

**SANTA FE COUNTY**  
**BOARD OF COUNTY COMMISSIONERS**  
**MEETING**

**January 12, 2010**

Harry Montoya, Chair – District 1  
Kathy Holian – District 4  
Liz Stefanics – District 5  
Virginia Vigil – District 2  
**Michael Anaya – District 3**

**SANTA FE COUNTY**  
**REGULAR MEETING**  
**BOARD OF COUNTY COMMISSIONERS**

**January 12, 2010**

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 2:07 p.m. by Chair Harry Montoya, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Following the Pledge of Allegiance and State Pledge, roll was called by County Clerk Valerie Espinoza and indicated the presence of a quorum as follows:

**Members Present:**

Commissioner, Harry Montoya, Chair  
Commissioner Virginia Vigil, Vice Chair  
Commissioner Kathleen Holian  
Commissioner Liz Stefanics  
Commissioner Mike Anaya

**Members absent:**

[None]

**V. INVOCATION**

An invocation was given by John Michael Salazar from the Land Use Department.

**VI. APPROVAL OF THE AGENDA**

- A. Amendments**
- B. Tabled or Withdrawn Items**

ROMAN ABEYTA (County Manager): Thank you, Mr. Chair. We do have some amendments and some tablings to our agenda for today. The first being under IX. B, we tabled the mid-year information update regarding Leadership Santa Fe. We'll have that at another meeting.

Page 2 of the agenda, XII. B, we added appointment and/or reappointment of Board members to the RPA, BDD, SWMA, ELUA, MPO and RTD. And Mr. Chair, that could be a

lengthy discussion so I would ask that we maybe deal with that when we come back into session before we get to public hearings.

Then on page 3 of the agenda we added a Finding of Fact, the Sue Barnum Appeal, to the Consent Calendar.

Under Staff and Elected Official Items we added in executive session to discuss a proposed stipulation in PRC Case 09-260-UT. And when we come out of executive session we would like to discuss and possibly take action regarding the proposed stipulation in PRC Case 09-260-UT.

Under Public Hearings, Growth Management, item #3, the Galisteo Basin Preserve, that has been tabled. And those are the changes that staff has to the agenda, Mr. Chair.

CHAIRMAN MONTOYA: Okay. Are there any other changes?

COMMISSIONER ANAYA: Move for approval as amended.

COMMISSIONER VIGIL: Second.

CHAIRMAN MONTOYA: We have a motion and a second to approve as amended. Further discussion?

**The motion passed by unanimous [5-0] voice vote.**

## **VII. APPROVAL OF CONSENT CALENDAR**

### **A. Consent Calendar Withdrawals**

CHAIRMAN MONTOYA: Any withdrawals from the Consent Calendar?

COMMISSIONER HOLIAN: Mr. Chair, I would like to withdraw XIII. B. 3 and XIII. B. 5.

CHAIRMAN MONTOYA: Okay. Any others? If not I'll take a motion to approve the Consent Calendar.

COMMISSIONER HOLIAN: So moved.

COMMISSIONER STEFANICS: Second.

CHAIRMAN MONTOYA: Motion by Commissioner Holian, second by Commissioner Stefanics. Discussion?

**The motion passed by unanimous [5-0] voice vote.**

### **XIII. CONSENT CALENDAR**

#### **A. Community Funds**

- 1. Approval for an Expenditure of Community Funds in the Amount of \$500 for the Pojoaque Valley Intermediate School Classes to Participate in YES Educational Workshop (Commissioner Montoya)**
- 2. Approval for and Expenditure of Community Funds in the Amount of \$500 for the Santa Fe County 4-H Turquoise Trail Wranglers (Commissioner Stefanics)**
- 3. Approval for and Expenditure of Community Funds in the Amount of \$500 for the Santa Fe Rape Crisis and Trauma Treatment Center (Commissioner Stefanics)**

#### **B. Miscellaneous**

- 1. Consideration and Approval of the Form of Mortgage and Loan Agreement By and Between Santa Fe County, La Luz Holdings LLC and Santa Fe Film and Media Studios Inc. (Growth Management)**
- 2. Consideration and Approval of the LEDA Film Grant Agreement By and Between Santa Fe County, the Department of Finance and Administration and the Economic Development Department (Growth Management)**
- 3. Request Approval of New Grant Agreements Between Santa Fe County and DFA for the Legal Written Binding Agreements in Place Prior to October 30th, 2009 in the Amount of \$2,030,683.30 (Community Services Department) ISOLATED FOR DISCUSSION**
- 4. Resolution 2010-01. A Resolution Authorizing Execution of a Building Lease Agreement By and Between the Board of County Commissioners of Santa Fe County and Life Link of Santa Fe for the Use of a County Owned Building Located at 1318 Luana Street in the City of Santa Fe and Authorizing the Chair to Execute Same and Seek Approval of the State Board of Finance (Community Services Department)**
- 5. Request Approval of a Building Lease Agreement Between the County and Life Link for a County Owned Building Located at 1318 Luana Street in the City of Santa Fe for a Club House Program in Santa Fe County (Community Services Department) ISOLATED FOR DISCUSSION**
- 6. Resolution 2010-02. A Resolution Providing for an Administrative Fee in the Amount of \$5.00 to Be Paid By the Taxpayer on**

**Property Tax Bills \$5.00 Or Less Pursuant to NMSA 7-38-36.1  
(Treasures Office)**

7. **Request approval of a Memorandum of Understanding between the County of Santa Fe and the City of Santa Fe for Use of City Parking Facilities to Provide for County Parking Requirements in the Amount of \$345,360.**

**C. Findings of Fact**

1. **CDRC CASE # APP 08-5351 Sue Barnum Appeal. Sue Barnum, Appellant, is Appealing the County Development Review Committee's Decision to Approve a Request for a Second Driveway on 2.86 Acres. The Property is Located at 1339 Bishop's Lodge Road, within Section 6, Township 17 North, Range 10 East (Commission District 1) John M. Salazar, Case Manager  
Approved 3-1**

**VIII. APPROVAL OF MINUTES**

**A. Approval of November 10, 2009 BCC Minutes**

COMMISSIONER HOLIAN: Move for approval.  
CHAIRMAN MONTOYA: Motion by Commissioner Holian.  
COMMISSIONER ANAYA: Second.  
CHAIRMAN MONTOYA: Second by Commissioner Anaya.

**The motion passed by unanimous [5-0] voice vote.**

**VIII. B. Approval of November 20th and 25th Canvassing Board Meeting Minutes**

COMMISSIONER ANAYA: So moved.  
COMMISSIONER STEFANICS: Second.  
CHAIRMAN MONTOYA: Motion by Commissioner Anaya, second by Commissioner Stefanics.

**The motion passed by unanimous [5-0] voice vote.**

**IX. SPECIAL PRESENTATIONS**

- A. **Recognition of Christine Fidel for Dedication and Service to the Santa Fe County Bureau of Elections. (Clerk's Office)**

VALERIE ESPINOZA (County Clerk): Thank you, Mr. Chair, members of

the Commission. I want to thank you for the opportunity to honor Ms. Fidel. I think she's a fixture in the Clerk's Office. She's been there long before I was there and before many of us. Come on over Ms. Fidel. This lady doesn't stop working.

Ms. Fidel, or Chris as we affectionately call her, Ms. Fidel, is the oldest and wisest member of the Bureau of Elections. Ms. Fidel is a retired public school teacher of 29 years, began her work with the Bureau of Elections 11 ½ years ago. She's taught the ABC's of filing to the Election staff and kept our voter registration files in impeccable order. She also uses her red ink pen to mark up my letters.

In addition to her work with the Bureau of Elections Ms. Fidel never hesitates to help the recording staff with their work. She never waits for work to come to her. She always goes to look for it. Ms. Fidel is always on hand to greet our customers, friends and neighbors when they come into the office and she welcomes them all with grace and charm.

Chris also never hesitates to share the bounty of her fruit trees and brings us delicious homemade treats almost every week, and especially for Christmas. Ms. Fidel has the love and respect and honor of everyone in our office and the public and it gives us great joy to see her smiling face among us every day. So thank you for honoring her and giving her this time at this moment.

CHRISTINE FIDEL: Thank you very much. I have attended a number of these meetings and I appreciate the fact that I could come today as a guest. Thank you.

CHAIRMAN MONTOYA: Thank you, Valerie, for that recognition of your staff.

## **X. MATTERS OF PUBLIC CONCERN: NON-ACTION ITEMS**

CHAIRMAN MONTOYA: If there's anyone from the public that would like to address the Commission, please come forward. Matthew.

MATTHEW MCQUEEN: Thank you, Mr. Chair, members of the Commission. My name is Matthew McQueen. I live at 38 Avenida Viejo in Galisteo. I have a request for the Commission. I was hoping to be able to address you while you were discussing the agenda and I didn't get the opportunity. I would like to still bring it up. My request is that – I think it's item 11 on the agenda regarding Saddleback Ranch Estates be tabled. This is a proposal that has been working it's way through the system and is dramatically changed in the last month. It was originally rejected by the CDRC but then they dropped that appeal and this is a new application. Paperwork has been coming in very belatedly. This is the packet I picked up yesterday at 11:00. Other documents were dropped off to community members over the weekend including the geohydro report and the archeological survey, and there has simply not been adequate time for the public or the public to hire professional review, either the public to review it themselves or hire a professional to review these documents. Because of that I ask that this item be tabled.

I've come to you this afternoon instead of this evening because I'm concerned about



having many community members come to the meeting tonight. It's late on the agenda. It will be late in the evening. I'm worried about everyone showing up, waiting through the meeting to speak, and then at that point having it tabled. So if it is going to be tabled I think it's far preferable that we table now rather than later this evening. And that is my request.

CHAIRMAN MONTOYA: Okay. Thank you. Being that this is noticed for a public hearing it does have to wait until that time in order for us to be able to even take that action. But we appreciate your comments for the record.

MR. MCQUEEN: Okay. Thank you for your time and I'll see you this evening.

CHAIRMAN MONTOYA: All right. Thank you, Matthew. Anyone else?  
Mukhtyar.

MUKHTYAR KHALSA: Thank you, Mr. Chair. I'm Mukhtyar Khalsa, president of Cuatro Villas Water Users Association, and I'm here to address a small concern. We're working in joint power with Santa Fe County and we're building a regional water system just south of Española in the Four Villages area. You may be aware of it. At this point there's a concern that coming down County Road 90, the City of Española is going to be, from our understanding, asking for easement on that road. As it's a joint powers project with Santa Fe County I just want to make sure that the Commission's aware of Santa Fe County's relationship with Cuatro Villas in that we're also building on County Road 90 a waterline. And that waterline is going to be paid for by Santa Fe County. So we want to make sure that if an easement is granted to Española that first we consider Santa Fe County's interests on that County Road 90 before we consider Española's interest.

I wrote a letter to most of the Commissioners and circulated it, and I just came today to make sure that we're all aware of it and we don't miss our opportunity to keep our easement and make sure that we have – that we don't make it more expensive or limit our ability to build on County Road 90.

CHAIRMAN MONTOYA: Thank you, Mukhtyar. Any questions? Steve or Roman, do we have anything to add?

MR. ABEYTA: Mr. Chair, I'll just add that we will be sure to work with our Utilities Department and Cuatro Villas and the City of Española because he raises a good point. We do not want to add to the expense of the project as a result of the City of Española wanting to put a waterline in there. So we'll meet with all the parties to make sure that we're all on the same page.

CHAIRMAN MONTOYA: Very good. Mukhtyar, thank you for bringing it up, because I know that we have been working closely together between Cuatro Villas and the County and I think the scramble at this point with the City of Española is to try to expend the funds that they've had in their coffers for I don't know how many years, and now they're trying to expend them by adding what in my opinion is a redundant water line that's not needed for the purposes that we have in working with Cuatro Villas and I'm not sure exactly what purpose it will serve them, other than to loop it and to loop the system. I don't know if it will increase their pressure or – I'm not clear on what's going on there, but I sure appreciate

your bringing that to our attention and glad to see that we're still working closely together on this. And just as an update we do have the water system, hopefully, on a list to be saved in terms of cuts that have been projected for this upcoming legislative session and anything Cuatro Villas can do to talk to our legislative delegation and the governor would certainly I think help in terms of saving those funds.

MR. KHALSA: Certainly. Certainly. Thank you.

CHAIRMAN MONTOYA: Thank you, Mukhtyar. Okay, anyone else like to address the Commission? Seeing none, we have Matters from the Commission.

## **XI. MATTERS FROM THE COMMISSION**

### **A. Resolution 2010-03. A Resolution Requesting that the Current Hold Harmless Gross Receipts Tax Distributions to Counties be Maintained (Commissioner Montoya)**

CHAIRMAN MONTOYA: This is something that I brought forward in terms of this upcoming legislative session, not wanting for us to – and I think Commissioner Stefanics this afternoon, this morning, mentioned that as much as possible we would like for the legislature in this upcoming session to not impact counties or municipalities significantly in terms of any potential loss in revenues that we currently have that we generate from the state legislature and one of them would be probably the food tax, which is something that currently we're being held harmless. They're giving us what was lost in terms of revenues generated previously, and this is what this would do regarding Santa Fe County's food deduction, medical deduction distribution and those two deductions are a total of \$3,216,000 that we are currently held harmless and that is what this resolution is requesting. And with that I would move for approval.

COMMISSIONER HOLIAN: Second.

CHAIRMAN MONTOYA: Motion and second by Commissioner Holian.

Discussion?

**The motion passed by unanimous [5-0] voice vote.**

CHAIRMAN MONTOYA: And we will share this with our legislative delegation also, Roman.

MR. ABEYTA: Okay.

## **XI. OTHER MATTERS FROM THE COMMISSION**

CHAIRMAN MONTOYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. First of all, I'd like



to wish the Commission and all of the staff and the public of Santa Fe County a Happy New Year. This is our first meeting after the first of the year and I hope everybody had a very safe holiday season.

The second thing is recently I attended an Interfaith Alliance meeting on the temporary homeless shelter, and the Interfaith Alliance is seeking – and this is for information only – the Interfaith Alliance is seeking support from either the City or the County to run a shelter. So all of the members that participated in this – the Mayor, one of the City Councilors, some members of the legislature, myself – said that it was not appropriate for the City or the County to run a shelter. So all of the members that participated in this – the Mayor, one of the City Councilors, some members of the legislature, myself – said that it was not appropriate for the City or the County to run a shelter but we certainly could support an agency that was running such a shelter.

In the meantime I learned that the temporary shelter that's located at Pete's Pets was a lease that was just identified at the last minute, but that all the individuals who are staying there at night sleep on the floor. So we have contacted since Friday the National Guard and they are looking at loaning some cots for this year. So I believe that the Interfaith Alliance will be looking at some more permanent solution to this.

Secondly, or third, I had a meeting yesterday with primary care providers in Santa Fe County around the indigent funds and not drawing down their indigent funds. And this is something that we've been discussing in the Indigent Board meetings. I had asked our staff to visit with the primary health care providers so I attended the meeting. Steve Ross was there, Teresa, Greg and Steve so that we could find out what the problems were. So we listened to the non-profits talk about how they were duplicating the types of information that they had to collect for the County when they're already collecting it for the federal government. So our staff has said that they will work with trying to streamline those regulations. And we are concerned that we are not spending as much as we could or that we have appropriated for indigent fund care here in the county. That's all. Thank you, Mr. Chair.

CHAIRMAN MONTROYA: Thank you, Commissioner Stefanics.  
Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. I would also like to say Happy New Year to the Commissioners and County staff and I hope you had a restful vacation because I'm pretty sure that we're going to have a pretty challenging year coming up ahead.

I would like to give an update on the renewable energy financing district. I know I talked about it this morning but I thought maybe if anybody's viewing on our TV channel that they might be interested in hearing about this. We have closed the RFP and as you might recall, we had an RFP out for an entity to help us with setting up the program with our initial loan application processing and most importantly, with providing funding for the projects that people would be applying for. One party applied. We are in the process of writing a contract with that party. I think it's in Legal right now and I think the contract will probably be done in a week or so, something on that order. And the good news is that the entity who applied is

Renewable Funding. They are the ones who helped Boulder, Colorado set up their program, Berkeley, California, and in fact I think they're in the process of helping San Francisco set up their program. So they really know what they're doing as far as setting up a program. And they also know the kind of pitfall, because they have been involved in programs that have already been ongoing. So they know things that we shouldn't do, I think, which is very important.

So this is really going to speed up the process. They also have done website applications for these entities and so I think they'll be able to help us right away set up a website where we will have information and where we will have applications for people. Once the contract is signed they will come out here and we will work out the broad outlines of the program and then at that point we will set up a series of townhall meetings to explain to people what exactly is involved in applying, what the interest rate is going to be, what the loan term is going to be, how you apply, how you make payments on your loan, and all those details that people are very interested in.

So I am really excited. I think that it's very possible that by the end of this month or early next month we may be able to start taking applications. So thank you.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chair. I just want to wish everybody a Happy New Year. There were a couple things I'd like to report on. We had a ribbon cutting at the transfer station in Stanley. I want to thank James and Robert and their staff for doing that. That transfer station is now in operation. And I'd like to also say thanks to our Public Works Department for helping out with the ribbon cutting for the County Road 42. There was a good turnout and people are happy about that road. I look forward to working with the Commission and staff in another year. Thank you, Mr. Chair.

Oh, one more thing. The pictures on the wall. I think that is classy. It adds a lot to the courtroom. I don't know how long they're going to stay up but I like pictures in the courtroom. Thank you.

CHAIRMAN MONTOYA: Okay. Thank you, Commissioner, and a belated Happy Birthday last Thursday.

COMMISSIONER ANAYA: Thank you.

CHAIRMAN MONTOYA: Twenty-two?

COMMISSIONER ANAYA: Twenty-three.

CHAIRMAN MONTOYA: And Commissioner Holian, I really will again applaud the work that you've done in setting up the energy district and taking the lead on that for the Commission. So thank you for your work on that. Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, and I'm glad Commissioner Anaya mentioned the pictures because that's something I was going to address. The pictures on the wall, and I would just ask that maybe our Arts Commission look at the option of doing this. These are pictures of youth who participated in the painting of the mural in the Camino de Jacobo housing area. That project was in conjunction with the Fine Arts for Children and Teens, the Santa Fe County Housing Authority, Teen Court, the Boys and Girls Club,

residents of Jacobo Martinez, lead mural artists – and bear with me. These people gave a lot of their time. It was Gary Myers and Carlos Cervantes, support artists Damian Romero, Pablo Ancona, Michelle Hoffman, Jesse Myers, [inaudible] Zach Brenner and Malcolm Hecht. Also participating in this was Jesse Myers from Santa Fe Prep, as well as David Sheinbaum and Chris Nail at the College of Santa Fe.

As you know, murals are one of the strongest combative actions that a community can take to prevent graffiti. There's a 950-foot wall in the Camino de Jacobo housing area that this mural was painted on. I was actually at the opening ceremonies and the neatest thing about it is each section of the wall was dedicated to a particular group. And when you look at the entire wall despite the fact that everyone had a different theme, you see a common theme of neighborhoods and cooperation and working jointly amongst most of the displays. I think that this is scheduled to be here for about 30 days. It's sort of like a traveling art show, but I think our Arts Commission might look at the possibility of displaying these kinds of things. I think they're quite attractive. At the very end of the room, in that script, you'll be able to gain some more information about the project.

I want to thank Warehouse 21 who also participated in this, and our staff, who hung up pictures and everyone else who participated. It was hugely a community cooperative effort and a beautiful result with that.

With that, Mr. Chair, the other item I wanted to call attention to was our legislative luncheon. Thank you, Roman, for pulling that together. Thank you, Rudy, for pulling that together. We had an excellent turnout. I think we've discovered the new model for attendance from our legislative delegation. They were all there. Maybe a couple missing. I'm not real sure as I think about who might have been missing. But we had an excellent turnout. We gained a sensitivity for the challenges that our legislature has and we were able to present to them a progress report of all of the programs and projects that they have allocated funding for, and I'd like to thank Roman and Joseph's shop for making that possible and all the staff for being there to field the questions that were posed. I thought it was quite successful. Thank you, Mr. Chair.

CHAIRMAN MONTROYA: Thank you, Commissioner Vigil. And I just had a couple of just ditto on what you just said in terms of the legislative reception. Thanks, staff, for putting that together and staff that were there and other elected officials as well that were able to attend.

I just also wanted to recognize the New Mexico Workforce Connection here in Santa Fe. They have gotten about 1500 referrals for the Buckman Direct Diversion project and have probably had about 150 or so that have actually been employed through the Buckman Direct Diversion project. So I just wanted to remind people that Santa Fe County and the City of Santa Fe in working together on this project are actually doing some job creation through the Buckman Direct Diversion project and hope to do that with some of the other projects that we have coming up as well.

In particular I wanted to recognize Richard Martinez, who is the site coordinator for the New Mexico Workforce Office Connection, and also the business consultant, Luis Duran,



and Melba Ramos, who is with the Department of Workforce Solutions and is the employment representative. So we certainly want to recognize the work that they've done in helping to move the BDD project forward.

And then just lastly, I am again humbled and thank the Commission for allowing me the honor to serve as your chair for this coming year. I pledge to do the best that I can and if I'm not doing very well let me know and straighten me out.

COMMISSIONER VIGIL: Can we hold you to that?

CHAIRMAN MONTOYA: Yes, Whop me upside the head a couple of times. So again, I look forward to this year. It will be my last year on the Commission and I pledge that we're going to continue to move forward and do good things for the County as we've done and look forward to this one last twelve months, this last hurrah.

## **XII. APPOINTMENTS/ RE-APPOINTMENTS/ RESIGNATIONS**

### **A. Appointment and/or Reappointment of County Development Review Committee (CDRC) Members (Growth Management Department)**

SHELLEY COBAU (Building & Development Services Manager): Thank you, Mr. Chair, members of the Commission. We have four members of the County Development Review Committee that have terms which expired on December 31<sup>st</sup> of last year. Members with those expired terms are Jon Paul Romero from District 1, Don Dayton from Commission District 5, Charlie Gonzales from District 2, and Jim Salazar who was previously in District 3 but is now in the presumptive city limits.

All members with those expired terms have expressed an interest in remaining on the County Development Review Committee. Staff therefore recommends that the BCC reappoint the CDRC members listed herein for a minimum of six months due to the ongoing understanding that these members have of the draft Sustainable Land Development Plan and draft Sustainable Land Development Code. Staff believes that to appoint new members to the CDRC at this time would be detrimental to this ongoing process. And I would also like to point out that the Code requires that we do have a member of the CDRC that lives within the city limits, so Mr. Salazar would fulfill that requirement.

CHAIRMAN MONTOYA: Okay. We have a recommendation from staff.

COMMISSIONER HOLIAN: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Holian.

