outside

1 any public review, the building height was increased  
2 to 55 feet based on C-1 allowances when measuring a  
3 45-degree angle from the adjacent property line.

4 The resulting 55-foot buildings blocks views of the  
5 mountains and even views of the volcanoes from the  
6 Bosque. Therefore, we want to emphasize that we are  
7 not in support of any additional height to the Flix  
8 Brewhouse or any other building for a cell tower.

9           The developer has shown some willingness  
10 in our meeting to modify Condition 22 to say that no  
11 concealed wireless telecommunications facility or  
12 any other structure that would increase the height  
13 of any building on site would be allowed. So this  
14 is something that we talked about in the meeting but  
15 they didn't show agreement. We would love to see  
16 that condition be modified today, if possible.

17           The original landowner made improvements  
18 to La Orilla, this was over ten years ago. At that  
19 time it was not envisioned that the site would be so  
20 active with traffic. It is a very important that  
21 Condition 16 make sure that traffic impacts during  
22 the a.m. and p.m. peak hour are addressed on La  
23 Orilla and that the peaking that will occur at the  
24 sites on driveway entrances during peak will be  
25 showing times are fully addressed with any

1 additional improvements that may be necessary.

2 A new item has come up just today  
3 regarding signage and it refers to Condition 10.  
4 The previous approval on this site has said, and I  
5 am reading from the November, 2015 approval, which  
6 was Condition 8, no LED signs or the equivalent will  
7 be allowed on the site.

8 The Coors corridor plan does not allow  
9 illuminated signs. We just noticed today that the  
10 language had been modified by staff to say signs  
11 shall be allowed to use LED lighting provided that  
12 the Coors corridor plan regulations are complied  
13 with. Part of the confusion are a long time in the  
14 City as they were dealing with LED signs they talked  
15 about LED signs and then they modified the language  
16 to say electronic signs. So it is the kind of signs  
17 that change what is being advertised and the signage  
18 changes, that's what we are talking about. LED can  
19 also refer to the lightbulb that is causing the  
20 illumination. So I think everyone is in agreement  
21 that we don't want electronic signs that are  
22 flashing, blinking, changing in illumination the  
23 County, the City now uses electronic signs. The  
24 County does not have terminology for LED signs,  
25 therefore they have come up with a description of a

1 signage as no blinking, flashing or changing  
2 brightness.

3 Staff did prepare a condition to try to  
4 resolve our concern that they can provide to you if  
5 you are willing to make that modification for us.

6 In conclusion I just want to say that we  
7 request that you grant this appeal with the revised  
8 site development plan findings and conditions that  
9 have been presented today by Marguerite. We are  
10 asking for possible consideration of modifying  
11 Condition 22 on concealed wireless  
12 telecommunications and then the LED lighting.

13 We appreciate the efforts to address our  
14 concerns and we also look forward to completing that  
15 site without any more changes. Thank you.

16 CHAIRWOMAN O'MALLEY: Thank you. Now for  
17 the Appellant's presentation.

18 MR. BENNET: Thank you, Commissioner  
19 O'Malley, Members of the Commission. My name is  
20 Rick Bennet with RBA Architects. We have, as  
21 mentioned, we have met with the three neighborhood  
22 associations. To summarize our position at the  
23 hearing before CPC, we requested a cell tower and  
24 then prior to the hearing we agreed to take it off  
25 the agenda. A cell tower is allowed in the C-1

1 zones, but it requires administrative amendment,  
2 administrative approval, architectural guidelines  
3 and so on, so at this point they are not appealing  
4 the cell tower because we are not proposing a cell  
5 tower.

6 We would not take it off only because it  
7 is allowed in the C-1 property, but it will have a  
8 public hearing if it ever did come and there is no  
9 assurances that it will, but it would have to go  
10 through channels in the neighborhood, we would have  
11 an opportunity at that point to respond.

12 We ask for the 12 and a half percent  
13 number for signage because the County C-1 signage is  
14 more for a rural size development and except for  
15 this property, which we think, and we are not  
16 prejudiced or anything, but we are glad it is the  
17 County and we think it is a strong member of the  
18 Coors corridor, both architecturally and visibility,  
19 but we were asking for 12 and a half percent of a  
20 facade, which is basically what the City sign  
21 ordinance allows on Coors. It is not a big sign.  
22 In fact, the signs that you see out there now are  
23 less than 12 and a half percent of any facade.

