

HESSEL E. YNTEMA, III

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BERNALILLO COUNTY  
COMMISSION/PLANNING

**HAND-DELIVERED**

Maggie Hart Stebbins  
Chair, Bernalillo County Commission  
One Civic Plaza, 10<sup>th</sup> Floor  
Albuquerque, NM 87102

Request for Admission of Planning Records  
COA2019-0001/ CSU2019-0001  
(1300 Gonzales SW)

Dear Chairperson Hart Stebbins and Commissioners:

This office represents Matthew Cone, Albert Sanchez, Amanda Webb Knox, Justin Knox, Gloria Baca and Carlos Baca ("Appellants") in COA2019-0001, which is an appeal of a County Planning Commission ("CPC") decision, for a special use permit under the County Zoning Ordinance ("CZO") for 1300 Gonzales Rd. SW (CSU2019-001). Please place this letter in the record for COA2019-0001.

This letter is to request admission of "new evidence" relating to the County's decision-making for the applicant's application (herein the "Planning Records"). The Planning Records consists of 146 pages (enclosed and page numbered; references below are to pages of the Planning Records). The Planning Records were not presented to the CPC. Appellants obtained the Planning Records after the CPC hearing (held on February 6, 2019), from the County in response to requests under the Inspection of Public Records Act.

Appellants submit that the Planning Records are relevant to the appeal and the decision for the special use permit application. The Planning Records show, among other points, that:

1. The County's Zoning Administrator (Nicholas Hamm) apparently ruled that the application should proceed as an application for a special use permit for "Specific uses", which would be under CZO Section 18(B)(32). The Planning Records show the following: p. 34: "specific use"; p. 35: "SUP for R-2 uses per Nick", "SUP for Specific uses: 1) N/A 200' Support, 2) unique conditions"; p. 45: "Support from property owners w/in 200' required". However, the determination that a "Specific use" special use permit was required was later changed apparently by staff to that a "Planned Development Area" special use permit under CZO Section 18(B)(23) (with a different standard of proof more favorable to the applicant) would be required. The Planning Records show: p. 51: "need to change to Special Use Permit for PDA"; p. 55: "SUP for PDA Cluster Housing Why did NH not want this?"; p. 96: "Call it Planned Development Area";

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2. The application really is for R-2 uses in an A-1 zone (p. 34: “R-2 uses – apartments”; p. 51: “driven by R-2 requirements”; p. 47: “with the special use permit we are seeking the (sic) add the multi-family categories of the R2 zone to the A1 zone”);

3. County staff and the Zoning Administrator met with the applicant’s representatives in numerous closed meetings, to discuss and effectively decide policy, with delegated authority from the County Commission under the CZO, in violation of the Open Meetings Act; and

4. County staff improperly assisted, encouraged and coached the applicant (for example, pp. 104, 107, 127, assisting the applicant in contacting objecting neighbors and monitoring and responding to opponents; pp. 64-66 and 72-73, editing and revising the applicant’s proposed submissions; and p. 145, releasing the staff report early and preferentially to the applicant).

The Planning Records generally show that staff rigged the CPC process in favor of the applicant. Appellants should be allowed cross-examination of Planning staff in connection with the Planning Records.

Appellants request that the County Commission accept the Planning Records into the case record for the hearing on their appeal scheduled for April 9, 2019.

Very truly yours,

YNTEMA LAW FIRM P.A.

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