COMMISSIONER HOLIAN: I would like to take this opportunity to thank the members of the CDRC. They're incredibly conscientious, as Shelley says. They always have a quorum. And I think that I really respect their opinion. They always ask incisive questions. I always read what they have to say and take their recommendations to heart. I move that we reappoint the members – Jon Paul Romero, Don Dayton, Charlie Gonzales and Jim Salazar for one year further, because I feel that it's important to have continuity in considering the Sustainable Land Development Plan and Code which they are working on.

CHAIRMAN MONTOYA: Okay, we have a motion by Commissioner Holian.

COMMISSIONER VIGIL: Second.

CHAIRMAN MONTOYA: Second by Commissioner Vigil. Further discussion?

**The motion passed by unanimous [5-0] voice vote.**

**XII. B. Appointment and/Or Reappointment of Board Members to the Following Committees: RPA, BDD, SWAMA, ELUA, MPO and RTD**

COMMISSIONER VIGIL: Mr. Chair, I think we're going to consider that later on in the evening, as we probably need to have more discussions. At least I requested that.

CHAIRMAN MONTOYA: You'd like to have more discussion on it?

COMMISSIONER VIGIL: Well, I need to speak to one Commissioner about it and I'd like the opportunity to do that between the sessions.

CHAIRMAN MONTOYA: Oh, okay. That's right. See, you're already keeping me in line, Commissioner Vigil.

[See page 19.]

**XIII. CONSENT CALENDAR WITHDRAWALS**

**B. 3. Request Approval of New Grant Agreements Between Santa Fe County and DFA for the Legal Written Binding Agreements in Place Prior to October 30th, 2009 in the Amount of \$2,030,683.30 (Community Services Department)**

COMMISSIONER HOLIAN: Thank you, Mr. Chair. I don't actually have any questions on this but given that people have a lot of concerns about the State budget because of the deficit and so on I thought it might be interesting or informative for the people of Santa Fe County for you to just describe what's happening with this item here.

PAUL OLAFSON (Community Projects Division): Mr. Chair, Commissioners, what we have here, there's a number of grants that have been reauthorized by the State of New Mexico through the Department of Finance and Administration, which is, the acronym is DFA. And what happened is in October of last year, at the end of October, the DFA sent out a notice to all local entities who have received state grant agreements and state funding that all of the currently issued grants as of October would be terminated. And they were asking to re-evaluate all of those grants and then they promised they would re-administer new grants for projects that had any encumbrances on them. And this is part of the



state's budget cutting process and trying to identify capital monies that had been promised but that weren't being utilized.

So the DFA cancelled all the grant agreements and asked the County to submit paperwork identifying which projects they had progress on and what they had already committed money to or had already spent money on and provide that documentation to DFA. DFA then reviewed that, and now DFA is in the process of reissuing grant agreements for those projects that they're currently having expenditures or having commitments to the. So this package that we're looking at today is about \$2 million and it represents multiple grants for many different projects that have encumbrance on them. DFA has reviewed the documents we sent them and they are now issuing new grant agreements. We don't anticipate this is all of the agreements we will get returned back. There are new agreements that will come back to the County. This is just the first batch.

So instead of doing 20 or 30 items on the agenda we put them all into one packet and you can see it's quite a substantial amount of paperwork that goes with each grant agreement. That's the short answer and I don't know if that's addressing what you're looking for.

COMMISSIONER HOLIAN: Okay. Thank you, Paul. I think that was very clear. Move for approval.

COMMISSIONER VIGIL: I'll second that.

CHAIRMAN MONTOYA: Motion by Commissioner Holian, second by Commissioner Vigil. Commissioner Vigil.

COMMISSIONER VIGIL: I don't know if this is appropriate to do this but based on the legislative discussions we had and the only project that I heard brought up was in Senator Nancy Rodriguez' and that is the extension of the park and driveway to the community center there. It's seeming to me that there may be some projects that may qualify. DFA may have initially said no and perhaps they did that because there wasn't sufficient documentation for the project is my understanding. If that documentation is produced then in fact it meets their criteria. And the specific project that was mentioned is that parking lot. Do we need to amend this action to include that particular project or would that come back to us once the assessment is made? Because I know the exception and everything has been worked on.

MR. OLAFSON: Mr. Chair, Commissioner Vigil, we will continue to follow that with DFA. This group of grants I think staff would recommend that we approve these now and we will continue to work on that Agua Fria grant and work with DFA to make sure that we get them all the paper work and that they are comfortable with that. And again, we have submitted everything that we could at the time and as we have more information or new information we continually submit or resubmit or add new information to those requests. But these grants here I would suggest are not tied to that grant and I wouldn't want to tie them together.

COMMISSIONER VIGIL: Okay.

MR. OLAFSON: I think staff will take the direction to continue working with DFA to follow up on that project.

COMMISSIONER VIGIL: Okay. Will that have to come back to us? Say that project is assessed as qualifying. Will that have to come back to us for approval?

MR. OLAFSON: Mr. Chair, Commissioners, yes.

COMMISSIONER VIGIL: Okay.

MR. OLAFSON: And at the time that DFA makes a determination that they would continue or reauthorize additional grant funds to that we would get a grant agreement from DFA and we would bring it forward to the Board for the same type of approval as this package.

COMMISSIONER VIGIL: Thank you, Mr. Chair. Thank you, Paul.

CHAIRMAN MONTOYA: Okay. We have a motion and a second. Any further discussion?

**The motion passed by unanimous [5-0] voice vote.**

**XII. B. 5. Request Approval of a Building Lease Agreement Between the County and Life Link for a County Owned Building Located at 1318 Luana Street in the City of Santa Fe for a Club House Program in Santa Fe County (Community Services Department)**

COMMISSIONER HOLIAN: Thank you, Mr. Chair. In reading through this particular item that I noticed that LifeLink pays rent, maintenance and utilities. And I guess my only question is is this cost-neutral to the County?

AGNES LOPEZ (Deputy Community Services Director): Mr. Chair, Commissioner Holian, yes it is. We are required to take care of the building and the mechanical systems, but the money that they pay in maintenance every month – I believe it's \$500 – will go into a fund and we'll keep it there for repairs to the building.

COMMISSIONER HOLIAN: Okay. Thank you. Move for approval.

CHAIRMAN MONTOYA: Okay. I have a motion by Commissioner Holian.

COMMISSIONER STEFANICS: Second.

CHAIRMAN MONTOYA: Second, Commissioner Stefanics. Any discussion?

**The motion passed by unanimous [5-0] voice vote.**

## **XIV. STAFF AND ELECTED OFFICIALS' ITEMS**

### **A. Growth Management**

#### **1. Resolution 2010-04. A Resolution Authorizing Santa Fe County to Apply for Grant Funding From the US Bureau of Reclamation – Upper Colorado Region Water Conservation Field Services Program for Development, Implementation and Outreach for the County Water Conservation Program**

LAURIE TREVIZO (Water Conservation Program): Mr. Chair, Commissioners, I'll be applying for three separate grants and the total amount for those grants will be somewhere in the neighborhood of \$125,000.

COMMISSIONER ANAYA: Move for approval.

COMMISSIONER STEFANICS: Second.

CHAIRMAN MONTOYA: We have a motion by Commissioner Anaya, second by Commissioner Stefanics. Discussion? Commissioner Holian.

COMMISSIONER HOLIAN: I just want to say thank you, Laurie. Thank you for being on the lookout for those grants and going through all the work to apply for them. I really appreciate it.

MS. TREVIZO: Thank you. Thank you for your consideration.

CHAIRMAN MONTOYA: Thank you, Laurie.

**The motion passed by unanimous [5-0] voice vote.**

### **XIV. B. Matters From the County Manager**

#### **1. Update on Various Issues**

MR. ABEYTA: Thank you, Mr. Chair. Myself and the Finance Director have been conducting mid-year budget reviews with the different County departments and the elected officials' offices. We will be expecting a property tax report in the next week or two and so once we gather that information, the results of the mid-year budget hearing, then we will be scheduling a mid-year budget study session with the Commission, probably the first week of February. But we'll poll you when we have a date when we're ready to get together to work on that.

CHAIRMAN MONTOYA: Okay.

#### **XIV. 2. New Judicial Courthouse Complex**

MR. ABEYTA: Other than that, Mr. Chair, regarding the new judicial courthouse, the slurry wall is under construction. That is the barrier, if you remember, that we

are going to put at the edge of our property to protect our site. That construction has started. There is going to be an information type of tour on Thursday at 10:00 am with the County and the Environment Department and the press has been invited to that. The public has been invited, if there are any questions regarding the work that is taking place that will be the opportunity for the County and the Environment Department to address those questions.

Again, that will be this Thursday at 10:00 am at the courthouse site.

CHAIRMAN MONTOYA: Okay. Are any Commissioners planning on being there? Commissioner Stefanics and Commissioner Vigil? Okay. So we'll be okay. We don't have to notice.

MR. ABEYTA: Right.

CHAIRMAN MONTOYA: Okay. Is that it?

MR. ABEYTA: That's all I've got, Mr. Chair.

COMMISSIONER STEFANICS: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: I have a couple questions I think for the County Manager. Roman, in 2009, I remember Commissioner Anaya bringing up some questions about the number of committees that we have here in the County, and then we did an assessment of how many committees we had and we were going to look at what we might restructure or how we might get some formal reporting back or what we could do to change things and tighten up a little bit.

It's come to my attention recently that the per diem issue could actually for all of these committees and members who serve on this could impact our budget. So I'm feeling that there's even more of an urgency to redo our committees, etc. So could you comment on where we are in the process?

MR. ABEYTA: Mr. Chair, yes. We have put together a proposed budget or a cost if we continue to operate with this current number of committees that we have. We have also started to talk with certain committees about changes that we would like to make. And to be quite frank, I think some of the committees are very concerned about the changes we want to make and what I'm trying to avoid, I'm trying to work with these committees to bring forward something that everybody could agree on in the best interests of the County. But that's going to take some time. The last thing I want is for the chambers to be packed with all these committee members saying why are you getting rid of my committee?

And so I would hope to have – for sure we'll have a proposed budget at the end of the month to show you what it will cost us to continue to operate, and I want to get that information to these committees also so they understand why we're doing this. And then we have to try to figure out how we reduce the number of committees but still address the needs that are out there or the purpose for these committees to exist. Plus I need to meet with the Commission probably individually and talk about what your perception or would you think that committee's purpose is. Because when we do – one of the things is that if we eliminate committees we want to make sure we don't eliminate committees we need, and then we need to determine with the committees that are left or a new committee structure, what's going to



be the purpose of that committee and what does the County Commission want that committee to exist for.

So it's quite a process but we are making progress and I will have an update with the budget at the end of the month as far as the existing number of committees.

COMMISSIONER STEFANICS: Mr. Chair, on this, Roman, I really appreciate the work that the people, the citizens of our county do when they participate in these committees. But I do believe that the restructuring of the committees should come from the Commission.

MR. ABEYTA: Right.

COMMISSIONER STEFANICS: And I believe that we have asked that we give input into what could be consolidated, which committees might be consolidated into another, how we might actually look at committees a little differently in relation to the departments that the County has. So I would agree that meeting with each Commissioner to identify that would be primary, before we go to the members of the committees to see what they want. No one wants to be worked out of a job. And we do appreciate everybody's work, but I believe that in terms of the restructuring it's really about what will meet the management's and the Commissioners' needs for information. So I would encourage you to look at it a little bit differently. Thank you, Mr. Chair.

CHAIRMAN MONTOYA: Okay. Thank you, Commissioner Stefanics. Any other questions for the County Manager?

#### **XIV. C. Matters From the County Attorney**

##### **1. Resolution 2010-05. A Resolution Determining Reasonable Notice for Public Meetings of the Board of County Commissioners of Santa Fe County and for Boards and Committees Appointed By or Acting under the Authority of the Board of County Commissioners; Rescinding Resolution 2009-1; Rescinding Resolution No. 2009-02**

MR. ROSS: Mr. Chair, members of the Commission, this is an annual housekeeping item, the enactment of an Open Meetings Resolution to set forth the rules governing public meetings of the County and all of its committees and boards for the upcoming calendar year. Historically, we've done this in the first meeting of January and that's why it's here today. Every year when we get ready to do this we take a look at the last year's resolution and see if we can improve on it so we can gradually over time improve the resolution as we go.

One of the things we noticed this year in connection with the committee projects – this ties in very nicely with the previous discussion – is that last year's resolution was a little ambiguous with respect to coverage of appointed boards and committees. One thing we've discovered in connection with the committee project, the apparent mission of a number of the committees that we currently have is such that those committees are subject to the Open



Meetings Act. So we wanted to clarify in this resolution that insofar as those committees are covered by the Act and our resolution that we have language in the resolution that addresses that. Specifically, I point to the additional language in paragraph 1 that points out that the rules – whether a particular board or committee is governed by the Act should be stated in the resolution that created the committee. The Legal Department has drafted a form resolution and given it to the Manager's Office, to Julie, to cover all the various details that we think are important when that committee is created and I think you're going to start to see some of those resolutions come forward for consideration in connection with the committee project. That will tie all the loose ends together.

Those are the biggest changes throughout the document. I'd refer to those boards and committees we have. We also added a paragraph on cancellation of meetings. We've had a couple meetings cancelled this year and we wanted to clarify what notice is appropriate for cancellation of meetings, and we wanted to conform the paragraph on participation by – telephonic participation in meetings so they conform to the Open Meetings Act. Those are the three principal changes from last year.

CHAIRMAN MONTTOYA: Okay. Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. Steve, I have a question about working groups, like for example we had a little task force that looked at the fee structure for our Solid Waste Department. Do they fall under this as well?

MR. ROSS: No. Fact-finding – groups that just have a fact-finding mission do not fall under the Open Meetings Act.

COMMISSIONER HOLIAN: Thank you.

CHAIRMAN MONTTOYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: On this point – thank you, Mr. Chair. One of the ideas I had discussed with Julie after she told me about the statutes and the per diem, and as we start looking at budget, was that we might think about having umbrella committees or commissions, and then having working groups that might not be under the Per Diem Act, that would do reports to this committee, commission, whatever, quarterly. So that we could cut down on the cost, we could make it a very important function, that it wouldn't be something that was happening every month. If you missed two out of four meetings you're gone, etc., etc. But that maybe we could do a lot with working groups throughout the County. Because I know a lot of people want to be involved.

Just for example, when we thought there was more than one vacancy on the CDRC, many of us got several applications. So members of the public are really interested in participating. Thank you.

MR. ROSS: Mr. Chair, Commissioner Stefanics, the issue of working groups, it's fairly clear that those aren't subject to the Open Meetings Act if they're just performing a fact-finding, not a policy-making role and they are probably also non-salaried public officials which would then entitle them to per diem. They're just informal groups that are working on a particular task on a volunteer basis. So that's a great direction to be moving.

CHAIRMAN MONTTOYA: Any other discussion on this? Could I have a

motion?

COMMISSIONER HOLIAN: Move for approval.

CHAIRMAN MONTOYA: Motion by Commissioner Holian.

COMMISSIONER STEFANICS: Second.

CHAIRMAN MONTOYA: Second by Commissioner Stefanics. Any further discussion?

**The motion passed by unanimous [5-0] voice vote.**

CHAIRMAN MONTOYA: Now, do we want to have the discussion or do we want to go to executive session?

COMMISSIONER VIGIL: I think we could probably discuss it.

**XII. B. Appointment and/Or Reappointment of Board Members to the Following Committees: RPA, BDD, SWAMA, ELUA, MPO and RTD**

COMMISSIONER VIGIL: Unless anyone else has a different opinion. And I've sort of prepped Commissioner Anaya. He is willing to serve on ELUA and I will withdraw my consideration for being appointed to ELUA, but the rest of the committees I'm fine with.

COMMISSIONER STEFANICS: Mr. Chair, I don't think we have – I have something that I think is old. I think what I'm looking is incorrect, but for example I see my name down for SWMA and I'm not on SWMA and I'm not available for SWMA. So do we have something in our packets that is about this? I only have an old document.

MR. ABEYTA: Mr. Chair, just the list I gave you. Do you have a copy of that?

CHAIRMAN MONTOYA: I do, but it has Commissioner Stefanics as being on SWMA here also.

MR. ABEYTA: Mr. Chair, we should probably just go one committee at a time because we changed during the year so our list is not accurate. So maybe you just start with one committee.

CHAIRMAN MONTOYA: Why don't we start with BDD, where right now Commissioner Vigil and I are on the BDD and Commissioner Stefanics is the alternate.

COMMISSIONER VIGIL: I'm okay with that.

COMMISSIONER STEFANICS: Mr. Chair, I'm happy to stay as an alternate or if somebody wants to go on I can change.

CHAIRMAN MONTOYA: And if somebody wants to go on they can go on and I'll be an alternate.

COMMISSIONER VIGIL: I'm on.

CHAIRMAN MONTOYA: Commissioner Vigil is good. Would you like to

be Buckman?

COMMISSIONER HOLIAN: Not really.

CHAIRMAN MONTOYA: Okay.

COMMISSIONER STEFANICS: Are you saying, Mr. Chair, that you want to go off as a regular member?

CHAIRMAN MONTOYA: As a regular member and would serve as an alternate.

COMMISSIONER STEFANICS: Okay. I can trade with you and be the member.

CHAIRMAN MONTOYA: And I'll be the alternate for you and Commissioner Vigil then. Okay.

RTD currently is Commissioner Stefanics and the alternative is Penny.

COMMISSIONER STEFANICS: Mr. Chair, I'm willing to remain on but if any member is interested in getting into the North Central Regional Transportation District, I'm happy to have them do that.

CHAIRMAN MONTOYA: I don't see anyone jumping up and down. So, okay, we'll continue as is then. Thank you, Commissioner Stefanics, for continuing on there.

MPO is currently Commissioner Anaya, Stefanics and Vigil and I am the alternate. Is that correct?

COMMISSIONER VIGIL: Yes. I'm okay with that.

COMMISSIONER ANAYA: I'd like to get off if somebody wants to get on.

COMMISSIONER STEFANICS: I'll stay on.

COMMISSIONER ANAYA: Commissioner Holian? It's a good committee.

COMMISSIONER HOLIAN: I'd be willing to be an alternate.

COMMISSIONER ANAYA: Okay, we can leave it. I'm fine.

CHAIRMAN MONTOYA: On staying on?

COMMISSIONER ANAYA: Yes.

CHAIRMAN MONTOYA: Okay. And then you'll be the alternate?

COMMISSIONER HOLIAN: Yes.

CHAIRMAN MONTOYA: Okay. And then SWMA – this one's not correct, because this one is Commissioner Holian, Vigil and myself. Commissioner Stefanics, you took over RTD for me and I took over SWMA for you.

COMMISSIONER STEFANICS: That's right.

CHAIRMAN MONTOYA: And the alternate is Commissioner Anaya.

COMMISSIONER VIGIL: That's correct.

COMMISSIONER HOLIAN: I'm okay with it.

CHAIRMAN MONTOYA: Everybody okay with that? Okay. RPA, this is Commissioners Holian, Montoya, Stefanics, Vigil, alternate Anaya.

COMMISSIONER ANAYA: I'm okay.

COMMISSIONER HOLIAN: I'm okay.

COMMISSIONER VIGIL: So am I.

CHAIRMAN MONTOYA: I'd like to get off.

COMMISSIONER STEFANICS: We don't have much choice, do we? It takes five of us. Four of us and the fifth for an alternate.

CHAIRMAN MONTOYA: Okay. So we'll continue with that one.

And then ELUA is Commissioners Holian, Stefanics, Montoya and Vigil. Alternate, Anaya.

COMMISSIONER VIGIL: I will be an alternate and Anaya is willing to be a member.

CHAIRMAN MONTOYA: Okay. So we'll switch on that one. Could I be an alternate and you be a member?

COMMISSIONER VIGIL: On ELUA? No.

CHAIRMAN MONTOYA: We've been meeting very erratically with that one anyway. So it's not –

COMMISSIONER VIGIL: How many of us will be serving on all committees?

COMMISSIONER STEFANICS: All except SWMA.

COMMISSIONER VIGIL: If I do ELUA I'll be serving on all of them.

CHAIRMAN MONTOYA: On all of them? Okay. That's fine.

COMMISSIONER VIGIL: Except RTD.

CHAIRMAN MONTOYA: Okay, and then the ones that aren't here are the North Central New Mexico Economic Development that we have a seat on where I'm currently on that and Duncan I believe is the alternate. And that's fine. I'm willing to continue, unless somebody else wants to serve on that one.

COMMISSIONER VIGIL: No.

CHAIRMAN MONTOYA: I'm willing to continue. So we're clear on all these? If we are okay with all of the changes that we made, I will entertain a motion.

COMMISSIONER STEFANICS: I'll move the revised membership of the BDD, the RTD, the MPO, the SWMA, the RPA, the ELUA.

COMMISSIONER HOLIAN: Second.

CHAIRMAN MONTOYA: Okay. There's a motion by Commissioner Stefanics and second by Commissioner Holian. Any further discussion?

**The motion passed by unanimous [5-0] voice vote.**

**XIV. 2. Executive Session**

**a. Discussion of Pending of Threatened Litigation**

**i. Discussion of Proposed Stipulation in PRC Case #09-00260-UT**

**b. Limited Personnel Issues**

**c. Discussion of the Purchase, Acquisition or Disposal of Water Rights**

**d. Collective Bargaining**



MR. ROSS: Mr. Chair, we need a closed executive session to discuss pending or threatened litigation, we need to discuss the stipulation in PRC Case #09-00260, we need to have a brief discussion of personnel issues. We have to discuss purchase, acquisition or disposal of water rights, and strategy preliminary to collective bargaining negotiations.

CHAIRMAN MONTOYA: Okay.

COMMISSIONER HOLIAN: Mr. Chair, I move that we go into executive session where we will have a discussion of pending or threatened litigation, particularly with regard to PRC Case #09-00260-UT, also limited personnel issues, discussion of purchase, acquisition or disposal of water rights, and collective bargaining.

CHAIRMAN MONTOYA: Okay. We have a motion by Commissioner Holian.

COMMISSIONER STEFANICS: Second.

CHAIRMAN MONTOYA: Second, Commissioner Stefanics.

**The motion passed by unanimous [5-0] roll call vote with Commissioners Anaya, Holian, Stefanics, Vigil and Montoya all voting in the affirmative.**

CHAIRMAN MONTOYA: About how long will we be entertaining these?

MR. ROSS: Mr. Chair, I think it could take about an hour. We can't start the public hearings for quite a while, so we have a little bit of time.

[The Commission met in executive session and recess from 3:10 to 5:34.]

CHAIRMAN MONTOYA: I'd like to call this meeting back to order.

COMMISSIONER HOLIAN: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Holian.

COMMISSIONER HOLIAN: I move that we come out of executive session where we discussed pending or threatened litigation, limited personnel issues, purchase, acquisition or disposal of water rights, and collective bargaining.

COMMISSIONER STEFANICS: I'll second.

CHAIRMAN MONTOYA: We have a motion by Commissioner Holian, second by Commissioner Stefanics. Any discussion?