24 We understand the Coors corridor plan. It  
25 never really mentioned LED lighting but I think the

1 Coors corridor plan probably predates LED lighting  
2 used on any extension. We do want to use LED  
3 lighting, but we also agree it will not be flashing  
4 oscillating, it will not be menu boards that are  
5 television sets and that sort of thing. We are  
6 working on the project now in changing all the  
7 street lighting to LED lighting saved 70 percent in  
8 energy use. LED is here to stay. We cannot argue  
9 with that, but we agree that signage should be  
10 matching the Coors corridor which does not allow  
11 flashing, blinking, that kind of thing.

12           Finally Building A, it was proposed and  
13 approved that it could have a liquor license of  
14 7,200 square-foot restaurant with full service.  
15 Since then, the developers have engaged a company  
16 called Kiddie Academy, which is really an early  
17 childhood learning. The first thing I can tell you  
18 is the parking requirement drops tremendously  
19 because early childhood just takes one parking space  
20 for every teacher and then an additional three or  
21 four spaces. As far as the parking problem as  
22 mentioned by the neighborhood, there have been  
23 issues, to get -- in order to get the deadline for  
24 the Flix Theater in place, the whole site hasn't  
25 been developed yet. We will bring online, there are

1 three buildings being built today and we meet and  
2 exceed the County's requirement both for the theater  
3 and also for all of the uses on that site. So when  
4 all the parking is in place we will have an  
5 abundance of parking.

6 The County has worked with the  
7 neighborhood to make sure that people don't park on  
8 La Orilla in the interim and we are grateful for  
9 that. So, finally, we agree, we agree to the  
10 changes. I don't think 22 needs to be modified. 22  
11 says that if you want to get a cell tower you have  
12 to come for a hearing. At that point we would like  
13 to -- it may never happen, but we agree with the  
14 findings, conditions and the modified conditions.

15 We appreciate staff, as the neighborhood  
16 has mentioned, for a proactive role in bringing the  
17 groups together. We appreciate the neighborhood, I  
18 think at the end of the day we all walked out  
19 thinking it is a strong project, it is a landmark  
20 project on Coors and we are glad it is the County.  
21 So I stand for questions.

22 CHAIRWOMAN O'MALLEY: Thank you.  
23 Commissioner Johnson.

24 COMMISSIONER JOHNSON: Thank you, Madam  
25 Chair. If it is appropriate I would like to ask a

1 question because it has come up a couple of times  
2 here. We are talking about LED lighting for signs.  
3 Are we talking about a changing message board type  
4 of LED fixture or are we talking about signs lit by  
5 LED lights? I think that is kind of an important  
6 distinction.

7 MR. BENNET: I think, Commissioner  
8 Johnson, that was the question. I think it was just  
9 a misunderstanding. We are talking about signs that  
10 are on TV screen or moving picture, that kind of  
11 thing. We were talking about just LED as the source  
12 for lighting. So we could replace fluorescents with  
13 LED. It is not oscillating, it is not blinking.  
14 Basically LED does not put out any more light unless  
15 you want it to.

16 COMMISSIONER JOHNSON: It is a fixed  
17 content type of signage as opposed to a changing  
18 content screen.

19 MR. BENNET: That's correct.

20 COMMISSIONER JOHNSON: Because I think we  
21 have to make that pretty clear when we are  
22 discussing LEDs where LEDs are used for these  
23 monitors, they are used for everything just about  
24 anymore, your lightbulbs. They are a very good  
25 source of light. They can be extremely intense and

1 very light and so I -- we were talking about some  
2 things like even reducing the brightness of the  
3 lights. A lot of times those message boards will  
4 end up reducing intensity at night, for example,  
5 because they are actually too hard to even read  
6 sometimes they are so bright. But in this case you  
7 are talking with a backlight type of sign, fixed  
8 brightness, standard other than the fact that it is  
9 an LED light source as opposed to a fluorescent.

10 MR. BENNET: That is correct. In fact,  
11 the Coors corridor plan does mention in their  
12 signage area that the lights have to be fixed they  
13 cannot be flashing.

14 COMMISSIONER JOHNSON: The content stays  
15 the same, no kind of changing content.

16 MR. BENNET: Correct.

17 CHAIRWOMAN O'MALLEY: Thank you. So we do  
18 have an opportunity for summation and rebuttal, if  
19 you would like to. If not, you don't have to.