**The motion passed by unanimous [5-0] voice vote.**

**XIV. C. 3. Discussion and possible action regarding a proposed stipulation in PRC Case #09-00260-UT**

CHAIRMAN MONTOYA: Commissioner Holian.



COMMISSIONER HOLIAN: Mr. Chair, there are a few items that should be worked out with regard to item #3, so I move that we table any motion on a proposed stipulation in PRC Case #09-00260-UT.

COMMISSIONER STEFANICS: Second.

CHAIRMAN MONTROYA: Okay, motion to table by Commissioner Holian, second by Commissioner Stefanics.

**The motion passed by unanimous [5-0] voice vote.**

## **XV. PUBLIC HEARINGS**

### **A. Growth Management**

#### **1. Resolution 2010-6. A Resolution Amending Resolution 2006-148, the Santa Fe County Growth Management Plan, As Amended, to Exclude the Silverado Area From the San Marcos District Community Plan**

ARNOLD VALDEZ (Senior Planner): Good evening, Mr. Chair, members of the Board. I'm here to present a resolution amending the San Marcos Contemporary Community Plan to exclude Silverado from the planning district and from the plan. I'll provide you with a little brief background and you have the staff report, so I'll just highlight some of the points allowing some time for other public comments. The plan basically was authorized on June 10, 2003 by Resolution 2003-83. This created the San Marcos Contemporary Community Rural District Planning Committee. The Planning Committee basically designated an area of about 66 square miles of land on both sides of State Road 14, Turquoise Trail, by the state penitentiary and the village of Cerrillos. The San Marcos Association led the request for the planning effort.

The San Marcos Community Plan was subsequently approved three years after the initial planning on September 14, 2006. It was adopted by Resolution 2006-148. In February 2007 a draft of the proposed zoning district ordinance was begun and drafted. There were public hearings, community meetings and on August 28, 2007 the Board of Commissioners reviewed and approved the request for authorization to publish title and general summary of the ordinance amending the growth plan. Thereafter, the County Development Review Committee held the first public hearing for the ordinance on October 18, 2007. At that time a petition dated October 15, 2007 was submitted on behalf of the San Marcos District landowners or residents of Silverado. There were approximately 88 residents who signed the petition.

After reviewing the petition and receiving public testimony from Silverado residents, CDRC recommended to the County staff that additional meetings be held to hear the specific concerns about the San Marcos Community Plan and the proposed ordinance. Planning staff held four additional community meetings trying to hear and resolve some of the issues. During 2008 Silverado residents convened at various community meetings, expressed their

concerns about the plan and the needs of Silverado. Some of the concerns were that the proposed neighborhood zoning density zone and family transfers may be detrimental to their lifestyle. They were concerned about non-conforming uses, structures and businesses in the area. They were concerned about home occupation, home business, future regulations, existing versus proposed zoning ordinance differences, and overall inconsistencies in County zoning and policies pertaining to the San Marcos and Silverado areas.

A second petition dated December 1, 2008, containing 60 signatures was submitted to the Board. The second petition further reinforced their concerns and issues with the community plan as it existed, and requested that the San Marcos Community Plan be amended to exclude the Silverado community from the district boundary and allow them the ability to plan and create their own neighborhood plan.

On December 18, 2008 a public hearing was held before the County Development Review Committee. The petition and testimony was presented from the Silverado neighborhood requesting that they be removed from the community plan. After the presentation a motion was passed by the CDRC with a recommendation to remove Silverado neighborhood from the San Marcos District Community Plan, and that the Silverado neighborhood request come before the Board of Commissioners.

At this time staff would like to make a recommendation. Planning Division staff recommends that the Silverado neighborhood be removed from the San Marcos District Community Plan by amending the plan to exclude all references to Silverado, revising the maps, reflecting the omission of the North and South Fork areas constituting the Silverado neighborhood. Exhibit A and Exhibit B highlight the details of the plan. There is a list of changes that I submitted with your packet and there have been a couple of additional changes since that submission. These came about as a result of meeting with the San Marcos Association, the president, and discussing the changes. I'd like to pass out a couple of additional changes for your consideration and review.

The additional changes mainly came about as a result of looking at the fact that the local development review committees had been abolished in previous efforts and that we were moving forward towards creating a new community planning organization process. So therefore the San Marcos Association felt it was appropriate to reference the language as a forthcoming process and hopefully will occur with the new Sustainable Land Development Plan and Sustainable Land Development Code. So those are the only additional changes in the amendments. The document reflects all of the corrections in the list of amendments and the maps have also been delineated to exclude the two areas, the North and South Fork, thereby indicating their desire to be removed from the district.

At this time I would like to entertain any questions the Commission might have.

CHAIRMAN MONTROYA: Okay. Any questions? Commissioner Vigil.

COMMISSIONER VIGIL: And I recognize staff has put a lot of work into this. I'm not sure who to address this to. But staff see any precedents here with regard to community development plans and particular entities that were originally a part of a plan coming forth and saying we no longer want to be a part of this plan. I know that Silverado has

been in a unique situation in approaching us about it but all our other community development plans are pretty much in place. Are we setting precedents here in any way that might adversely impact our community plans?

MR. KOLKMEYER: Mr. Chair, Commissioner Vigil, I don't think so. I think this actually – we think this actually corrected a situation which proceeded not entirely correctly, because the concerns of Silverado came up some time ago but the plan proceeded forward under the assumption that there was still some belief that Silverado should be a part of this. It wasn't until we got closer to the end that it was clear from residents in the area and from others that Silverado indeed wanted to be out. We thought we could solve the problem during the planning process for the Sustainable Land Development Plan, but as you know we've taken that chapter on community plans out. So we then needed to back and kind of fix the situation that we had agreed upon with the residents of Silverado, and San Marcos, also at that point, that we would fix the problem. We weren't able to do it through the Sustainable Land Development piece, we wanted to go back and kind of do it this way to make it official.

I don't think it sets a precedent. I would view it more as kind of righting a situation that kind of wasn't correct from the very beginning.

COMMISSIONER VIGIL: Thank you. Thank you, Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. And Jack or Arnold, there has been discussion with Silverado regarding either adhering to our Sustainable Growth Plan or developing a plan of their own?

MR. VALDEZ: Mr. Chair, Commissioner Stefanics, yes, there have been some discussions. They're not quite sure yet what direction to take. They could possibly form a neighborhood group, or possibly maybe opt into the community planning organization process that we're developing. There's various options. I think when you hear from them after my presentation they'll probably outline a little bit more of the direction they're pursuing.

MR. KOLKMEYER: Mr. Chair, if I may, too, Commissioner, may I add a piece to that? It should be made clear also that now they don't have a community plan, so that they fall under the countywide Code. Now it's the existing Code and when we get the new Land Development Code they would fall under that. Unless they choose to do a community plan themselves; then they have that option.

COMMISSIONER STEFANICS: Well, I just wanted to thank you, Jack and Mr. Chair, I just want to make sure that was clear about the ramifications of moving out of the San Marcos Community Plan. And Mr. Chair and Commissioners, I've been at several community meetings where this has been discussed and requested over the years, so this is not a new request. Thank you.

CHAIRMAN MONTOYA: Okay. Thank you, Commissioner. Any other questions for Arnold? Okay, if not, this is a public hearing. If there's anyone who would like to speak on behalf or in opposition to this resolution please come forward.

ROSEANNE GONZALES: I just wanted to kind of express the other



community members that I've spoken with recently. And as you'll see, the first time we had a meeting with the CDRC the room was full. It's not as full today because we thought this was already done. And the real problem in that area, and I think this was the problem with the San Marcos District Association was we don't have a lot of communication out there. You're in a rural area, so unless you pick up the phone and call your neighbor or you get your mail out there, which you always don't, you're just not going to get that out there.

The members thought that this was done so a lot of them aren't here, but they do want to have a plan of their own, and they want this plan to adhere to their living style. They've been living out there for 30 years and I've been there for five years. You've grown accustomed to throwing your own garbage, bringing your own water. So this, there are certain bad things that you don't particularly care for, but there are also the freedoms that they have now that they don't want to give up. And that's what the San Marcos District Plan is specifically asking them to do, is to give up their way of life. And that's the reason we are really trying to get out of that plan and making our own plan.

I do have to say that the County has been working with us. At first we were a little difficult to deal with because we found out that we didn't want to do this, but they have worked very, very hard in working with us and I really believe that they're going to work hard with us in getting our community plan that works for the people that live out there and own their property. But I just want to make sure you're aware – Mr. Lints was very kind in printing a copy of all the petitions that he has signed. And the importance of that is to say that even though you don't see the bodies here, they are represented in numbers, and that's quite significant, considering in the whole San Marcos original district plan the biggest density is the Silverado area of residents.

So I just wanted to say, and thank you for all your guys' efforts in working with us.

CHAIRMAN MONTOYA: Okay.

COMMISSIONER STEFANICS: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Do we have a list of all those names or a petition that we could pass around just to see.

MS. GONZALES: I can give you this.

COMMISSIONER STEFANICS: Okay. We just want to have copies up here. Could we just see it up here?

CHAIRMAN MONTOYA: Thank you. Anyone else? Please come forward.

WALTER WAIT: My name is Walter Wait, 48 Bonanza Creek Road. I am the president of the San Marcos Association. Mr. Montoya, members of the Board, I'm delighted that Arnie somehow found the time to go into our plan and do all of the necessary work that will take Silverado out of the plan. It was never the intention of the planners, me being one of them, to bring anyone into this plan that didn't feel like they belonged. And when Silverado said that they wished to be out of the plan, that's perfectly fine.

So as it stands now, with the new amended plan from January 2010, where the San Marcos District no longer has a Silverado area, we feel that we can go forward. It's a win-win



situation for all of us. We think that now that the Silverados are on their way to making their own plan, let's hope, that we can go forward with the ordinances and the necessary changes that need to be made to the San Marcos plan. So we give it 100 percent of our approval and hope that you see the same way that we do. Thank you.

CHAIRMAN MONTOYA: Thank you, Mr. Wait. Anyone else?

WILLIAM LINTS: Hello, my name is William Lints. I live at 12 Barrendo, Santa Fe, which is in Silverado. Me and my family moved into Silverado in 1986 and we bought land in 1987 and have been there ever since. I've been quite happy there – not joyous, but satisfied. And it's the longest I've ever lived anywhere. I like the attitude where people kind of do their own thing and somehow get along with the neighbors. I don't think you could right a law to set up the way that neighborhood is. We do get in little disagreements but I never go to bed worried about it, and that's the way it's been.

One of the reasons I became so adamant when I read the San Marcos Plan is they specifically forbid auto repair businesses, and I was conducting an auto repair business. And there's a lot of people in the neighborhood that are doing that kind of life style. There are people that work in the construction industry and have tractors – whatever, in their yard. And there's language in the San Marcos Plan that forbid very much equipment laying around.

I think Silverado is largely a blue-collar neighborhood. And many people in the San Marcos community have businesses at home but they're more like indoor businesses. And my business was outdoor. I had to buy a new double-wide that had to be twice the size of my shop in order to get my business license from the County. When I first heard about this plan I was upset about it but I thought I would be the only one. And then Roseanne, who just spoke and Christina formed, called a meeting together at the fire station and I was in a room full of people that felt the way I did. I was amazed. So I got hooked into this process.

I'd like to thank Walter Wait for putting up with us. We've been kind of head-to-head at first but we've finally gotten to appreciate each other and of course Jack down there, figuring everything out for us and Robert and Arnie and a couple of other people. It's been a long process. For me it's been very emotional and I am hoping that this clears the way so that Silverado can live their lifestyle rather than someone else's lifestyle.

One other thing: I had occasion to meet, I think it was the daughter of the man who originally cut loose of that property, one of the West Brothers. And she said that his idea was to make a place where people that worked in Santa Fe could come out and park a trailer and have a goat and a garden and have their own property and get in a truck and drive to town and work every day. And that's basically what happened. I think it was a noble idea, especially considering how Santa Fe grew and the price of property and living went up and up and up, and it gave the working people a place to live and have a piece of property that they could be proud of.

Some people drive around the neighborhood and look down their noses at the lifestyle there, but for a lot of people that's their dream come true. And I think that has to be respected. Anything else I have to say is what you've already heard. So thank you very much.

CHAIRMAN MONTOYA: Thank you, Mr. Lints. Anyone else like to – how

many more people are going to be speaking on this resolution? Okay, please come forward.

[Duly sworn, Christina Montoya testified as follows:]

CHRISTINA MONTOYA: Hi, my name is Christina Montoya. My family has quite a few different pieces of property out in the Silverado neighborhood. In fact, my dad, myself, my brother and my sister, we all live off of Los Montoyas Court. We had to name our road because it didn't have a name for the longest time. We had to actually come up with a name for our road. So we've been out there so long that there weren't street names. There wasn't anything. It was like you'd go out there and it's the second turn off of North Fork. Or you go to the end of the road and we used to be the end of the road.

And so what I want to say about this is that there are a lot of non-conforming uses out there because we were out there before a lot of the Codes were even developed for that area. And so with that in mind I'd like to say that even though people may have undeveloped land doesn't mean – or that they're living a certain way doesn't mean that that's the way they plan on keeping it forever. And just because they have something one way now doesn't mean that that's the way that it will stay and that they don't have plans for that property. And so that is what we were considering when this plan came about because it basically put a halt to a lot of not only what was already occurring there but what the immediate dreams were for people. Like if you were going to build a home out there all of a sudden you were limited to a single-story home. If you were going to have a storage it couldn't be used for your home-based business. And so our concerns with this plan were really not only for what was in existence but how we plan to live our lives out there.

So I would like for that to be considered when we're forming our community planning organization and such. I want to thank Commissioner Anaya because he's not the Commissioner for our district but he helped me and he met with us for the very first time in October 2007. I came to him in the eleventh hour and he helped this process get started for me and I looked forward to working with you, Commissioner Stefanics, in the future with our neighborhood and our organization and the issues in our district. And I want to thank Jack Kolkmeier, but I also want to thank our neighbors, including Roseanne and the Lints and I'm trying to see who else is in here. People like Mark Vercruzy, I saw him in the parking lot but I don't see him in here. Robert and Arnie – Arnie's worked with us a lot. But I wanted to thank everybody here for working with us because like I said, this has been since October 2007 that we've been very vocal about this issue. So thank you very much.

CHAIRMAN MONTOYA: Thank you, Christina. I like the name of your road, by the way. Anyone else? So this public hearing is closed. Commissioner Stefanics.

COMMISSIONER STEFANICS: Mr. Chair, I would move that the Board of County Commissioners amend Resolution 2006-148 to remove the Silverado community from the San Marcos District Community Plan and San Marcos District boundary.

COMMISSIONER ANAYA: Second.

CHAIRMAN MONTOYA: We have a motion by Commissioner Stefanics, second by Commissioner Anaya. Discussion?

**The motion passed by unanimous [5-0] voice vote.**

**XV. A. 2. CDRC CASE #VAR 09-5020 Karen Esquibel. Karen Esquibel, Applicant, Requests a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow a Land Division of 1.00 Acres Into Two Lots. The Property is Located at 9-A Rincon Escondido in La Puebla, within Section 8, Township 20 North, Range 9 East (Commission District 1) John M. Salazar, Case Manager**

JOHN MICHAEL SALAZAR (Case Manager): Thank you, Mr. Chair. On December 3, 2009 the CDRC met and acted on this case. The decision of the CDRC was to recommend approval of the requested variance by a vote of 4-2. As you stated, Mr. Chair, it's a variance of Article III, Section 10 of the Land Development Code to allow a land division of one acre into two lots. Currently the proper has three legal non-conforming dwellings. They were placed there before 1981 and the property is served by two conventional septic systems and a well. The property is located within the traditional community of La Puebla. Article III, Section 10 of the Land Development Code states the minimum lot size in this area is  $\frac{3}{4}$  of an acre per dwelling unit.

The applicant states that she recently purchased the property from her mother due to her mother's health becoming an issue, and her mother's current job offers no retirement so she cannot afford a mortgage. The applicant further states that she and her brother take care of their mother. The applicant's mother originally purchased this property so her children could live next to her.

The decision of the CDRC was to recommend approval of the applicant's request with the following staff conditions. I'll read them Mr. Chair, since there's only two.

1. No additional dwelling units shall be permitted on the property.
2. Water use shall be restricted to .25 acre-foot per dwelling. A water meter shall be installed on all homes. Annual water meter readings shall be submitted to the Land Use Administrator by January 31<sup>st</sup> of each year.

Mr. Chair, I want to add a third one:

3. The applicant would need to come in and apply for a subdivision on her property with the Land Use Department.

CHAIRMAN MONTTOYA: Questions for staff? What would that entail?

MR. SALAZAR: Mr. Chair, it's an administrative procedure. She'd have to hire a surveyor and she and the surveyor would go over what the best scenarios would be to create those two lots and then they would work with Vicente Archuleta.

CHAIRMAN MONTTOYA: Okay. All right. Any other questions for staff? Okay, is the applicant here? Would you like to add anything to what we have? You can come



forward.

[Duly sworn, Karen Esquibel testified as follows:]

KAREN ESQUIBEL: Karen A. Esquibel. I'm here this evening to request a variance on my property. My mother originally purchased the property from my uncle about ten years ago and he had told her that the three dwellings were grandfathered in. So she purchased it with the intention of my brother and myself living next to her. My mother has been at her job for 25 years and she works with the handicapped. She is unable to – she does not have any retirement so I recently purchased the property from my mother so that she could remain in her home.

My brother has been living on the property. There's three dwellings there now. My brother has currently been living in his manufactured home there for ten years. I have provided the County with aerial photos from 1976 and 1978 proving that it is actually grandfathered in. So the reason that I'm requesting – and I also worked with the Environmental Department to get my septic permits for all three dwellings.

And the reason that I am requesting the variance is because my brother has been living there. My mom lives in the home, in her home, I live in a studio next to her and my brother lives in the manufactured home. I would like for him to be able to put his home on a permanent foundation. In the case that something should happen to me my mother could remain in her home and he would be able to take care of her. So thank you.

CHAIRMAN MONTOYA: Thank you, Karen. Questions? Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. So the intention is for your brother to own the lot that he lives on.

MS. ESQUIBEL: That's correct. The bank will not – he bought a manufactured home. He has a wife and four children and he will have to move if – the bank is requesting that he has to have a lot in order to put it on a permanent foundation, and he wants to do that because of the high interest rate. If not, he'll have to move and purchase another piece of property. But I want him to remain there to be able to take care of my mom. He helps us a lot. I'm a single woman and he helps me with the irrigation and the maintenance of the property.

COMMISSIONER HOLIAN: So I have a question for staff. Would this particular lot qualify for a family lot split?

MR. SALAZAR: Mr. Chair, Commissioner Holian, it doesn't because it's only one acre. Three-quarters of an acre is the minimum in that area. So had the applicant had 1.5 acres we wouldn't even be here tonight.

COMMISSIONER HOLIAN: Okay. Thank you.

CHAIRMAN MONTOYA: Other questions for the applicant. If not, thank you, Karen. This is a public hearing. If there's anyone who'd like to speak on behalf of or in opposition to, would you please come forward. Okay, seeing none, what are the wishes of the Board.

COMMISSIONER VIGIL: I have a question for staff with regard to – do we



have a community plan for La Puebla yet? No?

MR. SALAZAR: Commissioner, we don't. No.

COMMISSIONER VIGIL: We don't. Okay.

CHAIRMAN MONTOYA: And Karen, are you in agreement with the conditions? The three conditions and the last one also as stated by staff?

MS. ESQUIBEL: Yes, I am.

CHAIRMAN MONTOYA: Okay. Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. I do have some questions then. So if you're in agreement with the conditions, then – and no additional dwellings would be permitted on the property, why is this necessary again?

MS. ESQUIBEL: In order for my brother to mortgage his home he has to have his own property. I mortgaged the entire property and in order for him to keep his home there he has to put it on a permanent foundation. It is a bank requirement that he does that. And I can't afford to mortgage his home plus what I've already mortgaged.

COMMISSIONER STEFANICS: Well, Mr. Chair, I'm not a banker but it seems like refinancing – I'm having some problems with this size acreage. But it would seem to me that doing even a refinancing you might get better terms right now and to put everything together.

MS. ESQUIBEL: Well, my brother also has a family so he, in the case that something should happen to me we don't want to have to share a mortgage, myself and my brother. That's the key thing. He wants to be able to put his home on a permanent foundation. And I am financing my mother's home which she lives in, and the studio that I live in and so if something would happen to both of us my mom wouldn't be able to carry that mortgage. And at least this way my brother could be there and have his own home on a permanent foundation as well.

COMMISSIONER STEFANICS: So, Mr. Chair, and maybe this is a question for staff. In La Puebla, are there any other one-acre plots that are now two lots with homes?

MR. SALAZAR: Mr. Chair, Commissioner Stefanics, looking at aerials of the area there are some properties in this area that are well under an acre. Usually in those situations though those lots are legal non-conforming because they were created before 1981. There are situations where we see multiple dwelling units on lots. In some cases they may be illegal and the only way we can really find out is we go out there and ask the property owner to produce a permit for the, say, two dwelling units on their one-acre property. And in other cases they're legal non-conforming such as the case of this applicant.

COMMISSIONER STEFANICS: Thank you, Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Staff, does the applicant have another alternative? I'm trying to grasp onto something. Hardship, which isn't even acceptable some times by our own terrain management requirements for hardship. Is there an alternative for this applicant if we can't grasp onto a reason for granting the lot split?

MS. COBAU: Mr. Chair, Commissioner Vigil, I suppose the applicant would

look at condo-izing. That would be one alternative.

COMMISSIONER VIGIL: Has the applicant looked at that at all?

MS. ESQUIBEL: Well, I tried to contact someone who Shelley had suggested and I have not been able to get a response. I actually don't know where I would go, but I could possibly look into that as well. I don't know how that works.

COMMISSIONER VIGIL: I wonder if we should consider tabling this case to give the applicant an opportunity to look at alternatives. Understandably your needs are critical and you're trying to create a resolution for your family and you don't qualify for a family transfer, but if condo-izing is an alternative then that could come to us and we don't have to even – Shelley, we wouldn't even have to approve this if she was able to do that, right?

MS. COBAU: Mr. Chair, Commissioner Vigil, the County doesn't approve condominiumizing properties but if – because it's in a traditional community also, if community water and community sewer were to become available in this area they could go down conceivably to a 1/3-acre lots. But I don't know what the long-term plans or what the ICIP, or if we have any plans for community water and community sewer up in that are. We do have – the dwellings are existing on the property. I think that's important to keep in mind; they're already there. So basically we're just getting lines on a map.

COMMISSIONER VIGIL: And with regard to the Sustainable Growth Management Plan, is this a growth area or not? I know we're not that intimately familiar with it.

CHAIRMAN MONTOYA: No.

COMMISSIONER VIGIL: La Puebla's not a growth area?

MR. KOLKMEYER: Mr. Chair, La Puebla is a traditional community, so it is a growth area in the sense that traditional communities can grow within the relationship of what traditional communities are allowed to do with infill. But as an SDA, one area is on the map, I think. The area is where we anticipate a certain amount of growth, yes. But not an area that will be designated for growth where we would move, for example, sewer and water, necessarily.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: You said there's two houses on the property and you just need to divide them?

MS. ESQUIBEL: There are three.

COMMISSIONER ANAYA: There's three houses already.

MS ESQUIBEL: Yes, I provided aerials that they were grandfathered in before 1976. So there were three then and there are three there now.

COMMISSIONER ANAYA: Mr. Chair, I move for approval.

CHAIRMAN MONTOYA: Okay. I have a motion for approval. I'll second for discussion.

COMMISSIONER STEFANICS: Mr. Chair, I have more questions.

CHAIRMAN MONTOYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Mr. Chair, I'm noticing that a neighbor had denied a lot split at .75 acres. I also notice that staff recommended denial and that the CDRC recommended approval. So this – if other individuals in the area have already been denied, this will set a precedent for them to come back to us and ask for a variance. And I'm specifically looking at a letter from Diana Marie Quintana.

MS. ESQUIBEL: Pardon me, Commissioner. Donna Quintana, her property was not grandfathered in as ours was, so when she requested, she doesn't have any other dwellings there before 1976, so that was why she was denied. She couldn't prove that the dwellings were there prior to that Code, pre-Code.

COMMISSIONER STEFANICS: Thank you, but Mr. Chair, that still doesn't take care of the issue between staff and CDRC. And when I see that that also makes me a little questionable on cases.

COMMISSIONER VIGIL: Mr. Chair.

CHAIRMAN MONTOYA: Okay. Commissioner Vigil.

COMMISSIONER VIGIL: When you say grandfathered, in, grandfathered in by nature of the fact that there were three units for that entire land or grandfathered in for what purposes? Zoning?

MS. ESQUIBEL: Yes. There are three dwellings.

COMMISSIONER VIGIL: Okay. And staff is validating that?

MS. COBAU: Mr. Chair, Commissioner Vigil, that's correct. The dwellings that are on that property were placed pre-1981, before the current density criteria came into place. The letter, Exhibit F, that Commissioner Stefanics is referring to incorrectly states that the lot that this woman owns, it's a half an acre in size, she would not be allowed to develop it because she couldn't put a septic on there. That's not our rule. That's the rule of the New Mexico Environment Department that requires a ¾-acre lot for placement of a conventional septic. They could put an advanced septic on that property and obtain a permit from us on that half-acre lot. So that statement in her letter in Exhibit F is not correct.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I guess I'm concerned about doing this and doing it right and doing it fair and equitably. I know there's a motion on the floor but if that motion doesn't go anywhere I'd like to table your case to give you an opportunity to look at alternatives so that you can come before us and say this is what I can do and I can do it within Code. If it means condominiumizing, because the purposes that you're here before us, we all empathize with. We understand, but we're not allowed by Code to allow it, unless it was a family transfer or in fact it truly was a hardship, and I'm not hearing any testimony in that direction. So I hope we can help you.

MS. ESQUIBEL: Thank you.

CHAIRMAN MONTOYA: And I'd just like to let the Commissioners know that this is an area that does have a domestic water association. How close is it to where you're located? The Cuatro Villas?

MS. ESQUIBEL: I would say – it's just across the arroyo. So we live on this



side of the arroyo, and just on the other side of the arroyo is community water.

CHAIRMAN MONTOYA: So if that were available, would you be willing to hook up to the water system?

MS. ESQUIBEL: Yes, I would.

CHAIRMAN MONTOYA: Would you mind if we added that as a condition as well?

MS. ESQUIBEL: No, that would be fine.

CHAIRMAN MONTOYA: Because we do that with a lot of these types of variance requests where we require that when it's available that the individual hook up to that water system. And then that is – we've just expanded that system within the last year to hopefully accommodate more customers. So I would – if the maker of the motion would agree to that as a fourth condition.

COMMISSIONER ANAYA: I agree.

CHAIRMAN MONTOYA: So that's okay.

COMMISSIONER HOLIAN: Mr. Chair, point of clarification. For that requirement, how would she know whether it were available? Or how would this occur?

CHAIRMAN MONTOYA: Typically, the mutual domestics will let people know when they're expanding primarily through flyers, really, is the way they inform the people. There may be ad or an article may be run in the local newspaper as well. So that's typically the way the mutual domestics inform, and some of the actually – the Chimayo area also they actually go door to door asking people, will you become a customer, or when it's available, will you become a customer? So that's the way they've done it.

COMMISSIONER HOLIAN: So I wonder if we were to table the case now, whether she could go and investigate how much of a possibility that is.

COMMISSIONER VIGIL: I have a point of order.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: On the motion. I want to make sure we're all clear. If in fact the motion is voting on, that we approve, then she can go forward. If the motion is denied can we make a motion to reconsider her case after consultation with staff on alternatives?

MS. COBAU: Mr. Chair, Commissioner Vigil, you could table the case. You could not act on the motion that's on the table and then just make another motion. Or if you were to vote on the current motion and it were to die, then you can make another motion to table the case.

COMMISSIONER VIGIL: I'm concerned that if we take an action tonight we may turn you down. I don't know what the vote outcome will be. So not knowing that, and knowing that you may have alternatives to look at creating a resolution for this and maybe coming forward with more conditions of approval that you could comply with with regard to the Cuatro Villas hookup and things like that. I'm just going to ask the maker of the motion if he'd consider with drawing his and consider a tabling motion on this. No? Okay. You may get turned down. I don't know.



CHAIRMAN MONTOYA: Okay. Any other comments? The unfortunate reality for a lot of these types of requests that come from my district have to do with economics and lack of affordable housing in this particular area and this is the way that people have been, fortunately, for a while anyway, been able to stay in the community and keep their family in the community and take care of their family in the community where they live. So this is certainly not a unique case and I think this one actually has the potential to do some good in terms of beginning to get more customers hooked up into a water system, which is certainly what we have encouraged people to do over the years. So with that, we have a motion to approve with four conditions.

**The motion to approve failed by a 2-3 voice vote with Commissioners Montoya and Anaya voting in favor and Commissioners Holian, Stefanics and Vigil voting against.**

COMMISSIONER VIGIL: Can I make a motion that the applicant come before the County Development Review Committee to utilize our expertise to identify some of the alternatives she may have through the problem that she faces?

MR. ROSS: Mr. Chair, Commissioner Vigil, we'll take that as a recommendation and we'll take care of that.

COMMISSIONER VIGIL: Thank you.

CHAIRMAN MONTOYA: Then there's been a request to move up case #11.

- XV. A. 11. CDRC CASE # S 09-5211 Saddleback Ranch. Saddleback Ranch Estates LLC, (Gabriel Bethel), Applicant, Requests Approval of a Summary Review (Type V) Residential Subdivision Consisting of 24 Lots (Each 40 Acres in Size) on 960 Acres. The Project is Located on County Road 41 within Section 13, 23, 25, & 26 of Township 14 North, Range 9 East and Sections 7, 8, 9, 16, 17, 18, 19, 20, 21, and 29 Township 14 North, Range 10 East, Near the Villages of Galisteo and Lamy (Commission District 3) Vicki Lucero, Case Manager [Exhibit 1: Water Resources Specialist Memo; Exhibit 2: Open Space Planner Memo; Exhibit 3: Letters of Opposition]**

VICKI LUCERO (Development Review Team Leader): Thank you, Mr. Chair. On November 13, 2008, the applicant submitted an application for a lot line adjustment for 39 lots (subsequently amended to 29 lots) on 3,129.495 acres.

On May 6, 2009, the Land Use Administrator rendered a decision to deny the application. The Applicant's Agent filed an appeal of the Land Use Administrator's decision on May 13, 2009. The appeal was heard by the CDRC on October 15, 2009. The CDRC upheld the Land Use Administrator's decision and denied the appeal.

Since that time the applicant has submitted a new application. The applicant is now

requesting summary review plat approval for a 24 lot residential subdivision on 960 acres. Each lot will be 40 acres in size. The proposed subdivision is classified as a Type V Subdivision under the County Land Development Code, which is a subdivision containing 2 to 24 parcels each of which is 10 acres or greater in size.

Article V, Section 5.5.1 state that all Type V subdivisions shall be submitted to the County for review under Summary Review Procedures which does not require review by the County Development Review Committee but only requires final approval by the Board of County Commissioners.

This application was reviewed for access and traffic impact, terrain management, water and liquid waste, solid waste, fire protection, landscaping, open space and archeology.

Recommendation: The proposed subdivision complies with Article V, Section 5.5, Summary Review Procedures of the Land Development Code. Staff recommends final plat approval subject to the following conditions. Mr. Chair, may I enter those conditions into the record?

[The conditions are as follows:]

1. The final plat must be recorded with the County Clerk's office.
2. All redlines will be addressed, original redlines will be returned with final plans.
3. The development shall comply with the water harvesting requirements of Ordinance 2003-6. A rainwater harvesting plan will be required from individual lot owner upon application for a building permit. This requirement must be included in the Subdivision Disclosure Statement and restrictive covenants, and noted on the final plat.
4. A liquid waste permit must be obtained from the Environment Department for the proposed septic systems prior to issuance of building permits; this requirement must be included in the Subdivision Disclosure Statement and noted on the plat.
5. The applicant must record water restrictive covenants simultaneously with the plat imposing 0.25-acre feet per lot per year. Water meters must be installed to each lot at the time of development and meter readings must be submitted to the Land Use Administrator annually by January 31<sup>st</sup> of each year.
6. A location for a future cluster mailbox area to serve the Saddleback Ranch Subdivision and other areas must be provided. This pullout shall meet the minimum specifications for mailbox pullouts set forth by the NMDOT. The pullout driving surface shall be a minimum of 6" of aggregate base course, and adequate drainage must be provided. The detail of this location shall be submitted prior to plat recordation, and additional right-of-way if required shall be indicated on the final plat.
7. The applicant shall submit a financial guarantee, as required by Article V, Section 9.9 of the Code, in a sufficient amount to assure completion of all required improvements. The financial guarantee shall be based on a county

- approved engineering cost estimate for the completion of required improvements as approved by staff prior to final plat recordation. All improvements shall be installed and ready for acceptance within eighteen months of recordation.
8. The applicant will be required to provide a Landscaping Plan for revegetation of disturbed areas, prior to final plat recordation.
  9. All utilities shall be underground. This shall be noted on the plat, covenants and disclosure statement.
  10. The standard County water restrictions, final homeowner's documents, and disclosure statement must be recorded with the final plat.
  11. Any subdivision signage will require a Sign Permit, and all signage must meet the requirements of the Code.
  12. Driveways shall not exceed 11% grade.
  13. A water quality test analysis as required in Article VII, Section 6.5.2 of the County Code that demonstrates that the water is of acceptable quality must be submitted prior to Final Plat recordation.
  14. NMDOT access permits must be obtained by the applicants prior to recordation of the final plat.
  15. Compliance with the County Floodplain Ordinance (Ordinance No. 2008-10) including road design and setbacks.
  16. Final Road Design and configuration will be reviewed administratively under Article V, Section 8.2 (Road Design Standards) of the County Land Development Code prior to plat recordation.
  17. All roads must be designed as a loop road system. Cul-de-sacs (dead end roads) shall not exceed a maximum length of 500 feet as required by County Code.
  18. Location and exact dimensions of the existing pond must be identified on the plat and must be property permitted by the Office of the State Engineer.
  19. A water distribution system map inclusive of well sites, easements, and proposed fire protection is required prior to plat recordation.
  20. Archeological sites must be placed in protective easements identified on the plat or fenced or both for protection.
  21. Roads shall meet the minimum County standards for fire apparatus access roads within this type of proposed development. Driveway, turnouts, and turnarounds shall be County approved all-weather driving surface of minimum 6' compacted basecourse. Minimum gate and driveway width shall be 14' and an unobstructed vertical clearance of 13'6".
  22. To prevent the possibility of emergency responders being locked out, all access gates should be operable by means of a key or key switch, which is keyed to the Santa Fe County Emergency Access System (Knox Rapid Entry System). Details and information are available through the Fire Prevention Office.
  23. A minimum 60,000-gallon of water storage and draft hydrant(s) shall be

installed, tested, approved and operable prior to the start of any building construction. Plans and location for said system(s) shall be submitted prior to installation for approval by this office and shall meet all minimum requirements for the Santa Fe County Fire Department. Details and information are available through the Fire Prevention Office.

24. Automatic fire Protection Sprinkler systems shall be required per condition of approval in accordance with the Building Code as adopted by the State of New Mexico and/or County of Santa Fe.
25. The requirement for water storage and draft hydrants and residential fire protection sprinkler systems shall be recorded on the plat and in the covenants at the time of filing or as otherwise directed by the County Fire or Land Use Department.
26. Prior to acceptance and upon completion of the permitted work, the Contractor/Owner shall call for and submit to a final inspection by this office for confirmation of compliance with the above requirements and applicable Codes.
27. If County water becomes available within ¼ mile of outer boundary of the subdivision all lots shall connect to the County System. Fire distributions mains may be utilized as water distribution lines.

I also wanted to state for the record that staff has just handed out a couple of letters of opposition that didn't make it into the packet, a couple of reviewing agency responses that didn't make it into the packet, and a letter from the State Historic Preservation Office that we received today requesting that this case be tabled. However, I did speak with Michelle Ensey from the State Historic Preservation Office earlier this afternoon and she stated that her intent wasn't to table the request as long as there was a condition imposed that allowed her adequate time to review the archeological survey. Thank you, Mr. Chair.

CHAIRMAN MONTOYA: Okay. Questions for staff?

COMMISSIONER STEFANICS: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: I'm seeing some questions – I am seeing some comments from staff in open space and from our Hydrologist. Could they address this as well?

MS. LUCERO: Mr. Chair, Commissioner Stefanics, we can additional conditions of approval that they address any conditions that were raised through open space.

COMMISSIONER STEFANICS: No, that's not what I'm asking. I'm asking for our Hydrologist to comment on any water issues, and I'm asking Open Space to comment on any archeological issues. That's why we have professional staff to study these issues and to advise us and to talk to us about the conditions of the land.

KAREN TORRES (County Hydrologist): Certainly. Is there any procedure I need to follow to comment at this time.

CHAIRMAN MONTOYA: Identify yourself and department and answer the



questions that Commissioner Stefanics has.

MS. TORRES: Excellent. My name's Karen Torres and I'm the County Hydrologist. This was an interesting project to review. We found out exactly how circular our Code is as far as its requirement with this particular project. Because of the size of the lots, they are requesting 40-acre lots, they do not have the requirement for water availability as most subdivisions would, because they meet the criteria for the standard water availability in the Code. But, due to the number of lots, it doesn't get them away from submitting a hydrogeologic report and other information on the aquifer.

So we wrestled very hard on trying to figure out what the Code requirement are and what the memo before you is what we came up with. The applicant did submit information on the existing wells that are on the property, but there is some information that is lacking. We do not have a plan on where the well sites are going to be at, or whether there's going to be individual or shared wells. Additionally, the aquifer in the area is not the greatest aquifer so we recommended a depth and a production for future wells to be drilled, and also we wanted to get information on water quality on each of the wells so then the developer could plan for any sort of treatment that's necessary. So we primarily focused on public welfare issues in regards to water.

But availability – not an issue due to the size of the lots.

COMMISSIONER STEFANICS: Okay, so Mr. Chair, just for my education, in terms of the process, the information that we have currently is enough.

MS. TORRES: No.

COMMISSIONER STEFANICS: Okay. That's what I wanted to clarify.

Thank you very much on the water. What about the comments from Open Space, Mr. Chair? And specifically around the archeological finds or protections.

BETH MILLS (Open Space Planner): Good evening, Mr. Chair, members of the Commission. I submitted comments because I had grave concerns about the lack of diligence in archeological clearance for this property. For over five years Santa Fe County has been working very closely with the Bureau of Land Management and many other collaborators to implement a federal law that intends to protect archeological sites within the Galisteo Basin. The area where the development is being proposed is particularly dense in archeology. It lies along the Galisteo Creek between County property with a Coalition site at Lamy junction and the Galisteo Pueblo which contains a Mission component to the south of this property. So it's in fact the land that lies in between along the creek.

So we're certain that it's quite rich in archeology. When I reviewed late yesterday the archeology report, the very cursory one that was done for this only 75 acres were covered and they were the places where the developer is planning on putting house sites. And even within that small amount of acreage there were five sites found and I think 18 incidents, isolated occurrences, of artifacts. We know that a large Pueblo site is within 500 meters of where they were working. And the archeologist took two days to prepare this report. So I was concerned when I saw this about the lack of rigor with which this very important piece of property was reviewed.

Secondly, when I reviewed the submittal I saw that the developer was suggesting that they were going to donate open space on each of these 40-acre parcels outside the building envelope, but it was a very incomplete approach to the discussion of open space. Is this private open space? Is it public open space? Who holds the conservation easement? That was not mentioned. What kind of access would there be for particularly Native American people to the resources that would ultimately be found if, as was promised, a more extensive archeological survey was done? There were many, many unanswered questions regarding the open space component of the submittal.

What was most troubling to me was that I, in consultation with Open Space staff had prepared a memo in January of last year with my concerns and this packet came forward and this application came forward without notifying me that it was coming back again to the Commission and I had to, at 4:00 yesterday afternoon ask if I could take a look at it. So that was disturbing to me professionally and as I began to look at it I had the questions that I outlined here.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. I got my answers from the County staff.

CHAIRMAN MONTOYA: Okay. Any other questions from staff?  
Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, thank you. I found out about this, I can't remember if it was this morning or yesterday, that we were going to hear this case. And I was disturbed because this is my district and you all didn't notify me to let me know it was happening. And there's a lot of questions that I wanted to ask and I know that I have my constituents in the crowd that are wondering what's going on. And I have to apologize to all you because I'm wondering what's going on. I don't want just ramrod something through without the public input, and a surprising public input. I think that we should table this and I think the applicant should go back. I think the staff should inform me on exactly what's going on, and I think that we should have the archeological studies, the hydro studies and all the other studies that we allowed everybody else to do prior, before coming to the County Commission.

Let me finish. This could be a good project. This could be a good project. Briefly looking at it I saw the water use. Six acre-feet. Hey, I think that's great. Six acre-feet for 24 homes. But we cannot come over here and shove it down the throats of our citizens and the Commission. So we need to go back and we need to talk to our constituents, the people in the surrounding areas and figure this out. And let them know how many acre-feet of water they're going to use. Maybe it would be okay. To me it seems okay, but let's not shove it down our throats. And I was disturbed to hear that we were going to hear this case today. You can get a hold of me, staff, on the phone, and call me and tell me, Mike – you could have called me two weeks ago.

So with that, Mr. Chair, I'd like to table this so that we can go back and try to figure out, make some community meetings to talk about this and see if we can come up with a solution. Thank you, Mr. Chair. I move to table.

CHAIRMAN MONTTOYA: We have a motion to table.

COMMISSIONER HOLIAN: Mr. Chair, I second and I agree with that. I would like to add something else too. I note in this memo from Beth Mills that there are an additional 13 40-acre parcels that would be created through a lot line adjustment so I definitely would like to have some information about that too. Nothing was included in my packet about the other parcels and it seems to me like they're part of the whole scenario and I guess we have no – lot line adjustments I guess are handled administratively, but it seems to me like that should be folded into the whole plan.

CHAIRMAN MONTTOYA: Okay, we have a motion to table and a second.  
Commissioner Vigil.

COMMISSIONER VIGIL: With regard to that as we're giving direction to staff, I'm concerned by the letter we received from the Department of Cultural Affairs, Preservation Division. I think we need to do some follow-up with them for the archeological review. I think they want more input on this too. So I would just recommend that we work towards moving this in any direction that we're going to go that we include the Department of Cultural Affairs on this.

CHAIRMAN MONTTOYA: Okay. And I guess I would just ask the applicant that based on the comments that we received on these three pieces of correspondence that we work with these individuals and entities and the people that are here to probably talk in opposition to this particular project. We just ask that this be done as well.

**The motion passed by unanimous [5-0] voice vote.**

CHAIRMAN MONTTOYA: So this will be on the next agenda, Vicki?

MS. LUCERO: Mr. Chair, we will keep it on the agenda for next month's meeting.

- XV. A. 4. **CDRC CASE #VAR 09-5400 Nikolos Cecere. Nikolos Cecere, Applicant, Requests a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow a Land Division of 5.6 Acres Into Two Lots. The Property is Located at 101 Lower La Joya Road, within Section 36, Township 16 North, Range 11 East, (Commission District 4) John M. Salazar, Case Manager**  
*[Exhibit 4: Letters of Support; Exhibit 5: Support Material]*

MR. SALAZAR: Thank you, Mr. Chair. Nikolos Cecere requests a variance of Article III, Section 10 of the Land Development Code to allow a Land Division of 5.6 acres into two lots. The Property is Located at 101 Lower La Joya Road, within Section 36, Township 16 North, Range 11 East. On November 19, 2009 the CDRC met and acted on this case. Their decision was to recommend denial of the requested variance by a vote of 3-2.

The applicant is proposing to split his 5.6-acre lot into one 2.5-acre lot and one 3.1-



acre lot. The applicant would then construct a new green home for him and his sister to reside in. The 2.5-acre lot would contain the existing home and the applicant would sell it in order to maintain the rest of his property; otherwise he is at risk of losing the whole 5.6 acres.

Mr. Chair, the CDRC recommended that the request for a variance be denied as Article III, Section 10 states that the minimum lot size in this area is 20 acres per dwelling unit. Should the BCC decide to approve the variance, staff recommends the following conditions. There are four conditions, Mr. Chair. May I enter them into the record?

[The conditions are as follows:]

1. The applicant shall apply for a land division with the Santa Fe County Land Use Department.
2. Water use on the property shall be restricted to 0.25 acre-feet per year for each lot and water meters shall be installed on both lots.
3. Annual water meter readings shall be submitted to the Land Use Administrator every January.
4. Further land divisions of the subject property shall be restricted.

CHAIRMAN MONTOYA: And questions for staff? Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. Would this property qualify for a family lot split?

MR. SALAZAR: Mr. Chair, Commissioner Holian, it would not, since the minimum lot size in this area is 20 acres the applicant would need 20 acres in order to do a family transfer of two 10-acre lots.

COMMISSIONER HOLIAN: Okay. And I have another question. In our new sustainable land development plan, what tier would this be in and what would that mean for zoning?

MR. KOLKMEYER: Mr. Chair, I happen to have the plan map. I could just take a second and look it up. Mr. Chair, Commissioner Holian, it's in the sustainable development area 2. That is the way we have this written now, not for the first ten years but the second ten years for utilities and services. In other words, it's not a primary growth area.

COMMISSIONER HOLIAN: Right. So what does that mean for zoning, really? Or for lot sizes? I suppose it means one thing for the first ten years and then something else for the second ten years, correct?