20 MS. NELSON: Madam Chair, Members of the  
21 Commission, I think most items have been covered. I  
22 would mention that a lot of times County regulations  
23 related to parking requirements and trip generation,  
24 you know, are standardized and they cover a certain  
25 engineering booklets and whatnot. But then you do

1 get things like Flix Brewhouse and they are outside  
2 of those studies and outside of what is normal. So  
3 we do feel like there needs to be maintained  
4 emphasis on the part of the County traffic engineers  
5 and the planners to oversee this site and make sure  
6 even if people need to direct the staff parking to  
7 certain areas, so that everyone is unloading the  
8 parking on La Orilla, but it has been an issue. We  
9 anticipate it to continue to be an issue, traffic  
10 and parking.

11 Also remember that east of here is  
12 Sagebrush Church which has to hire a cop on  
13 Saturday, Sundays. They have quite a large trip  
14 generation themselves and these are right across the  
15 street from each other.

16 And finally just with regard to Condition  
17 Number 22, we are saying, though, concealed wireless  
18 telecommunications, but I think we felt that given  
19 that we are already at 55 feet on the brewhouse  
20 building that to save, right now while we are having  
21 this hearing that the developer is very clear that  
22 no wireless telecommunication facility or other  
23 structure will increase the height of any building  
24 on site will be allowed. We think that is a good  
25 message for you to send today.

1           And, otherwise we urge you to approve the  
2 appeal with the revised findings and conditions.

3 Thank you.

4           CHAIRWOMAN O'MALLEY: I just have one  
5 question for Mr. Bennet. In going back to the tower  
6 and you have a building at 55 feet, what would -- if  
7 you -- I mean just typically how high are towers  
8 today.

9           MR. BENNET: The tower for this building  
10 would have to be 15 feet higher, so it would be  
11 70 feet.

12          CHAIRWOMAN O'MALLEY: 70 feet. You're  
13 saying at this point, Mr. Gradi, it is my  
14 understanding that any type of tower is requested  
15 that has a separate administrative process, separate  
16 from --

17          MR. GRADI: That is correct.

18          CHAIRWOMAN O'MALLEY: Are there any other  
19 questions or comments? Commissioner Johnson.

20          COMMISSIONER JOHNSON: Thank you, Madam  
21 Chair. Very quickly, do we have the revised  
22 conditions that the parties have agreed to somewhere  
23 that I could review or have in front of me?

24          MR. GRADI: Chairwoman O'Malley,  
25 Commissioner Johnson we have a memo that has been

1     circulated to the Commissioners. I also have a  
2     document here if you would like to take a look at  
3     it.

4                   CHAIRWOMAN O'MALLEY: Also, if someone  
5     could speak to this in terms of the lighting, can  
6     you speak to that? Are we all on the same page  
7     where we understand the issue with lighting to be  
8     which is the blinking, the flashing, I don't know if  
9     they have too many of those signs up anymore but  
10    when they first came out a lot of people put them  
11    out.

12                   MS. JOHNSON: Madam Chair O'Malley,  
13    Commissioners, yes, we are, as Rick Bennet had  
14    mentioned, we are of the understanding that the  
15    applicant is asking for LED to be a light source and  
16    not necessarily to allow electronic signs that blink  
17    or flash or change messages or increase in  
18    brightness.

19                   CHAIRWOMAN O'MALLEY: Thank you.

20                   MS. JOHNSON: Thank you.

21                   CHAIRWOMAN O'MALLEY: Commissioners, any  
22    other questions or comments?

23                   I just want to say that I do appreciate  
24    very much staff being proactive and working with the  
25    community, the folks who are directly impacted by a

1 project such as this and working with the person who  
2 is developing the site. And -- because I know that  
3 they are not easy to deal with and it could be very  
4 contentious. I think that this sort of -- the size  
5 of this, there are some future issues that we will  
6 have to address in terms of what is the word, egress  
7 from the site and quite frankly, that particular  
8 intersection is -- those are issues that we need to  
9 address. I will talk with the engineer about that  
10 separate from this, but it is something that we  
11 certainly have to commit to in the future.

12 So, I guess the -- I would guess I can  
13 make a motion if the Commissioners are okay with  
14 that, it is to move approval of the appeal with the  
15 conditions as listed.

16 COMMISSIONER HART STEBBINS: Second.

17 CHAIRWOMAN O'MALLEY: We have a motion to  
18 accept the appeal with the findings as discussed  
19 with any changes that we talked about. All those in  
20 favor say aye.

21 ALL MEMBERS: Aye.

22 CHAIRWOMAN O'MALLEY: Opposed say no.

23 Motion carries.

24 (5/0 Vote. Agenda Item 7 approved.)