MR. KOLKMEYER: Yes. When and if they have the services, that could mean that it could be developed at a more intense level than it is now. That's essentially what that means.

COMMISSIONER STEFANICS: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: In the area right now are there other lots close to or adjacent to this property that are smaller than five acres?

MR. SALAZAR: Mr. Chair, Commissioner Stefanics, in this area there are other lots within even half a mile that are smaller. To the north of it is the traditional



community of Glorieta. Those lots are significantly smaller. Down closer to the interstate we have smaller lots in that area as well. In Exhibit F we have an illustration of some of the lots in the area with the subject property highlighted. It's right next to the county boundary.

COMMISSIONER STEFANICS: So, Mr. Chair, the question I guess that you all have to educate me on again is it's not eligible for a family lot split, because there is family but it's not enough acreage?

MR. SALAZAR: That's correct, Commissioner Stefanics. This particular property falls within the Mountain Hydrologic Zone, and within that hydrologic zone the density was set at 20 acres per dwelling unit.

COMMISSIONER STEFANICS: Thank you, Mr. Chair.

CHAIRMAN MONTROYA: Any other questions for staff? Okay, if not would the applicant please come forward and add whatever you would like to the information we've already gotten.

[Duly sworn, Nikolos Cecere testified as follows:]

NIKOLOS CECERE: I'm Nikolos Cecere. I'm the applicant. Thank you, Commissioners, for your time, and John. I have lived and worked in Santa Fe County for 17 years. I'm a Vietnam Era veteran of the United States Navy, a single man living alone in the rural area in between Glorieta and Pecos at the Santa Fe-San Miguel County line. By the way, to correct the record. The development review committee record incorrectly states that my property is near Glorieta. As the crow flies my house is just over 2.5 miles from Glorieta. My house is actually adjacent to the traditional village of La Joya.

I bought this property in June of 2004 investing my life savings in a down payment. Like many others I planned on my home increasing in value. In fact like so many others I have seen my property decrease in value. I currently owe more on it than I can sell it for. Mine was not a sub-prime, no down payment, interest only or balloon payment mortgage. It was and is a standard 30-year mortgage made with 30 percent down and monthly payments that comfortably fit into my financial situation at the time.

In December 2008, due to the economic turndown I lost my job of 10 ½ years. I have been unemployed since. I have no promising prospects of rejoining the workforce at an employment level that would provide enough income to allow me to keep my current home. Now that I am unemployed and shut out of a career due to economic conditions, at my age I can no longer afford my mortgage payments, and because I am unemployed at 62 years old, even with an excellent credit rating I cannot refinance.

I have been working since before I was 15 and after 47 years as a contributing taxpayer, including four years in the service of my country I am now in involuntary early retirement and in danger of losing my home I have worked for all of my adult life.

Because I could no longer afford my mortgage payments in my involuntary retirement I put my property up for sale in April 2009 at a break-even price. As you Commissioners know, now is not a good time to be selling real estate. I am one of those homeowners who have fallen into what is called an upside down mortgage. I have been advised by several realtors that I could sell my house at a price that will mean I will lose all of my sweat equity,

the cost of the improvements I have made, and a fairly large chunk of my 30 percent down payment. To say that this creates a severe financial hardship to me is an understatement.

If the Commission will allow my variance request I can retain some of my equity in the existing property by transferring that equity into a new, smaller lot carved out of the existing lot. If you will grant this variance I will be in a position, after selling my current home, even at a loss, to construct a much smaller, affordable, low-impact green house to securely provide housing for me in my retirement and to provide for my sister Jeannie, who is also my best friend, a long-time working, productive resident of Santa Fe County, with a house that we would share and we could live together in our old age.

Her financial situation is that most probably she will not be able to live on her own in Santa Fe County in the 15 or 20 years hence she can no longer expect to work full time. As the Commission is aware, many retirees are facing a scary financial future. I am a responsible, contributing citizen of Santa Fe County and I am a long-term conservationist in my personal living habits. In the almost five years I have lived at the La Joya property I have installed an energy-efficient, water-wise front loading washing machine, installed a new hot water boiler and new high-efficiency baseboard heating system, installed drip irrigation and xeriscaped landscaping, installed a one-gallon per flush toilet, placed water restrictors on my faucets, installed low-flow shower heads, replaced aging, leaking window and door gaskets, replaced the refrigerator with a new high-efficiency model and lived like the good neighbor water miser that I am.

The affordable house I hope to build would have every possible water saving and energy saving device that I can find and afford. Among them would be a water catchment system that would conservatively, annually catch 35 gallons of rainwater and snowmelt. There's a lot more rain and snow in Pecos Valley than there is on this side of the Sangre de Cristos. I can catch more than enough water for our uses, including drinking water when it's purified. The catchment will allow me to draw minimally or not at all on the groundwater from the existing well on the property, which both houses would share. The existing home and the proposed new home are both two bedroom houses so allowing the split would not add many additional users to the existing well.

Research on line reveals that finding an average individual water user is an inexact science since estimates run from 50 to 250 gallons of water use per day. As a retiree with fewer requirements to use water I am currently using far below the 50 gallons, of that I am sure, and it is a point of pride with me to limit my water usage like a fiend.

My request for the smaller lots is consistent with the existing situation in my part of Santa Fe County as the lots in my application package show. The 1981 plan permits no lots smaller than 20 acres in my area and as you have seen from the minutes of the November 19<sup>th</sup> review committee and staff's recommendation today the 20-acre limit is the basis for the staff's recommendation to deny. However, as far as I can ascertain from the records and from talking to my neighbors, my property has not been included as part of a 20-acre lot in over 35 years.

The reality is that there are almost no lots within several hundred yards of my

property that are anywhere near as big as the 20-acre limit. In fact nearly nine out of ten of the lots in the area are already smaller than either of my proposed lots would be. My request is consistent with the large majority of lots that already exist in the La Joya area. Additionally, four of my most nearly adjacent neighbors have signed letters to the Commission supporting me and my variance request. I also attempted to get letters from another four nearby property owners by mail because these owners do not live on their properties. In fact there are no houses on these properties. My mail efforts did not produce any additional letters.

My request does not set any precedent. In 2004 an adjacent lot was subdivided into five lots ranging in size from 1.35 to .75 acres, and the lots were then sold to individuals who were not family members. In other words this was a commercial venture. Additionally, in 1994 a five-acre lot was split into two parcels of 2.5-acres. Plus the ten-acre lot contiguous to the north of my property is a steep rock hilltop that is not likely to see any additional building. Admittedly, there are a few lots on the old Denver Highway area that fit the 20-acre limit, but they are the rare exceptions. Nine out of ten are smaller than the two I hope to create. And as I said before, as far as I can ascertain, my property has not been included as a portion of a 20-acre parcel in over 35 years.

I appreciate the County Commissioners consideration of my variance request. If you allow this variance I will be able to remain an involved, concerned and contributing citizen of this amazing place we call home in northern New Mexico, Santa Fe County. Without your approval I have no idea where I will be forced to move, but it most certainly will be as a renter in greatly reduced circumstances and not as a homeowner. As you know, the County Code allows for variance when strict compliance with the Code would result in "extraordinary hardship to the applicant because of non-self-inflicted conditions." I believe my hardship request falls within this language. I face foreclosure or fire sale pricing and a crippling loss if my request is denied.

Without this variance I will lose my existing home and property, much of my down payment, which represents my life savings, the equity investments I have made in energy and water saving improvements, and all of the sweat equity I have put into the property. I request that you approve my variance request to keep me from losing it all. I pray that you will grant it. In doing so you will help me out from under the dire financial situation that I and so many other Americans now find ourselves facing in the escalating real estate crisis in our country, state and county today. By approving my request you will provide me and my sister with a secure place to live for the remainder of our years. I thank you for your time and consideration, Commissioners, and for allowing others here to speak on behalf of my request.

CHAIRMAN MONTROYA: Okay. Thank you, Mr. Cecere. Any questions?

COMMISSIONER HOLIAN: Thank you, Mr. Cecere. What do you plan to do on the other – well, as far as the well, if you were to have the lot split and build a home on the – I guess it's the 2.5-acre portion of your own? Would you drill another well or would you totally depend on water catchment?

MR. CECERE: I would actually build on the larger portion, the 3.1 acres; the existing house is on the 2.5. We would share the well. I would hook up to the existing well



and catch water as well. My hope would be – I want to be personally self-sufficient from the well. I don't want to use groundwater. I want to use rainwater and snowmelt if I can. But it would be a shared well.

COMMISSIONER HOLIAN: Okay. I have a question for staff in regard to that. Can somebody use rainwater for potable water, drinking water?

MR. SALAZAR: Mr. Chair, Commissioner Holian, we would require that they have a fresh water – like a well or a shared well when they come in for a building permit. We wouldn't issue the permit without proof of water even if they were using a rain catchment system.

COMMISSIONER HOLIAN: Okay. Thank you.

MR. CECERE: It is possible to add water purification systems to rainwater that does make it potable.

COMMISSIONER HOLIAN: Yes, actually I'm aware of that but I know that our County Code at this point doesn't really allow that. Also, have you had the water tested in your well, the well that you're currently using? I know in that are there are some problems. Uranium is starting to show up, radium.

MR. CECERE: The well was tested before I bought the property in 2004.

COMMISSIONER HOLIAN: Did you know that there was a recent spike that just showed up in Glorieta East?

MR. CECERE: I don't know.

COMMISSIONER HOLIAN: Okay. I guess that's all the questions I had.

CHAIRMAN MONTROYA: Okay. Any other questions for the applicant? So at this point we will open it up to a public hearing so if people would like to speak on behalf of or in opposition to this case would you please come forward.

[Duly sworn, Jeannie Williams testified as follows:]

JEANNIE WILLIAMS: Good evening, Mr. Chair, Commissioners. My name is Jeannie Williams and I'm Nick Cecere's sister. I've been so for 51 years. I've been a citizen of Santa Fe since 1988. I've been working in Santa Fe since 1988. I've put my son through school here in Santa Fe; he went to Acequia Madre and St. Mike's. My brother moved here, I believe it was 1992, and I was very, very happy when he came here because I was kind of here on my own, a pioneer here in the West sort of, a single mother. And I'm very close with him. I have watched him take care of the land with water resistant plants and I have myself done the Santa Fe shuffle where I've thrown the newspaper work to the coffee shop just so I could stay in a home, just to rent it. So I know how important homeownership is here. It's eluded me for over 20 years, and it would mean a lot to me if my brother could stay on his property. That's all I have to offer. Thank you.

CHAIRMAN MONTROYA: Okay. Thank you, Ms. Williams. Next, please.

[Previously sworn, Nick Williams testified as follows:]

NICK WILLIAMS: Hi. My name is Nick Williams and I'm Nick Cecere's nephew. I'm a designer and builder here in Santa Fe and I will attest to the fact that he doesn't even let me flush his toilets. Additionally, I have a colleague who has lived atop

Glorieta Mesa with 10,000 gallons of storage, strictly rainwater, no well, nothing else and it's more than enough water for them. It's a family of four and they've lived there for four years with no problems. It would also help my mother and my uncle to stay on that piece of land, which he's put a lot of work in. He's planted all sorts of trees and he loves it. That's all I have to say.

CHAIRMAN MONTOYA: Thank you, Mr. Williams. Next, please.

[Duly sworn, Suby Bowden testified as follows:]

SUBY BOWDEN: Mr. Chair, County Commissioners, my name is Suby Bowdon, and I have a handout as well as overhead imagery that I'd like to walk you through for a series of maps to help further understand the surrounding properties.

So Mr. Chair and Commissioners, our first image – the pages are numbered on the bottom right corner – is the Cecere property. The existing property is 5.608 acres, and the request is to subdivide it into 2.5 acres and 3.1 acres. You'll see here on this image there is an existing house which would remain with the smaller, 2.5 acres, and there's also a shed which was used by previous owners for storing their dogs and such. The property slopes downhill and is in a valley and up above the existing house is a hill that exists above it.

The next map on page 2 shows an orange dot. The Cecere property exists right on the boundary between Santa Fe County and San Miguel County, and it also exists between I-25 to the south and Highway 50 to the north, and 50 is the first exit into Pecos that goes past the Glorieta church and works its way east into Pecos. So it sits in that area right between those two highways. If you turn to the next map, page 3, you'll see again I-25 below on the bottom of the page 3 and Highway 50 on the top of page 3, and you'll see Mr. Cecere's property in orange highlighted there, and the right edge of this map is Santa Fe County. So it's right on the edge. And what you'll see in the lower right-hand corner of page 3 is La Joya Village. And it sits essentially between La Joya Village and I-25 and the Glorieta-Pecos strip to the north.

We go to the next, page 4. This is the boundary between Santa Fe County and San Miguel County, and if I'm going too fast for anybody please let me know. Again, we've colored the Cecere property in orange, and the significant issue that we're going to talk about with this map is what the adjoining lots are next to Mr. Cecere in Santa Fe County, and after this we'll look at what the adjoining lots are like in San Miguel. In Santa Fe County when you follow the road up to Mr. Cecere's lot, 22 of the lots are smaller than the proposed subdivision and only two are larger. So the majority of the properties that you're driving through and past to get to Mr. Cecere's property are smaller.

If you go to the next, page 5, we've now gone into San Miguel County, since they abut immediately adjacent. And Mr. Cecere's property drives from Santa Fe County into San Miguel County by the road, back over to Santa Fe County again. So on page 5 you're seeing the road on the San Miguel side and then the roadway on the San Miguel side, there are 20 lots smaller than what Mr. Cecere is proposing and only two larger lots. So essentially, out of – there are 42 smaller lots and four larger lots. So he's obviously proposing to maintain a fabric that already exists within his neighborhood.

If you go to page 6, this is the Sustainable Land Development Plan, your future land use map, and I've simply drawn an arrow here to where Mr. Cecere's property sits, and then later at the end of this presentation of maps I'll show you what the proposed future use is surrounding his property.

Page 7 is the existing Cecere property. We've outlined it in red, and you'll notice that there are four symbols of stars. All four of those neighbors drive past Mr. Cecere's property and are immediately adjacent to Mr. Cecere's property. And all four have submitted letters to you supporting his subdivision. So all of these people will see it on a daily basis as they go to and from their homes, and they've all submitted letters of support. I hope you all have gotten those.

The next page 8 is showing a drawing that Mr. Cecere submitted, and it's a clarification of how Mr. Cecere would subdivide his property. The upper part of his property being the 2.5 acres, the lower part of his property being the 3.1 acres. And essentially there's a hill above to the north of Mr. Cecere. He's in the valley on the south side of the hill and on the north side of the hill there's a valley that's in Glorieta. And there's a hill that sits between.

And lastly we go to page 9, and page 9 is your future Sustainable Land Development map. Page 9 shows you very clearly your County staff is proposing that all of the properties that surround this road, except Mr. Cecere's and the hill, are being proposed in the future to be .75-acre lots, both in Glorieta and in La Joya. And we feel that probably Mr. Cecere's property got lumped into the hill even though he's not on the hill; he's down in the valley with the other La Joya properties that are in gold here. So we do feel that, and we again starred all the properties surrounding him, both on the Glorieta side that comes past him on his road and on the La Joya side that have all expressed support. And any of the other properties that abut Mr. Cecere have no homes on them and he has sent letters to those property owners but has not heard back from them.

So I feel that the combination of the fact that he does have a financial hardship situation. He has strong support from his adjoining neighbors. He has the support of the Sustainable Development Plan that all the properties around him except for him and a hill are essentially .75-acre proposed lots for the future. And I also feel that your 2008 Santa Fe County affordable housing plan did call more and more through the needs assessment that we have between 70 and 80 percent of one and two-family houses calling for the need for smaller lots, smaller homes, and so in four different areas, Mr. Cecere it seems to me meets the recommended guidelines for a variance, and I don't feel in looking at what we presented to you of his surrounding properties that you in any way would be setting a new precedent.

So I do hope that you will support him, not only for his own personal needs but for furthering the affordable housing in Santa Fe County. Thank you all so very much.

CHAIRMAN MONTOYA: Thank you, Suby. Anyone else like to speak?  
Okay, seeing none, this public hearing is closed. Discussion from the Commission? I know Commissioner Vigil you had a question for staff.

COMMISSIONER VIGIL: Thank you, Mr. Chair. First let me clarify



something. When was this property purchased? 2004-2005? Can I just get a clarification from the buyer? 2004? Okay. Regarding staff, when we look at these cases, because there's statements here that there's probably a debilitating health condition. Do we request medical records? Do we get verification of that or do we just take the testimony?

MS. COBAU: Mr. Chair, Commissioner Vigil, we prefer seeing a letter from a doctor, although in the County Land Development Code that's not one of the things to consider in granting a variance. A medical disability isn't one of the criteria for granting a variance.

COMMISSIONER VIGIL: Okay, and I guess with regard to that, we're taking testimony here without any other verification. What kind of verification do we ask for when they're asking for these kinds of variances?

MS. COBAU: We look at them and we see if there is a topographic or other type of non-self-inflicted condition that can be considered, and because a physical hardship isn't one of those conditions, Commissioner Vigil, we basically accept whatever they give us. Sometimes they submit testimonials from doctors and physical therapists and things like that. But it's not something that's required by the Code.

COMMISSIONER VIGIL: Okay. Suby, are you the agent on this? Are you an agent or are you just creating a support here?

MS. BOWDEN: Mr. Chair, Commissioner Vigil, I am not the agent. I've known Mr. Cecere for 15 years in the community and the work he's done in the community and when I heard that he was in need of this I looked on maps to see whether or not I felt I could support him or not on a personal level.

COMMISSIONER VIGIL: Okay. I just have to say for my colleagues, this in substance is nothing different than the earlier case that we heard with regard to a request for a lot split. It was for financial purposes. I have to ask staff if this isn't approved is there an alternative? Can this applicant condominiumize?

MR. SALAZAR: Mr. Chair, Commissioner Vigil, there's no other alternative. We informed Mr. Cecere that a variance is basically the only way he could go about to meet his plans.

COMMISSIONER VIGIL: What's the difference between the condominiumization alternative in La Puebla and something close to La Joya?

MS. COBAU: He doesn't have existing dwellings on his property so he doesn't have the land where we would allow him to bring additional dwellings or build additional dwellings as the case that you heard preceding this one this evening. So in other words, the additional dwellings, they could look at condominiumizing but there's none here.

COMMISSIONER VIGIL: And those earlier dwellings were grandfathered in.

MS. COBAU: Yes, they were before 1981.

COMMISSIONER HOLIAN: I have a question.

CHAIRMAN MONTROYA: Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. Well, I know that there are other subdivisions in that area that are applying in fact for subdivision status that have a

smaller lot size, like 2.5 of 3 acres. Could he make a subdivision, like a mini-subdivision, if he proved water and that sort of thing? Is that a possibility?

MR. SALAZAR: Mr. Chair, Commissioner Holian, anyone can go down to 2.5 acres anywhere in the Santa Fe County if they do a geohydro test and those are pretty costly. You have to hire a hydrologist and run a test on his well to prove that he has a 100-year supply on that property.

COMMISSIONER HOLIAN: For the two lots.

MR. SALAZAR: For two lots of 2.5 acres. Yes.

COMMISSIONER HOLIAN: And how much would that cost, roughly?

MR. SALAZAR: Two to three thousand dollars.

COMMISSIONER HOLIAN: And in that case, if he proved water, he could then divide into two lots?

MR. SALAZAR: If he could prove he has a 100-year supply of water in his well.

MS. COBAU: Mr. Chair, Commissioner Holian, it's going to be more than that, because he'd have to pay for the geohydrologist, which might be \$3,000 to \$5,000. He has to pay a surveyor, which is another \$3,000 to \$5,000. He's probably looking at \$10,000 minimum, to divide it through the standard land division process.

COMMISSIONER HOLIAN: Okay. Thank you. I guess I have another question. In the future, with our future new Sustainable Land Development Code, would there be a procedure in place that would make something like this easier? Or possible?

MR. KOLKMEYER: Mr. Chair, Commissioner Holian, the answer to that would – because it would be increasing the density, the only way that that would occur – well, not the only way, but one of the ways that it would occur would be with the availability of utilities again. And this isn't an area where we would be looking at that in the near future. So increasing density, we're looking at cluster development, we're looking at properties that can be served by sewer and water, that then make it easier and more sustainable according to the thinking of the plan. They'd have to be able to hook up to those two to be able to increase their density. And that's – I don't think that's the case in this area.

COMMISSIONER HOLIAN: I have a question for staff. Is there a mutual domestic in that area? And maybe Mr. Cecere could answer that.

MR. SALAZAR: Mr. Chair, Commissioner Holian, the applicant stated there isn't.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chair. Here we have an applicant who is coming to the Commission because he's got a hardship case in these tough economic times. And from the testimony that I heard from Suby Bowden about all the lot splits, to me this doesn't seem like it would be a big deal. So with that, Mr. Chair, if I could, I'd like to make a motion to approve the lot split with the conditions.

COMMISSIONER STEFANICS: I will second.

CHAIRMAN MONTOYA: I have a motion and a second, Motion from

Commissioner Anaya, second Commissioner Stefanics. Discussion? Commissioner Holian,  
COMMISSIONER HOLIAN: Mr. Chair, could I ask for another condition that they do a test on their water well before the lot split, because I do know that exactly in that are they have had just very recently a spike in radium in the water. It's happening in Glorieta Estates, which I think is not very far from this particular property.

COMMISSIONER ANAYA: Mr. Chair, if I agree to that, and there is radium

COMMISSIONER HOLIAN: They'll have to treat it.

COMMISSIONER ANAYA: Then they can treat that.

COMMISSIONER HOLIAN: Right. It's a matter if he wants to sell one of the pieces of property. It seems to me that it's only fair that whoever were to purchase that property would know if there's an issue with the well.

COMMISSIONER ANAYA: Okay. I agree to that.

COMMISSIONER HOLIAN: I'd also like to make a comment that in general, I don't like setting a precedent of this kind of thing but I have to agree that the lot size is not inconsistent with what already exists in that particular area, and also the people who live in that area do not seem to object to it. So I assume that they feel that it is appropriate for their particular area, and so you're not by default sort of changing the character of the area with regard to your neighbors and their wishes and so on. So I think I can live with this.

MR. SALAZAR: Mr. Chair, just to clarify, that would be a water quality test, Commissioner Holian?

COMMISSIONER HOLIAN: Correct. Including for radionuclides.

COMMISSIONER VIGIL: Mr. Chair.

CHAIRMAN MONTTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I have another step. Shelley, we had an earlier case that got voted down. That particular applicant does have the alternative of condominiumizing, so she has a resolution potentially in store where she can gain the same benefits. Because her purpose was also to sell.

MS. COBAU: Mr. Chair, Commissioner Vigil, she does, because there's three dwellings on that property. So she could condominiumize them and we wouldn't be involved in that process. But then she could get a loan. They could get a separate mortgage which was their goal on that.

COMMISSIONER VIGIL: Okay. So in the case of this applicant, he does not have that alternative.

MS. COBAU: That's correct, because he only has a single dwelling.

COMMISSIONER VIGIL: And so the hardship still only goes to the terrain, right?

MS. COBAU: That's correct. The two cases that are considered in the Land Development Code are non-self-inflicted condition or topographically driven. Like if they had a 30 percent slope and there's no buildable area for example. So this isn't one of those two circumstances.



COMMISSIONER VIGIL: Did I understand you to say that you did request medical records on this?

MS. COBAU: Medical records aren't required as part of the Code because medical isn't considered a reason to grant a variance request. So in the EZO where the rules were a little different, I don't believe medical hardship was considered there either but there was some provision for providing some testimonial from physicians or whoever they were dealing with on their medical hardship.

COMMISSIONER VIGIL: Okay. Thank you, Mr. Chair.

CHAIRMAN MONTOYA: Okay. We have a motion and a second with five conditions. Any further discussion?

**The motion passed by majority 4-1 voice vote with Commissioner Vigil casting the nay vote.**

**XV. A. 5. CDRC CASE #VAR 09-5420 William Gooch. William Gooch, Applicant, Requests a Variance of Article II, Section 2.3.3a (Site Planning Standards for Residential Uses) of the Land Development Code to Allow Disturbance of 30% Slopes on Three Separate Areas Exceeding One Thousand Square Feet. The Property is Located at 30 Monte La Cueva Road, within Section 26, Township 16 North, Range 11 East (Commission District 4) John M. Salazar, Case Planner**

MR. SALAZAR: Thank you, Mr. Chair. On November 19, 2009 the CDRC met and acted on this case. Their decision was to recommend approval by a vote of 4-1. The applicant submitted an application to construct a driveway on September 1, 2009 but was denied during the terrain management review. The three instances of 30 percent slope disturbance vary in size as follows: The first incidence was 2,858 square feet, the second 1,558 square feet, and the third one 1,198 square feet.

Land Use and the Fire Department have both conducted site visits and concluded that the proposed layout of the driveway is the best alignment due to the rocky terrain of the subject property. The applicant is proposing turnouts and a Y-turn at the end of the driveway for the Fire Department.

After conducting a site inspection on the property, staff has determined that the proposed location of the driveway causes the least amount of 30 percent disturbance to the terrain of the property. The CDRC concurs with staff's recommendation of approval for the requested variance. I'll stand for questions.

COMMISSIONER VIGIL: Are there any questions from the Commissioners? Seeing none, is the applicant here?

[Duly sworn, William Gooch testified as follows:]

WILLIAM GOOCH: My name is William Gooch. Chairman and

Commissioners, thanks for the opportunity to speak. I'll keep it brief. I think the letter that I wrote with the application for a variance states the situation pretty clearly. This is a hilly lot. It's a difficult one to work with. I didn't realize the extent of the difficulty when I purchased the property but what I discovered in working with Walker Engineering and the surveyor was that in order to meet Fire Code the routing had to be – well, we tried several different routings and ended up going – well, let me describe the lot a bit and that will help. It's narrow at the beginning and goes up a hill, and then as the lot widens out, coming from the existing private road, the hill gets steeper.

The options we looked at were to meander up that steep hill to get to the top and then continue up and after considering several different routings this way, none of which were really workable because they all ended up with cuts up to 13 feet deep in the hill. I came and spoke with the Land Development folks and it was suggested that we try a routing around the hill going across the steep slope rather than up, and that's what this shows. It follows pretty much the southern property boundary and comes up around the back of the hill so it doesn't have to go quite as high up. At the same time I selected a lower building site than what I had been considering previously in order to shorten the driveway and reduce the amount of disturbance that was necessary to build it.

The other building site, the original building site was several hundred feet higher up on the lot, and in order to make the driveway reasonable I chose this lower site.

CHAIRMAN MONTOYA: Okay. Any questions for the applicant?

Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. So I take it that the driveway is going to be a dirt driveway?

MR. GOOCH: That's correct.

COMMISSIONER HOLIAN: And are you familiar with Bill Zeedyk and Ranch Road Construction?

MR. GOOCH: No, I'm not.

COMMISSIONER HOLIAN: Okay. I just wanted to bring this to your attention because there is a lot of really good expertise out there in New Mexico now and you can contact the Quivira Coalition for more information. There is a way that you can engineer especially dirt roads in situations like you're talking about where if you put in what they call rolling dips you can shed water off of your driveway and thereby cut down considerably on erosion. When I read over this case that was what I was most concerned about is that you would be creating erosion that would probably – I think you have a neighbor probably downhill from you and so on. And so I would just, if this case is approved I'd like to strongly urge you to contact Quivira and consult with them about how you could engineer it so that you would minimize the erosion on your driveway.

MR. GOOCH: I'd certainly like to do that. How do you spell that?

COMMISSIONER VIGIL: It's Q-U-I-V-I-R-A. And they work with a number of different people who know about these different methods of ranch road construction.

MR. GOOCH: Okay. Thank you. We have, just as a side note, with Walker

Engineering, done quite a bit to mitigate erosion difficulties including a bar trench and a culvert, and also retaining walls on the downhill side.

COMMISSIONER HOLIAN: I think it's worth it going ahead and consulting with them because they have low-cost ways of just – you can just do very gentle – these rolling dips they call them, in your road, and it sheds the water. It doesn't allow it to build up speed as it's coming down your driveway. And it's relatively in expensive and it's very effective.

MR. GOOCH: That sounds great. I will certainly follow up on it. Thank you.

CHAIRMAN MONTOYA: Okay. Any other questions for the applicant? Okay, seeing none, if anyone would like to speak on behalf of or in opposition to this case would you please come forward. Okay, seeing none, this public hearing is closed. Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chair, this case qualifies and is strictly an adherence to the exception under Article II, Section 3 for variances for a non-self-inflicted condition. I therefore move that we approve this case based on that.

COMMISSIONER STEFANICS: I'll second that.

CHAIRMAN MONTOYA: We have a motion by Commissioner Vigil, second Commissioner Stefanics. Discussion?

**The motion passed by unanimous [5-0] voice vote.**

**XV. A. 6. CDRC CASE #VAR 09-5340 Robert Garcia. Robert Garcia, Applicant, Requests a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow a Family Transfer Land Division of 13.1 Acres Into Two Lots. The Property is Located at 3 Woodland Way, within Section 30, Township 14 North, Range 8 East, (Commission District 3) John M. Salazar, Case Planner**

MR. SALAZAR: Again, thank you, Mr. Chair. On October 15, 2009 the CDRC met and acted on this case. Their decision was to recommend approval of the variance by a vote of 4-3. The applicant originally purchased these two 6.5-acre properties in 1998. These lots were legal non-conforming created before 1981. In 1999, on the advice of a family member, the applicant consolidated the two lots into the current 13.1-acre lot. In 2005 the applicant and his neighbor recorded a lot line adjustment. Currently there are two dwellings on the property as the applicant was allowed to maintain the original density from the original two lots. The property is served by an onsite well and two conventional septic systems. The applicant states that the purpose of subdividing the property back to its original two-lot configuration is so that each of his sons will have a piece of property.

The property is located within the Homestead Hydrologic Zone. Article III, Section 10 of the Land Development Code states the minimum lot size in this area is 160 acres per dwelling unit. Lot size may be reduced to 40 acres with water restrictions of a quarter acre-foot per year, and lot size can further be reduced by way of a small-lot family transfer to two



20-acre lots.

The CDRC recommended that the request for a variance be approved. Should the BCC decide to approve this variance staff recommends the following conditions. Mr. Chair, may I enter those into the record?

[The conditions are as follows:]

1. The applicant shall apply for a small-lot family transfer with the Santa Fe County Land Use Department.
2. Water use on the property shall be restricted to 0.25 acre-feet per year for each lot.
3. Annual water meter readings shall be submitted to the Land Use Administrator every January.
4. Further division of the subject property shall be restricted after the family transfer is completed.

MR. SALAZAR: And I'll stand for questions from the Commission.

CHAIRMAN MONTOYA: Any questions for staff? Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. If they applied for a small-lot family transfer they wouldn't even had to come before us, would they?

MR. SALAZAR: Mr. Chair, Commissioner Holian, they do because it falls under 20 acres in this area, or 40 acres, actually.

COMMISSIONER HOLIAN: Okay. Thank you.

CHAIRMAN MONTOYA: Any other questions for staff? I just have one. It says that the BCC recommends that the request for the variance be approved.

MR. SALAZAR: That's a typo, Mr. Chair.

CHAIRMAN MONTOYA: Oh, okay.

MR. SALAZAR: That should say the CDRC recommends that the request for a variance be approved.

CHAIRMAN MONTOYA: Oh, okay. I was going to say why are we hearing this again.

MR. SALAZAR: There's no hidden message there.

CHAIRMAN MONTOYA: Okay. Thank you. Robert Garcia, applicant, if you would please come forward and if there's anything you'd like to add to the materials that we have received.

[Duly sworn, Robert Garcia testified as follows:]

ROBERT GARCIA: My name's Robert Garcia. I live at 3 Woodland Way, Cerrillos, New Mexico. It's pretty simple. I was dumb many years ago and did a consolidation instead of a lot line adjustment because I didn't know what I was doing. And now we have an opportunity, my wife and I, to get my boys into a piece of property where they can live, raise my grandson. In these troubled times I don't know that either one of them could afford to buy anywhere. But if we can do this we can help them out and we can get them into property so that they can have something of their own. That's basically all it is.

CHAIRMAN MONTOYA: Questions for the applicant?

MR. GARCIA: Just one other thing. The density won't change. There will be no new construction on the property. I've looked at the requirements that they recommend and we're fine with that.

CHAIRMAN MONTOYA: Okay. With the four conditions there? Okay. Thank you, Robert. If there's anyone here we'd like to open this up for a public hearing. If you would like to speak on behalf of or in opposition to this case would you please come forward? Okay, seeing none, this public hearing is closed. What are the wishes of the Board? Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, thank you. From the testimony that I have heard I move for approval with conditions.

COMMISSIONER STEFANICS: I'll second.

CHAIRMAN MONTOYA: Motion by Commissioner Anaya, with conditions, second by Commissioner Stefanics. Discussion?

**The motion passed by unanimous [5-0] voice vote.**

**XV. A. 7. BCC CASE # MIS 09-5490 La Paloma Group, LLC Liquor License.  
**La Paloma Group, LLC, Applicant, Requests Approval of a Transfer  
of Location for Dispenser License # 0366. The Subject Property is  
Located at 55 Canada del Rancho, within Section 20, Township 16  
North, Range 9 East (District 5) Jose E. Larrañaga, Case Manager****

JOSE LARRAÑAGA (Case Manager): Thank you, Mr. Chair. La Paloma Group, LLC, intends to open a village market within the Village Center at Rancho Viejo. The applicant states that this facility will offer a convenient alternative to the residents of Rancho Viejo and the surrounding areas by marketing food and package liquors.

In 1989 the Board of County Commissioners approved the Rancho Viejo Master Plan for a large-scale mixed-use development. The master plan approval included commercial zoning of tract B-1A within the Village Center at Rancho Viejo. Master plan approval allowed for package liquor sales on this site pending approval from the State Alcohol and Gaming Division. The applicant is requesting a transfer of location of the dispenser liquor license #0366. Liquor License #0366 is a full dispenser license which includes the sale of package liquor.

The State Alcohol and Gaming Division granted preliminary approval of this request in accordance with Section 60-6B4 NMSA of the Liquor Control Act. Legal notice of this request has been published in the newspaper. The Board of County Commissioners are required to conduct a public hearing on the request to grant a liquor license at this location.

Staff has reviewed this application and has found the following facts to support the submittal: The master plan approval allowed for package liquor sales within the Village Center at Rancho Viejo; the applicant has met the State of New Mexico requirements for

noticing; the distance from schools and churches. Staff recommends approval of the applicant's request subject to the following conditions. Mr. Chair, may I enter those conditions into the record?

CHAIRMAN MONTOYA: Yes.

MR. LARRAÑAGA: And the applicant has applied for an interior building permit with us and that's being viewed and they just applied for the County business license today.

[The conditions are as follows:]

1. Prior to any interior and/or exterior modifications to the existing building the applicant shall submit for building permit to the Building and Development Services Department.
2. Prior to opening the business the applicant shall obtain a County business license.
3. Prior to obtaining a County business license the applicant shall obtain a permit from the New Mexico Environment Department.

CHAIRMAN MONTOYA: Okay. Any questions of staff? Commissioner Vigil.

COMMISSIONER VIGIL: Really the requirements for this are minimal, it's that they're not within how many hundred feet or whatever of a school?

MR. LARRAÑAGA: I believe it's 300 feet. Three hundred, four hundred feet from a school. That's been reviewed. They already had a hearing with Alcohol and Gaming and that's been reviewed by Alcohol and Gaming.

COMMISSIONER VIGIL: And the only reason I ask is because there currently isn't a school but the Amy Biehl School is schedule to be there. Was that analysis done?

MR. LARRAÑAGA: We had a meeting with Alcohol and Gaming for requirements of this and they don't consider a school that's not open. I don't believe that the Amy Biehl is close enough for them not to get this.

COMMISSIONER STEFANICS: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: The school is almost a quarter of a mile, half a mile away from the plaza where the liquor sales would be.

COMMISSIONER VIGIL: Okay. Thank you, Mr. Chair.

CHAIRMAN MONTOYA: Okay. Other questions for staff? Okay, seeing none, if the applicant would please come forward.

[Duly sworn, Jay Winter testified as follows:]

JAY WINTER: My name's Jay Winter. We have asked for a liquor license and require your approval. We plan on opening a small market in Rancho Viejo that will serve the local community. The next closest facility is about two miles which is an Allsup's, and then after that the next closest facility is five to seven miles. We have a lot of public requests to do this. Kaune's was going to do this for a while and backed out and we have kind



of stepped in in that same situation. A little smaller scale than what they were doing but that's our intent, to serve the local community in that very specific area.

CHAIRMAN MONTOYA: Okay. Questions for the applicant? Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. And I'm sure it's in here and I'm just missing it. How many square feet are you going to be having for your market?

MR. WINTER: It is right under 2800 square feet.

COMMISSIONER STEFANICS: Okay, so will your market be mostly fast foods or package foods to purchase?

MR. WINTER: It will start off looking more like a convenience store than a grocery store, because we're not sure of what the public's going to want as far as fresh fruit and vegetables and things like that. And then we'll be able to morph into more of a grocery feel once we get the public coming in and more of a demand in that respect.

COMMISSIONER STEFANICS: Well, Mr. Chair, the reason I'm asking is the community has been waiting for a grocery store, so I was just wondering. Thank you.

MR. WINTER: That's our intent.

CHAIRMAN MONTOYA: Jay, you mentioned those other establishments that sell liquor are two and five miles.

MR. WINTER: There's an Allsup's that's approximately two miles away and you run a reasonably circuitous route to get there. And then the next local – it's not just liquor sales but even grocery sales, you've got to down into town down Rodeo Road to get into those locations which is five to seven miles, depending on which side of Rancho Viejo you're in.

CHAIRMAN MONTOYA: Okay. And where is this liquor license being transferred from?

MR. WINTER: The original location was immediately adjacent to where we're going. That's where the people that own Kaune's had made application for and it was approved. It's 30 feet from where they were going to be placed.

CHAIRMAN MONTOYA: Okay. So where did they have it transferred from? Do you know?

MR. WINTER: I don't know.

MR. LARRAÑAGA: Mr. Chair, if I may. This liquor license was transferred – was supposed to be in Albertson's on Airport Road. That liquor license was transferred to the Kaune's, which they went through a development plan but never proceeded with building the structure, with the project. So this particular liquor license is already assigned to the lot right next to the building where they want to transfer it to.

CHAIRMAN MONTOYA: Oh, okay. So Kaune's isn't going to happen, it sounds like.

MR. LARRAÑAGA: As far as we know, that's correct.

CHAIRMAN MONTOYA: Okay. Any other questions? Commissioner Vigil.

COMMISSIONER VIGIL: This is for the applicant and this is just kind of – I represent a whole different district, but one of the issues that have come in my district is similar to what you're doing, and I never have the knowledge of what the marketing studies or anything of that bring forth. But one of the areas that I represent is Aldea. And Aldea, as you know is a closed community similar to Rancho Viejo. Perhaps not as large. But there was a point in time when the Commission was really requiring the neighborhood center, and that was a part of the Aldea. Do you know, are you familiar with the needs for that community to get a grocery store in there? Since you're out there and a part of the market.

MR. WINTER: Am I familiar with the Aldea needs?

COMMISSIONER VIGIL: Yes.

MR. WINTER: I think in many ways, what I know about Aldea, it's very similar to what the Rancho Viejo community opportunity is. It's just so many people out there, and what we will establish is not going to take the place of Albertson's or Sam's or something like that. But when you're on your way home from work to get meat – it will tortillas, eggs, milk, cheese, and beer, that's what this is for. Hopefully, vegetables and fruit before too long but I haven't quite figured out how to operate that.

COMMISSIONER VIGIL: But actually as an agency, as an organization you never looked at Aldea?

MR. WINTER: No. Sorry.

COMMISSIONER VIGIL: Okay. Thank you. Do you know anyone that has?

MR. WINTER: No, but with that comment there may be people doing it now.

COMMISSIONER VIGIL: I don't know. I think we would have heard. That's why I was looking at someone in the industry. Thank you.

CHAIRMAN MONTOYA: Okay. Any other questions for the applicant? If not, this is a public hearing. If there is anyone who would like to speak on behalf or in opposition to this case, would you please come forward. Okay, seeing no one, this public hearing is closed. What are the wishes of the Board?

COMMISSIONER HOLIAN: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Holian.

COMMISSIONER HOLIAN: Mr. Chair, I move for approval.

CHAIRMAN MONTOYA: Motion by Commissioner Holian.

COMMISSIONER STEFANICS: Second.

CHAIRMAN MONTOYA: Second by Commissioner Stefanics. With conditions?

COMMISSIONER HOLIAN: With staff conditions.

CHAIRMAN MONTOYA: Okay. Any other discussion?

**The motion passed by unanimous [5-0] voice vote.**

**XV. A. 8. BCC CASE # MIS 09-5070 Santa Fe Opera Master Plan Extension.  
**Santa Fe Opera, Applicant, Krista Castor (the Flance Co.) Agent,  
Request a Two-Year Time Extension of the Amended Master Plan  
Approval for the Santa Fe Opera Village. The Property is Located at  
17053 US Highway 84/285, within Sections 25 & 26, Township 18  
North, Range 9 East (Commission District 2 1) Jose E. Larrañaga,  
Case Manager****

COMMISSIONER VIGIL: Mr. Chair, may I correct that? I believe that's District 1. I believe that's in your district.

CHAIRMAN MONTOYA: My district. Yes.

COMMISSIONER VIGIL: So just for clarification purposes, that's District 1.

COMMISSIONER STEFANICS: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Stefanics

COMMISSIONER STEFANICS: I have another question. I thought we already approved this extension.

CHAIRMAN MONTOYA: No. Okay, Jose.

MR. LARRAÑAGA: Thank you, Mr. Chair. On June 2, 2004, the Extraterritorial Zoning Authority granted a master plan amendment to the previously approved Inn at the Opera to allow rehearsal and recital facilities, meeting spaces, conference facilities and amenities, storage for the opera and housing for the opera performers, staff, directors, benefactors, conference participants and guests consisting of a total 135,600 square feet on 44.10 acres to be developed in five phases.

The master plan amendment allowed the project to directly serve the needs and interests of the opera rather than being open to the public as allowed in the previous approval. The site and building layout are the same as the prior approval. The project will be developed in five phases as follows: Phase 1 – overflow parking to accommodate 139 parking spaces as well as picnic areas; Phase 2 – a rehearsal and recital hall, storage building, spa and fitness building with a pool, wastewater treatment plant and 26 new parking spaces; Phase 3 – the Opera Village Center; Phase 4 – 50 apartment-style units, 64 co-housing units for opera staff and conference participants; and Phase 5 – casita-style housing units for opera performers, directors, benefactors, conference participants and guests.

The opera property was governed by the Extraterritorial Zoning Authority under the Extraterritorial Zoning Ordinance. Ordinance No. 2009-01 dissolved the EZO and the EZA and the opera property is now governed by the Board of County Commissioners under the Land Development Code.

The applicant is requesting a two-year time extension, renewal of the master plan under the Land Development Code.

Recommendation: Staff has reviewed this application and has found the following facts to support the submittal: The opera property lies outside the presumptive city limits and



zoning was established by the Extraterritorial Zoning Authority and the Extraterritorial Zoning Commission prior to the enactment of Ordinance 2009-01. The property lies within the Extraterritorial Zoning Authority outside the presumptive city limits and is governed by the Santa Fe County Land Development Code. The property lies outside the presumptive city limits and received final approval of a master plan from the Extraterritorial Zoning Authority. The criteria set forth in the Land Development Code for a master plan is equivalent to the master plan approved by the Extraterritorial Zoning Authority.

Staff has reviewed the applicant's request and has established findings that this application is in compliance with Ordinance 2009-01 and meets the criteria set forth in Article V, Section 5.2.4, and Article V, Section 5.2.7 of the Land Development Code. Staff recommends approval of a two-year time extension for the amended master plan for the Santa Fe Opera Village, subject to the following conditions. Mr. Chair, may I enter these conditions into the record?

[The conditions are as follows:]

1. The applicant shall comply with the conditions of the approved master plan.
2. The applicant shall comply with all requirements of the County Land Development Code.
3. The applicant shall comply with any applicant ordinance(s) adopted by the County prior to the submittal of preliminary and final development plan.

CHAIRMAN MONTOYA: Okay. Any questions for staff? Is the two-year limit pretty much the maximum that we go on these types of extensions?

MR. LARRAÑAGA: Under the Land Development Code, yes.

CHAIRMAN MONTOYA: That is the time?

MR. LARRAÑAGA: They can come in in two years; hopefully there will be some kind of development, that they come in for a preliminary development plan within those two years or they can come in for another time request for an extension.

CHAIRMAN MONTOYA: Okay. So staff's recommending approval. The applicant, if you'd come forward, if there's anything you'd like to add.

[Duly sworn, Steve Flance testified as follows:]

STEVE FLANCE: My name is Steve Flance, the Flance Company. This is Krista Castor who is one of our chief project managers. I'd like to introduce Paul Hoffman, who's chairman of the board of the Santa Fe Opera and Paul Horpedahl who is the production director for the Santa Fe Opera. So the quality that you see out there is largely the responsibility of these two men.

We agree with the staff recommendations and the staff conditions, Mr. Chair. I'll stand for questions. I think that you've seen this project before.

CHAIRMAN MONTOYA: Okay. Any questions for the applicant? Okay, seeing none, we will open this for public hearing. If there's anyone who would like to speak on behalf of or in opposition, please come forward. Okay, seeing none, what are the wishes of the Board?