25 CHAIRWOMAN O'MALLEY: Commissioner

1 Johnson.

2 COMMISSIONER JOHNSON: Thank you, Madam  
3 Chair. If I may just for clarity sake, was your  
4 motion to accept the agreed upon conditions or the  
5 amendments that were offered that weren't really  
6 every stated during this meeting?

7 CHAIRWOMAN O'MALLEY: These were the  
8 agreed upon conditions. There were two, I believe,  
9 I could be wrong. There were two concerns, one was  
10 the definition of the flashing lights and the  
11 percentage also, which is they want to make sure  
12 that this within the Coors corridor plan, and then  
13 the issue concerning a cell tower. And I think we  
14 could get in a lot of trouble if we do not follow  
15 the ability of someone to at least apply for that.  
16 I mean, there is a public hearing.

17 COMMISSIONER JOHNSON: I agree completely.  
18 I just want to make sure I knew exactly what I just  
19 voted on.

20 MS. JOHNSON: Madam Chair O'Malley,  
21 Commissioners, we do have some language for  
22 Condition Number 10 that I can read into the record  
23 just to make sure that everybody is on the same  
24 page. So, for Condition 10, under B we have  
25 included the following it will now read: Signs may

1 be allowed to use an LED light source provided that  
2 the Coors corridor plan sign design regulations are  
3 complied with. And then C, should read electronic  
4 signs shall not blink, flash, or change in  
5 brightness.

6 COMMISSIONER JOHNSON: Madam Chair, do you  
7 need to make an amendment to that?

8 CHAIRWOMAN O'MALLEY: Do we just accept  
9 that or do we have to actually say we approve the  
10 record findings or -- Mr. Garcia.

11 ASSISTANT COUNTY ATTORNEY GARCIA: Madam  
12 Chair, I think -- to tell you the truth I didn't  
13 catch all that was previously said before, what  
14 Marguerite said. So it might be safe to just go  
15 ahead and accept.

16 CHAIRWOMAN O'MALLEY: I move to accept the  
17 finding.

18 COMMISSIONER JOHNSON: Second.

19 CHAIRWOMAN O'MALLEY: All those in favor  
20 say aye.

21 ALL MEMBERS: Aye.

22 CHAIRWOMAN O'MALLEY: Opposed?

23 Motion carries. Thank you.

24 (5/0 Vote. Agenda Item 7 amendments  
25 approved.)

1 CHAIRWOMAN O'MALLEY: Next.

2 MR. PEIRSON: Madam Chair, Robert Peirson,  
3 program planner regarding the CSU2016-0028. The  
4 applicant and the neighbors have met and the  
5 agreement in addition to the language that we  
6 discussed earlier for Finding Number 18 and the  
7 language for Condition Number 4 is to add an  
8 additional Finding Number 19 and it would read as  
9 follows: "AIBF has committed to prepare a  
10 maintenance plan for the drainage system. Their  
11 engineer will maintain, will train AIBF staff to do  
12 the maintenance and AIBF is committed to having the  
13 executive director implement the plan."

14 CHAIRWOMAN O'MALLEY: Okay. So this was  
15 mutually accepted?

16 MR. PEIRSON: Madam Chair, Commissioners,  
17 yes.

18 CHAIRWOMAN O'MALLEY: First of all, I  
19 thank you for taking time and working this through.  
20 So, there was a real concern obviously for residents  
21 of the area, so I appreciate that. So that takes us  
22 back to where we were.

23 COMMISSIONER TALBERT: I would like to  
24 make a motion to approve that amendment to the list  
25 of conditions.

1 VICE CHAIRMAN QUEZADA: Second.

2 CHAIRWOMAN O'MALLEY: Motion and a second.

3 All those in favor say aye.

4 ALL MEMBERS: Aye.

5 CHAIRWOMAN O'MALLEY: Opposed?

6 Motion carries.

7 (5/0 Vote. Agenda Item 6 approved.)

8 CHAIRWOMAN O'MALLEY: Again thank you-all  
9 very much.

10 VICE CHAIRMAN QUEZADA: Good work.

11 CHAIRWOMAN O'MALLEY: Okay. So the next  
12 meeting will be Tuesday, March 17 in these chambers.  
13 There is no other business. So this meeting  
14 adjourned.

15 (Proceedings concluded at 4:40 p.m.)

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I, Paul Baca, New Mexico Certified Court Reporter, No. 112, do hereby certify that I reported the foregoing proceedings in stenographic shorthand and the pages are a true and correct transcript of those proceedings and were reduced to printed form under my direct supervision.

I FURTHER CERTIFY that I am neither employed by nor related to any of the parties or attorneys in this matter and that I have no interest in the final disposition of this matter.

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