COMMISSIONER VIGIL: Move to approve.  
CHAIRMAN MONTOYA: Motion by Commissioner Vigil for approval.  
COMMISSIONER STEFANICS: Second.  
CHAIRMAN MONTOYA: Second by Commissioner Stefanics. Discussion?

**The motion passed by unanimous [5-0] voice vote.**

- XV. A. 9. CDRC CASE # MP/PDP/DP 09-5180 Parker NM 599. Paul Parker, Applicant, James Siebert, Agent, Request a Master Plan Amendment to Allow a Reduction of the Building Setback From a Previously Approve a Master Plan and Preliminary and Final Development Plan Approval for an Office Building Consisting of 13,000 Square Feet and Warehouse Building Consisting of 8,000 Square Feet for a Total of 21,000 Square Feet on 5.8 Acres. The Property is Located North of New Mexico 599 at 62 Paseo de River, within Sections 2 & 11, Township 16 North, Range 8 East, (Commission District 2) Jose E. Larrañaga, Case Manager**

MR. LARRAÑAGA: Thank you, Mr. Chair. On October 15, 2009 the County Development Review Committee met and acted on this case. The decision of the CDRC was to recommend approval of the applicant's request. On April 12, 2005 the applicant was granted master plan approval by the BCC for light industrial and office use on 5.8 acres. The master plan was approved in compliance with the provisions set forth in the Highway Corridor Plan which included a 340-foot building setback.

The applicant is requesting an amendment of the existing master plan to reduce the setback to 270 feet. The applicant agreed to comply with the building setback recommended by the Highway Corridor Plan with the expectation that the plan would be formalized as an ordinance. The applicant states that the proposed setback for the Parker NM 599 Amended Master Plan is based on the setback allowed for the County Public Works building.

The applicant is requesting preliminary and final development approval for light industrial and office use. The development will consist of a 13,000 square foot office building and an 8,000 square foot warehouse building on 5.8 acres.

The proposed site is within a Major Center Commercial District. The adjoining land uses are Associated Asphalt, Lafarge, the County Public Works Facility and various sand and gravel operations which are operated by Española Mercantile and R.L. Leeder. These uses are consistent with the requirements of a Major Center Commercial District defined in Article III, Section 4 of the Land Development Code.

This application was reviewed for the following: parking, architectural standards, lighting, existing development, access, terrain management, water, solid and liquid waste, fire protection, landscaping and archaeology.

Recommendation: Staff reviewed this application and has found the following facts to support this submittal: The Highway Corridor Plan was never formalized as an ordinance. The proposed setback for the amended master plan is based on the setback allowed for the County Public Works Facility. The master plan was approved by the BCC for light industrial and office use. The proposed site is within a Major Center Commercial District. The proposed use and adjoining land uses are consistent with the requirements of a Major Center Commercial District. The proposal for the master plan amendment/preliminary and final development plan meet the criteria set forth in the Land Development Code.

The review comments from state agencies and Development Review Services have established findings that this application is in compliance with Article V, Section 5.2.6 and Article III Section 4.4 of the Land Development Code. Staff recommends approval of a master plan amendment to allow the reduction of the building setback from an existing approved master plan and preliminary and final development plan approval for Parker NM 599 consisting of a 13,000 square foot office building and warehouse building consisting of 8,000 square feet for a total of 21,000 square feet on 5.8 acres, subject to the following conditions. Mr. Chair, may I enter these conditions into the record?

[The conditions are as follows:]

1. All staff redlines shall be addressed, original redlines shall be returned with final plans for the final development plan, prior to consideration by the Board of County Commissioners.
2. Compliance with applicable review comments from the following:
  - a) State Engineer
  - b) State Environment Department
  - c) State Department of Transportation
  - d) County Hydrologist
  - e) County Fire Marshal (Site Plans & Building Plans)
  - f) State Historic Preservation Division
  - g) Development Review Services Comments and Conditions
3. The applicant shall comply with all requirements of the County Land Development Code.
4. The master plan amendment with appropriate signatures shall be recorded with the County Clerk.
5. Development plan with appropriate signatures shall be recorded with the County Clerk.
6. The applicant will be required to submit a financial guarantee, in an amount approved by the County, for all improvements including but not limited to fire protection, roads, retention pond and landscaping prior to the recordation of the final development plan. The financial guarantee for landscaping and re-vegetation will be



kept until the plantings have taken, for a minimum of one year after installation.

COMMISSIONER VIGIL: I have questions.

CHAIRMAN MONTOYA: Okay, Commissioner Vigil.

COMMISSIONER VIGIL: This is in my district. I've been trying to identify it's specific location. When I first reviewed this case I thought it was closer to the Airport Road/599 intersection, and from all of the pictures that you have here it seems to be more east of that and away from the density that actually exists there.

MR. LARRAÑAGA: Mr. Chair, Commissioner Vigil, actually on the frontage road it would be north of the Paseo de River, the crossing, right where the curb comes up on that – everybody uses it. Actually it's not built out across the river, but it's going to be right on the curb kind of at the dead end of the frontage road.

COMMISSIONER VIGIL: So is this north of 599?

MR. LARRAÑAGA: Correct.

COMMISSIONER VIGIL: Okay. Is it in a presumed annexation area?

MR. LARRAÑAGA: No. The presumed annexation area would be south of the river where Lafarge and all those other properties are, all the way to the [inaudible].

COMMISSIONER VIGIL: South of the Santa Fe River?

MR. LARRAÑAGA: Correct.

COMMISSIONER VIGIL: So how close is this to our Public Works Building? Does it abut MRC and Caja del Rio?

MR. LARRAÑAGA: Mr. Chair, Commissioner Vigil, I really don't know. As far as miles, I would estimate a mile, two miles, from the Public Works Building.

CHAIRMAN MONTOYA: At the most.

MR. LARRAÑAGA: At the most.

COMMISSIONER VIGIL: How many?

MR. LARRAÑAGA: One mile.

COMMISSIONER VIGIL: It would be a mile west of the Public Works?

MR. LARRAÑAGA: Correct.

CHAIRMAN MONTOYA: West and south.

COMMISSIONER VIGIL: What is the closest building to it?

MR. LARRAÑAGA: Mr. Chair, Commissioner Vigil, I don't believe there's any buildings. Some of the existing development and the adjacent properties, there's Lafarge, again, that was part of that commercial district but now is in the presumptive city limits. And of course the Public Works facility is a building there that pretty much has the same type of use. And then there's gravel operations.

COMMISSIONER VIGIL: And I'm trying to place it my visual because I visit this area a lot. Exhibit I has – it looks like, well I guess the best way to ask is if you would look at Exhibit I and describe for me what is on the property and if that represents current structures on there.

MR. LARRAÑAGA: Mr. Chair, Commissioner Vigil, upon inspection by

John Sanchez our terrain management person, there's pretty much dirt piles and some of the stuff needs to be moved out for the development. There's really no structures. There's some tanks and there's piles of dirt on there that need to be cleaned out before the project would actually take place.

COMMISSIONER VIGIL: Are those trailers also? Or warehouse mobile units? And what is the stack in the distance behind that? Is that an asphalt plant?

MR. LARRAÑAGA: Mr. Chair, Commissioner Vigil, yes, that would be an asphalt plant, but these buildings are just to the north, probably. I would say they're not on the same property. They're owned by – that property I believe is owned by Richard Cook, by Española Mercantile.

COMMISSIONER VIGIL: Okay. I think I have a better indication of where it is. Thank you, Mr. Chair.

CHAIRMAN MONTOYA: Any other questions for staff? Okay. If the applicant would please come forward. We do have a staff recommendation for approval with conditions. Are you in agreement with those conditions, Mr. Siebert?

[Duly sworn, Jim Siebert testified as follows:]

JIM SIEBERT: I do. My name's Jim Siebert. My address is 915 Mercer. We are in agreement with conditions and maybe the answer to Commissioner Vigil's question regarding the property, if you go right in front of Exhibit I is Exhibit H. Do you have that in front of you?

COMMISSIONER VIGIL: Yes, I do.

MR. SIEBERT: Exhibit H, and it's outlined there with a number on it, but what you see is a photograph of just off the property trailers there, the storage trailers. So they're really not on this particular property. Immediately towards the top of the photo, or to the east, actually, is the Public Works Building. It's really right next to it. The two closest buildings are the Public Works Building and the Española Mercantile asphalt plant further to the north, north of the trailer units.

COMMISSIONER VIGIL: Is the terrain, Mr. Siebert, on this that when you build the height, the actual visual of this will not be seen? The Public Works Building has berms and there's very little visual.

MR. SIEBERT: Correct. This property is actually – it falls towards the river, and obviously the terrain is going towards Santa Fe River. So it's lower than the Public Works Building and it is substantially lower than the highway. The highway by the Public Works Building is pretty much it's the same elevation as the Public Works Building. By the time you get to this property the highway's about 14 feet higher than the actual elevation of this property.

COMMISSIONER VIGIL: All right. Thank you.

CHAIRMAN MONTOYA: Okay. Are there any other questions for the applicant? Okay, seeing none, this is a public hearing. Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. I just wondered if you would show us on your map sort of the difference in the two different setbacks that are in

question.

MR. SIEBERT: Commissioner, I didn't bring the one – what I have is the 270-foot setback. The 350-foot setback would have brought it to kind of where the edge of the parking lot is. That would be approximately the 340-foot setback.

COMMISSIONER HOLIAN: And the reason for the 270-foot setback is to get a larger parking lot? Is that it?

MR. SIEBERT: Well, actually it's two reasons. One is the County established – we felt that since the County had a 270-foot setback it seemed like it would be onerous to have something more than that on this particular property. The other thing is that the idea when that was agreed to was that there would be an ordinance that would come along behind that that would establish that as mandatory law. It was never adopted. And in fact the Highway Corridor Standards right now have been – at least the two projects that I've worked on on I-25 were then only over 50 feet. So we still have a substantially greater setback than has been applied recently.

COMMISSIONER HOLIAN: Thank you, Mr. Siebert.

CHAIRMAN MONTOYA: Okay. Any other questions for the applicant? If anyone would like to please come forward, this is a public hearing. You can speak on behalf of or in opposition to this case. Okay, seeing none, what are the wishes of the Board?

COMMISSIONER ANAYA: Move for approval.

CHAIRMAN MONTOYA: With conditions?

COMMISSIONER ANAYA: Yes.

COMMISSIONER HOLIAN: Second.

CHAIRMAN MONTOYA: Okay. Motion by Commissioner Anaya, second by Commissioner Holian. Further discussion?

**The motion passed by unanimous [5-0] voice vote.**

- XV. A. 10. CDRC CASE #S 08-5210 Sandstone Pines Estates. Anasazi MV JV LLC, Applicant, Melvin Varela, Agent, Request Preliminary and Final Plat and Development Plan Approval for a 12-Lot Residential Subdivision on 42.99 Acres. The Property is Located in Glorieta, North of I-25, South of State Road 50, within Sections 1 and 2, Township 15 North, Range 11 East (Commission District 4) Vicki Lucero, Case Manager [Exhibit 6: Water Resources Memo]**

MS. LUCERO: Thank you, Mr. Chair. On July 16, 2009 the CDRC met and acted on this case. The decision of the CDRC was to recommend denial of the request. The applicant requests preliminary and final development plan and plat approval for a twelve-lot residential subdivision on 42.99 acres. The proposed lots range in size from 1.21 acres to 12.17 acres. The property is located within the Homestead Hydrologic Zone where the



minimum lot size is 40 acres per dwelling unit with a 0.25 acre-foot per year per lot water restriction, unless an approved geohydrologic analysis demonstrates water availability to support increased density.

This application was reviewed for access and traffic impact, terrain management and water harvesting, water and liquid waste, solid waste, fire protection, landscaping, open space, archeology, signage and affordable housing.

Recommendation: The decision of the CDRC was to recommend denial of this request. Staff finds the proposed subdivision to be in compliance with Article V, Section 5.3 (Preliminary Plat Procedures), Article V, Section 5.4 (Final Plat Procedures), and Article V, Section 7 (Development Plan Requirements) of the Land Development Code. Therefore, staff recommends preliminary and final plat and development plan approval subject to the following conditions. May I enter those conditions into the record, Mr. Chair?

CHAIRMAN MONTOYA: Yes.

MS. LUCERO: Also, I just wanted to mention, staff is recommending two additional conditions per discussions with the County Fire Marshal. It would be condition 17 and 18. [See below.]

[The conditions are as follows:]

1. Compliance with applicable review comments from the following:
  - a. State Engineer
  - b. State Environment Department
  - c. State Department of Transportation
  - d. County Water Resources Specialist
  - e. County Public Works
  - f. County Fire Marshal
  - g. County Building and Development Services Division
  - h. Santa Fe Public School District
  - i. State Historic Preservation Office
  - j. Rural Addressing
  - k. County Affordable Housing Administrator
4. The final development plan and plat must be recorded with the County Clerk's office.
5. All redlines will be addressed, original redlines will be returned with final plans.
6. The development shall comply with the water harvesting requirements of Ordinance 2003-6. A rainwater-harvesting plan will be required from individual lot owner upon application for a building permit. This requirement must be included in the Subdivision Disclosure Statement and restrictive covenants, and noted on the final plat.
7. A liquid waste permit must be obtained from the Environment Department for the proposed septic systems prior to issuance of building permits; this requirement must be included in the Subdivision Disclosure Statement and noted on the plat.
8. The applicant must record water restrictive covenants simultaneously with the Plat imposing 0.25-acre feet per lot per year. Water meters must be installed to each lot at

- the time of development and meter readings must be submitted to the Land Use Administrator annually by January 31<sup>st</sup> of each year.
9. The applicant shall provide a Vegetation Management Plan to be reviewed and approved by the County Fire Marshal and must be recorded with the Final Development Plan and referenced on the final plat.
  10. A location for a future cluster mailbox area to serve the Apache Springs Subdivision and other areas must be provided. This pullout shall meet the minimum specifications for mailbox pullouts set forth by the NMDOT. The pullout driving surface shall be a minimum of 6" of aggregate basecourse, and adequate drainage must be provided. The detail of this location shall be included in the final development plan, and additional right-of-way as required indicated on the final plat.
  11. The applicant shall submit a financial guarantee, as required by Article V, Section 9.9 of the Code, in a sufficient amount to assure completion of all required improvements. The financial guarantee shall be based on a county approved engineering cost estimate for the completion of required improvements as approved by staff prior to final plat recordation. All improvements shall be installed and ready for acceptance within eighteen months of recordation.
  12. The applicant will be required to provide a Landscaping Plan for revegetation of disturbed areas, prior to final plat recordation.
  13. All utilities shall be underground. This shall be noted on the plat, covenants and disclosure statement.
  14. The standard County water restrictions, final homeowner's documents, and disclosure statement must be recorded with the final plat.
  15. Any subdivision signage will require a Sign Permit, and all signage must meet the requirements of the Code.
  16. Driveways shall not exceed 11% grade.
  17. Provide a calculation on lowest practical pumping levels and 100-year schedule of effects for well UP-04251 as specified in Article VII, Section 6.4.2c and d of the County Code prior to final plat recordation.
  18. Provide water quality test analysis for well UP-04251 as required in Article VII, Section 6.5.2 of the County Code prior to Final Plat recordation.
  19. A 30,000-gallon water storage tank will be required for fire protection.
  20. Sprinkler systems will be required in each residence per the Urban Wildland Interface Code.

CHAIRMAN MONTROYA: Thank you, Vicki. Questions for staff?

COMMISSIONER STEFANICS: Mr. Chair.

CHAIRMAN MONTROYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Could you – you might not have any insight, but could you share whatever you know about the discrepancy between the CDRC and the staff recommendations?

MS. LUCERO: Mr. Chair, Commissioner Stefanics, I believe that there was some confusion at the CDRC meeting regarding a memo that was put together by the County Hydrologist explaining the history of the project, and there was actually a revised memo handed out tonight that I think better explains a little bit about what previously happened with this application. Anyway, I think there was confusion as to what the hydrologist at that time was recommending when this came in under a previous application and what the current submittal review recommendation was by the current County Hydrologist.

COMMISSIONER STEFANICS: Thank you very much, Mr. Chair.

CHAIRMAN MONTROYA: So just a point of clarification on that. So then this has been modified from when the CDRC acted.

MS. LUCERO: Yes, Mr. Chair. Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. Well, this is a question for our County Hydrologist. I have the water quality test here and I note that in the test they're on the raggedy edge with regard to toluene, iron – is there something else I'm missing? Oh, yes. Odor, I guess.

MS. TORRES: Methylene chloride.

COMMISSIONER HOLIAN: Methylene chloride. In a case like this would you recommend a water treatment system?

MS. TORRES: Well, actually, there are different units for the toluene and the methylene chloride. The EPA standard is done in milligrams per liter, and if you'll notice there's a little  $\mu$  so the detection amount was a micromilligram, so it's far below the standard. So it was not an none detected but it was very, very small amount that was detected. They had some very sensitive analytical equipment. I believe that there was –

COMMISSIONER HOLIAN: Iron is relatively high.

MS. TORRES: Iron is an aesthetic or a secondary contaminant, meaning that there aren't any known health risks involved in having high iron in your water. It's more of a nuisance as it stains your appliance and things like that.

COMMISSIONER HOLIAN: And also the turbidity is quite high.

MS. TORRES: Turbidity, it depends on when they took this sample. I think that the well did have a chance to rest after drilling after they sampled this. So I'm not sure exactly the source of the turbidity, but I can take a second look at that and see if they need to have something settled out prior to distributing water.

COMMISSIONER HOLIAN: Then the radon – explain that test to me, the radon-222.

MS. TORRES: The radon, there's no standard for radon itself by itself. Basically, what you do is you add up all the gross alpha particles and so it takes in the aggregate of all of the particles that are alpha-emitters for radionuclides. So as long as the gross alpha is below the drinking water standard, we're presuming that the radon is in check. So it's not at a health risk.

COMMISSIONER HOLIAN: Okay. Thank you. And then I have a question also for our Land Use staff. What tier would this be in in the new land development code or



plan?

MR. KOLKMEYER: SDA-2.

COMMISSIONER HOLIAN: SDA-2. Thank you.

CHAIRMAN MONTROYA: Okay. Other questions for staff? Seeing none, the applicant, if you would please come forward and be sworn in.

ROSANNA VAZQUEZ: Thank you. Good evening. My name is Rosanna Vazquez and I'm here on behalf of Sandstone Pines. The property owners are here with me and I'd like to introduce them to you. Melvin Varela is here sitting next to me. Melvin is born and raised in the Pecos area. Has done a lot of work all through Santa Fe County, and I learned tonight learned to speak Spanish at the age of 21. So that's a positive thing. And then we have another owner here, the other owner and his name is Joel McHorse and he's sitting in the back and he is a native of Taos, New Mexico.

We'll go through this quickly because I know you've had a very long evening. First of all there has been some confusion with this development because in reviewing the file and the concern from the neighbors there's many references to the old development that came before you, the Kingsmill Development and Las Animas Subdivision. And I wanted to make clear to you that this is not Kingsmill or Las Animas. Apparently, after that subdivision was denied, I think it was back in 2004, and I don't remember what the name of the woman – Beth Kingsmill I think it was – did a five-lot land division. This subdivision that is before you is on a 42-acre lot and it is one of those five lots. I want to make clear to you on this record that neither of my clients or Sandstone Pines entity was ever connected to Kingsmill or Las Animas Subdivision in any way.

This property was purchased three years ago by Mr. Varela for purchases of putting together a subdivision. There's some discrepancies in the staff reports between how many lots there on this; it's a 12-lot subdivision. I think there's some reference to a 13-lot subdivision. It is a 12-lot subdivision. The gross density on these lots is an average 3.9 acres. There are two lots, Commissioners, that are affordable lots, and those lots are below 2.5 acres. One of them is roughly 1.21 and the other is roughly 1.43. Those lots are not required to meet the gross density that is calculated upon a geohydrologic report so they kind of stand alone. But for the concern, which is a concern by the neighbors here, the issue of water, the gross density is a 3.59, which is above what the calculation by our hydrologist as well as the hydrologist for the County calculates.

The buildable sites, and if I point you to your staff report, if you go to your staff report on – that's attached, I believe it's page NB2-16. If I can just take you there. You'll note that each of the lots have a proposed building site and the building site was created by the property owners here really to locate an area on the property that would disturb the least amount of terrain. They've been identified on the plat as the place to build the home. The envelope is approximately 5,000 square feet of buildable area. So it's quite a large building envelope which would afford any potential buyer a good site to build on.

You'll also notice that there's quite a bit of open space on this property. The open space on these lots, in this subdivision exceed 30 percent and there is a 100-year floodplain

that will not be disturbed on this site as well. Looking at that plat, if you look at the top corner it's lot #7, that's where the newest well was drilled. And I just want to note that that well is 800 feet deep, and that was the well that was most recently tested and reviewed by our hydrologist as well as the County staff hydrologist. The other existing wells on the property are one between lots 10 and 11, and there is a proposed well looked at right there at lot 5.

There was a concern raised by one of the neighbors, and I believe it was at the CDRC meeting about drainage concerns. Mr. Leonard Gomez lives – and if you keep looking at this plat – lot 2. Right at the very front. And it's the farthest lot at the end, right down here. You'll notice it is at the end of the road in a cul-de-sac. He was concerned about some drainage issues. Apparently this road was created when the five-lot subdivision was put together. For the record I want to state, and I believe it's in our report and submittals, that will not be the access point for this subdivision. The access point for this subdivision is straight off US Highway 85 in an attempt to try to minimize further disturbance and further drainage issues there it was a decision by these property owners to go ahead and create an alternate entrance to the subdivision.

There is always on these subdivisions a requirement that we comply with terrain management which deals with drainage and deals with erosion issues. It is a condition of approval that we've agreed to and will meet.

There will be – the proposed water for this subdivision will come from a shared well system, and I've pointed out where those wells will be. The property, the lots will be served by individual septic systems. An interesting thing about this subdivision that the owners are wanting to do is all of the buildable areas are south facing and one of the encouraged – it's not going to be necessarily a requirement, but we're going to encourage use of solar heating on these homes. It's oftentimes difficult to require it up front, especially in an area that is not as affluent as some of the other areas in Santa Fe County, but one of the concepts that Mr. Varela has been working with as a contractor is constructing with use of solar heating.

He has and will agree with foam insulation, requiring foam insulation for the walls at an R-28 level and ceilings at R-44. He is also agreeing to rain catchment for all of the homes. The Code right now requires rain catchment only for homes 2400 square feet or above, but he is going to require that all homes provide rain catchment systems. We're hoping that when those are put in place that those will be used for irrigation. Right now the water budget does have a calculation for use of potable water for irrigation, but with the rain catchment systems we're hoping that we can shave off that number and use less water on this subdivision.

He has worked with five star rated appliances and will require that five star rated appliances are placed in the homes. One thing that he has been working with somewhat and is going to try to encourage on the homes that he constructs will be geothermal heating and cooling, which I got a lesson on. I wasn't – I didn't really know what that was until I met with Mr. Varela. It's apparently a very – in short summary from a non-engineer – a very economical way and energy-efficient way of heating and cooling homes. There is a generator required and water is pumped through underground underneath – and correct me if I'm wrong because I'm not an engineer – underground to heat the base of the home and then the

generator is turned off in the summertime and that same water that's circulating through the pumps underground will cool the home. And it is sort of – it's a forced air with vents within the home to allow that that air come into the homes to heat and cool the residences.

There have been concerns raised by the neighbors and I'll summarize the concerns as I see them based on the file is that there was a concern about water quality and we tabled for the last two meetings because we wanted to submit a water quality report. There were allegations and concerns raised that there was uranium and radon potential in the water out there. So we did do the testing in order to alleviate that concern with the neighbors. And we did get a positive recommendation from staff on water quality. There was a concern about water quantity. Our hydrologist is here today. His name is Patrick Romero and I'm sorry that I did not introduce him to you before; I apologize about that. He is sitting right here. He has worked very closely with Karen to submit to Karen and Laurie all of the information that they had needed.

It has been a long process for everybody but the end result has been that everything has been submitted and it meets the County Code requirements and we have a positive recommendation from the hydrologist. The base density based on the water underground in the geohydrology is a base density of 3.13 and we're above that number and so we're comfortable that we have sufficient water to demonstrate, to have this subdivision.

The last issue is drainage and I believe I've addressed that issue. It is drainage that is occurring on this site, on this property. It is not because of the practice or the work that any of the owners have done on this property at this point. We will agree to deal with terrain management as required by the Code and if there's further concerns about drainage, the property owners, my clients, have agreed to allow Patrick Romero to sit down with people and advise them on any potential solutions for some of the drainage problems so long as there's a waiver of any liability to my clients. They're willing to do that.

Because it wasn't made by them and it wasn't caused by them they're extending this as a good faith effort to deal with the issue, that concern that was raised by the one property owner.

There are a couple of neighbors that aren't here that are actually in favor of the subdivision and I want to state something else for the record as well. One of the reasons we tabled was the water quality and after we obtained water quality I wanted to be able to meet with the neighbors who were concerned about water quality. Unfortunately, because of the timing of the report and the holidays we did not get that water quality report till last week on I believe it was the 8<sup>th</sup> or the 9<sup>th</sup> and it was turned into the County at that point. I was not able to meet with the neighbors on that issue.

We were able to meet with other neighbors that didn't have a concern on water quality and they are not here today, but they are, and I will point them out. If you go back to this little plat, there is one neighbor named Melesio Valencia. He is also a local – I don't know if say Pecoseno? Is that how you would say it? Pecosino? If lives here off New Mexico Highway 50 up here and he is adjacent to the subdivision as well. And then Mr. Ted Gordon, he lives on the opposite side of the subdivision. And then a Ms. Bernadette Dalton and she



lives actually across right here. And my clients have spoken to them with regards to the subdivision, explaining the subdivision, and they're not opposed to the subdivision.

So I wanted to point that out because it's not just the developers here who are coming before you requesting an approval on this. Lastly, I just want to point out to you that we have met staff requirements. We have met all conditions and requirements of the Code and I'm not exactly sure, Commissioner Stefanics, I had the same question as to what happened at CDRC and I was sort of given the same answer that the staff report that was initially given out on the hydrology made it a little confusing to determine what the current hydrologist's actual staff report was. She recommended approval at the time and that was why Land Use staff recommended approval. And we agree with all recommendations and conditions here. There are two conditions that have already been met and I would point you to condition #15 and condition #16, and Karen Torres and Laurie Trevizo in their recent report address those two conditions. So those conditions have already been met. And we do agree to the additional conditions that have been raised by staff from the Fire Marshal. And I stand for questions.

CHAIRMAN MONTROYA: Okay. Questions? Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. Rosanna, can you tell me what the depth of the other two wells, the depths are of the other two wells? And also – well, how deep are they?

MS. VAZQUEZ: The existing wells that are on there?

COMMISSIONER HOLIAN: Yes.

MS. VAZQUEZ: Because there's an existing and then there's a proposed as well.

COMMISSIONER HOLIAN: Oh, I see. So how many wells actually exist on there now?

MS. VAZQUEZ: There's two wells on the property now and one is the 800-foot well that I showed you, and then the other one is 500 feet.

COMMISSIONER HOLIAN: And is the 500-foot one proposed to be used for the development?

MS. VAZQUEZ: Yes, it is.

COMMISSIONER HOLIAN: And have you done a water quality test on that?

MS. VAZQUEZ: I believe, Commissioner Holian, that the water quality testing – let me look at it if I may just review my report. Commissioner Holian, you'll need to give me a minute to take a look at Vicki's file. The current water quality that was done was done on the newly drilled well, but what I'm being reminded of is that there was a water quality test done when Kingsmill came in and there was no issue on water quality, and that was done on the original well, which is 500 feet, that's on the property. But I will check that and I can give you an answer once I double-check the file.

COMMISSIONER HOLIAN: And on the well that is proposed to be drilled, is that also going to be drilled to a depth of 800 feet?

MS. VAZQUEZ: I'm not sure. Yes, it is. And water quality would be required on that well as well.

COMMISSIONER HOLIAN: And I just want to double-check with our County Hydrologist. You saw nothing in the water quality report that would warrant a water treatment system? The water could be used as is?

MS. TORRES: The recent water quality that we got last week and got a chance to look at more thoroughly this morning, all of the constituents are within the drinking water standards for both the EPA and the County standards. In some instances the County standards are a little more rigorous than the EPA standards, for example, for hardness. Ours is I believe at a 2 and the EPA's is at a 4. But there are some levels that are approaching it for the secondary, and it's something that the homeowners may want to eventually, when they get there, have their own treatment themselves to sort of lessen hardness issues and things like that. But I don't believe that it's something that requires at the well treatment. Though I do think that maybe staff should review a previous water quality. I don't recall it as an issue, but we would be happy to do that, and then we can make a recommendation if there is a treatment that is required for that.

COMMISSIONER HOLIAN: Well, actually, what I would like to propose at this point, maybe you have other questions, but I would propose that since the water quality test just came out, that another water quality test be performed on the 500-foot deep well, and especially in view of the fact that there have been some water quality issues out in the Glorieta area and they've cropped up rather recently. I would like to see a current test on that well, and then I would like for the developer to meet again with the community to talk over this issues that they have. So I guess I'm making a motion for a table at this point.

MS. TORRES: And just for the record, I stated previously we didn't have a standard for radium, and actually it's radon is what I meant to say. So I apologize.

COMMISSIONER HOLIAN: Okay. Thanks.

CHAIRMAN MONTOYA: Okay. We have a motion to table.

COMMISSIONER STEFANICS: Mr. Chair, I have a procedural hearing.

CHAIRMAN MONTOYA: Yes.

COMMISSIONER STEFANICS: We haven't gone to public hearing yet. Do we need to do that before we go to any motions?

CHAIRMAN MONTOYA: We could take the motion now. Okay, motion dies for lack of a second. Any other questions for the applicant? Commissioner Vigil.

COMMISSIONER VIGIL: Ms. Vazquez, in looking at NB2-16, it's looking like lots 2 and 4 at the bottom right of the plat will be your affordable housing units. What's going to happen with lots 3 and 5?

MS. VAZQUEZ: Okay, tell me. Lot 2 will be one affordable.

COMMISSIONER VIGIL: And lot 4? According to our affordable housing report lot 2 and 4 are intended to be affordable.

MS. VAZQUEZ: Yes.

COMMISSIONER VIGIL: And what is going to happen with lot 3 and 5?

MS. VAZQUEZ: They're just regular lots. Residential lots.

COMMISSIONER VIGIL: But they're filled in and I'm just wondering why

they're distinguished from all the other lots.

MS. VAZQUEZ: Which plat are you looking at, Commissioner? Is it NB2-16?

COMMISSIONER VIGIL: NB2-16. The one you referenced. The southeast.

MS. VAZQUEZ: Lot 3, there's a buildable area on it. So show me where –

COMMISSIONER VIGIL: There's lot 2, 3, 4 and 5. These I assume are the units to be built in those lots. And our affordable housing report says lots 2 and 4 will be affordable housing. I'm wondering if lot 3 and 4 are just market homes.

MS. VAZQUEZ: Oh, okay. I'm sorry, Commissioner. I didn't catch what you were saying but I do now. The lower lots down here, lots 2, 3, 4 and 5, those lots were part of the original Kingsmill. This is the land division. There was a five lot land division.

COMMISSIONER VIGIL: They have units in them already.

MS. VAZQUEZ: Yes, and they are not part of this subdivision.

COMMISSIONER VIGIL: Okay. So that the affordable units are going to be in lot 2 and 4.

MS. VAZQUEZ: That's right.

COMMISSIONER VIGIL: Of the upper part of the map.

MS. VAZQUEZ: That is correct, Commissioner. And I just might add Ron Pacheco was the original reviewer on this and one of the things that he liked about this was the size of the lots being 1.4 acres and 1.2 acres. He actually told us that we could go down to one-acre lots on each of those but it just didn't seem to work well with the rest of the subdivision to create lots that were that small.

COMMISSIONER VIGIL: The design of this lends itself, almost begs towards ranchette-style design. Is that part of your client's intent or not.

MS. VAZQUEZ: No, you're right it does and it is. It is the intent of this development.

COMMISSIONER VIGIL: Does that mean that perhaps units in the future or your clients will be coming before us for auxiliary units for horses or anything of that nature?

MS. VAZQUEZ: For accessory structures?

COMMISSIONER VIGIL: Yes.

MS. VAZQUEZ: I don't believe accessory structures have to go before the Board unless they're over a certain square footage. I think Shelley can answer that.

MS. COBAU: Mr. Chair, Commissioner Vigil, they would only come to you if they were greater than 2,000 square feet.

COMMISSIONER VIGIL: And that would be per lot, right?

MS. COBAU: Yes. Per lot. And actually, they go to the CDRC for approval on accessory structures greater than 2,000.

COMMISSIONER VIGIL: Okay.

MS. VAZQUEZ: Commissioner, I also want to let you know that this is not going to be a modular home subdivision. These are going to be homes on foundations, constructed homes.



COMMISSIONER VIGIL: I understood that. Thank you. Were open space, trails discussed in the design of this? Any kind of trail system?

MS. VAZQUEZ: Mr. Chair, Commissioners, no, simply because – and I actually asked the same question – a lot of this area is existing as was stated earlier, a lot of this is already small 2.5-acre parcels. There's no trail network out there. So it isn't something that looks to be possible. Certainly we can talk to staff about it but I don't see where it could connect to anything else and so I don't see how –

COMMISSIONER VIGIL: But it's 50 acres, or close to 50 acres within itself.

MS. VAZQUEZ: Right. I don't know. I can talk to my clients about that and see if they would be open to some sort of trail system. One of the problems with this area is that there are some slopes in here which make it difficult to develop, which is yet another reason why buildable areas were specifically delineated in the plat to be able to minimize erosion and not deal with – not disturb some of the sensitive terrain out there.

COMMISSIONER VIGIL: Let me ask you this. Is this going to be a sub-development that goes into an association status or is it just going to be a sub-development that the actually create a neighborhood association? Do you foresee that for this area or not, if they're going to maintain the rural component?

MS. VAZQUEZ: It's required that we put together a homeowners association with covenants for this subdivision and we've agreed to do so.

COMMISSIONER VIGIL: Okay.

MS. VAZQUEZ: Going beyond the boundaries of this subdivision, I'm not sure really whether there's any sort of neighborhood group out there or component that could be put together.

COMMISSIONER VIGIL: I'm a strong proponent of open space and I like the open space that's proposed here, but one of the things that we hear throughout the county is that there are insufficient trails for walking, for riding bikes. In this case possibly for horse trails and we do have those within the county, the urban interface too. I'm wondering if that could be a component of this and it certainly would enhance the subdivision itself.

MS. VAZQUEZ: Well, Commissioner, let me talk to my clients about that. When I was thinking trails I really was thinking trails that interconnected across the whole area, and that didn't make sense in this area. But let me talk to them and see what it is that we could do with regards to that. I do think it would be – horse trails would probably be –

COMMISSIONER VIGIL: Or multi-purpose trails. And it could be in the perimeter of the area.

MS. VAZQUEZ: Perhaps while the rest of the public session goes on I can talk to my clients about that and I'd like to reserve some time after the public speaks and I will address that issue at that point.

COMMISSIONER VIGIL: Thank you.

CHAIRMAN MONTROYA: Other questions for the applicant? Okay, this is a public hearing. If anyone would like to speak on behalf of or in opposition to this please come forward. And if I could ask you maybe to limit your comments to two minutes please.

[Duly sworn, Andy Dalmy testified as follows:]

ANDY DALMY: My name is Andy Dalmy. My property abuts the proposed subdivision. I'll try to be really brief. This was a 60-acre subdivision proposed at one time. It was split into four 2.5-acre and one 50-acre. This is the second time that this particular piece of property has been before both the CDRC and the Commission. Different owners, it's true, but the same property. Our opposition to it is that there's not an adequate water supply. The previous hydrologist, one of the previous hydrologists, Stephen Wust, indicated that the hydrology reports did not support a long-term water supply. He was asked in the 2004 BCC meeting what he would recommend. His recommendation was five lots, the four that exist there and the remaining large lot and his opinion was that more wells wouldn't make a difference; the wells would have low yield and that the number of wells would be fairly irrelevant.

I would like to also read a comment. He indicated that there's not an adequate water supply and at the time then, now Commission member Holian, voiced her opinion that based on his compelling evidence that the development posed a danger to existing residents and potential buyers. We strongly disagree also that the CDRC made a decision based on confusion or misunderstanding. They reviewed the data, the testimony from the hydrologist I hired, Steven Finch, who is here today also, and there are also others who disagree with this who are not in favor. And by the way Ted Gordon is dead. Ted Gordon is the one that sold the property to Phyllis Kingsmill.

Steve Varela, Melvin's own brother is opposed to this. He has property right next door to it and I don't think he's here today. It boils down to water. Even in the 2009 memo written by County Hydrologist Laurie Trevizo prior to the CDRC meeting, and I quote this memo, "The May 19, 2004 review should be used for this development as no additional data of substance has been submitted. The review did not support sufficient water availability." That was her position and that is the position of our hydrologist. That was the consensus of the CDRC in 2004, the BCC in 2004, and the CDRC in July of this year.

I submitted a packet with all this information to staff back in September when the meeting was originally scheduled and I hope that you got that. I have some letters in there also explaining our position. But the whole thing boils down to a lack of water. The subdivision sounds grand but they failed to substantiate a 100-year supply of water, not only with the first well but also with the second.

CHAIRMAN MONTROYA: Okay. Thank you. Next, please.

[Previously sworn, David Hannah testified as follows:]

DAVID HANNAH: David Hannah, 22 Trail Crossing, Glorieta, Santa Fe, New Mexico. I've lived there 37 years now. I believe you have in your packet a letter from me in December of this year, another letter I wrote last year when this was before the Board but tabled. I did not write a letter in 2004 when I was here for the first time around. Commissioner Holian, thank you very much for your comments on uranium and the recent spikes. I think you hit the nail on the head when you were getting to the point that water tests today don't show uranium and radon coming up two years from now. My well was excellent

50 years ago and ten years ago, and now it's showing uranium. I'm one guy pumping very little water as is Mr. Cerciore, my neighbor.

Other wells in my neighborhood have gone dry. Dean Williamson who lives on the other side of this property, his well's over Pigeon Ranch. That went out. It was 40 years that well. Carl's well has gone bad now. He's recovered it. That's 30 years old. And the Roybal's well is 50 years old in this neighborhood. They've recovered part of that. So we're all really being very, very careful with the wells because we know the quantity has gone way done and the quality has gone way down. I don't drink the water.

I would like a copy of the most recent County Hydrologist's letter, because the letters I've seen in the past do not give me any feeling of comfort on what's being advised to the Commission and why the change from the CDRC meeting of just a couple weeks ago. As a long-time bureaucrat I know when you have a lot of projects going through you take what's put in front of you, you review it, it looks all right and you go on. Our guy over here has that much data on this subdivision that we paid him to gather and I hope that she reviewed it and I hope some of it has gotten into your packet.

A developer, I've been through this process a lot out in this area, a developer is not a builder. It's very nice talking about I'm going to work with the builders about geothermal and solar and etc., etc. Once it's approved the developer sells the lots and he may or may not follow through on anything, other than in the approval packet. And even there I've had to follow up on some of the County requirements on other pretty large subdivisions in the area.

I would also like to see the most recent water quality test to see what it really does show. I'm not going to go through all the information I've provided you. I'm asking you to deny the permit as did the CDRC a couple weeks ago and the Board of Commission did in 2004. Thank you very much for your attention.

CHAIRMAN MONTROYA: Next, please.

[Previously sworn, Steve Finch testified as follows:]

STEVE FINCH: Mr. Chair and Commissioners, my name is Steve Finch. I'm a senior hydrogeologist for John Shomaker and Associates and I represent Mr. Dalmy. And I have, as the gentleman in front of me spoke of, all the previous geohydrology reports and the stuff that's even been submitted recently, except for the water quality data I do not have. But one thing I do know is that the geology has not changed. It's still the same. And that the geology has been mapped in great detail by the New Mexico Bureau of Geology. There have been numerous wells drilled out there and what it shows is that formation or that aquifer is mudstone with thin lenses of sandstone. The wells drill into these thin lenses of sandstone. They're discontinuous. They do not connect up to each other. That's why wells go dry, is because they will pump off the sandstone layer that has water in it and that layer will pump dry over however long it takes to dewater the storage.

This is a component that has not been understood by some of the other people reviewing this. The geology is critical in understanding the groundwater availability. Once you understand the geology you cannot apply the standard methods for calculating groundwater availability that are in the Code to determine how much water is actually there.



So that's the water availability.

The other thing, while we have lots of data from what's been already submitted to validate what I've just said some of the wells that have been tested don't recover. That's because they don't recharge. That water in those sandstone lenses is old; that's why the odor is bad, the water quality, as was stated before. Another important factor I think that hasn't been mentioned at all is people like my neighbor, Mr. Dalmy, have a well that's nearby. The people that have wells nearby, their pumps are at the bottom of the well because they're trying to get every drop they can. If this subdivision puts in a shared well that's in the same sandstone lens as where the neighbor is they're going to dewater that supply that was already being used by someone else. This has not been properly assessed.

It's been a long night. I think this project should be tabled or denied, one or the other. There's a lot more that needs to be considered in respect to water supply, because it has not been properly evaluated. Thank you for your time.

CHAIRMAN MONTOYA: Thank you, Steve. Next, please.

[Previously sworn, Allan Martinez testified as follows:]

ALLAN MARTINEZ: Allan Martinez. I have family and property in the vicinity, the Valencia area. I'm also an environmental engineer. I've listened to some of the testimony, and by the way, I'm for the project. The hydrology study and the wells that have been drilled are deep wells, 800 feet. The homeowners, I'm assuming, have shallow wells which were drilled 50 years ago, which was the norm back then. Of course those wells always deplete very quickly. Deep wells usually are different strata and sustain a little bit better than shallow wells.

I think the project's great, especially with economic development being very sparse today and the economy being in the dire straits that it is. I think it's a great project for the community. Thank you.

CHAIRMAN MONTOYA: Okay. This public hearing is closed.

Commissioner Stefanics.

COMMISSIONER STEFANICS: Mr. Chair, I have a motion. I would like to move this case back to the CDRC for them to consider the water well test on the 800-foot well, to also request on the shallow well and have them reconcile their past records with the current records and make a future recommendation.

COMMISSIONER HOLIAN: I second that.

COMMISSIONER VIGIL: Would the maker of the motion also include that upon review by CDRC, if okay with the applicant, the trail recommendation for this may be a part of the proposed?

COMMISSIONER STEFANICS: Absolutely.

COMMISSIONER VIGIL: And I'm not too sure how your client felt about that. I'm surprised that our Open Space and Trail group just said that they had no comment on this.

MS. VAZQUEZ: They actually said that they didn't object to the project as submitted.

COMMISSIONER VIGIL: Right. Which in my mind is they're not proposing or commenting on whether or not open space or trails should be a part of this network and I'm surprised.

MS. VAZQUEZ: Commissioner, I think the reason, and I was looking at the topo, if you take a look at the topographic map –

COMMISSIONER VIGIL: Yes, I'm aware of it.

MS. VAZQUEZ: After it, the topography is a little bit difficult to create trail systems.

COMMISSIONER VIGIL: But you also have a road networking system that you could do bicycle trails on. There's lots of options.

MS. VAZQUEZ: Well, we would be willing to work with Open Space and Trails, revisit the issue with Open Space and Trails and see what we can do with regards to that. I did speak to my clients.

COMMISSIONER VIGIL: Are they in agreement with working with staff on that?

MS. VAZQUEZ: With regards to coming in and seeing what we could do with open space, yes.

COMMISSIONER VIGIL: Just understand the benefit if you're going to move forward, if this gets approved and you're going to market it and sell it. You're going to get a better market with trails.

MS. VAZQUEZ: May I respond to some of the issues, or –

CHAIRMAN MONTOYA: We have a motion on the floor right now.

COMMISSIONER VIGIL: Does the seconder agree to that?

COMMISSIONER HOLIAN: Yes, I agree to that, but I'd also like to add – I don't know if this is an amendment or direction – that Rosanna, that your clients meet with the community members again. You have new data that you can present to them about the well that I don't think that they have really seen, and have a discussion with them to see whether you can come to an agreement about the water availability in that area. I really still am very concerned about the water availability, and the reason that I'm concerned is because these contaminations seemed to be cropping up suddenly, and if the water's contaminated, then you have to put in a water treatment system and then whenever you put in a water treatment system, for every two gallons of water you pump you get one gallon out. So that sort of totally changes your water budget calculation. So again, I'm just very concerned about both water availability and water quality.

MS. VAZQUEZ: Mr. Chair, Commissioners, two things with regard to your comments. I spoke to David Hannah today, and I know it's last minute because we didn't get our water quality results. But I did him before this hearing, would you be willing to sit down and talk about this? Is there anything that we can talk about? And he basically said, no, there's not enough water out there.

MR. HANNAH: You were whispering in the back.

MS. VAZQUEZ: Yes, I was whispering in the back and –

MR. HANNAH: It's the water quality. You don't have any water quality. You didn't say would you like to meet.

CHAIRMAN MONTOYA: We have a motion and a second. And Commissioner Anaya, you had something?

COMMISSIONER ANAYA: Yes. Thank you, Mr. Chair. In terms of the trails, I'm kind of familiar with that area and if we were to put a trail there it just wouldn't go anywhere.

CHAIRMAN MONTOYA: That's why Open Space did what they did.

COMMISSIONER ANAYA: Yes. So I don't think that would work. Let's see, another comment – that's all I had. Thank you.

CHAIRMAN MONTOYA: Okay. So the motion is to refer this back to CDRC with the two new conditions, and the additional condition that the water quality test on the original well be done or be analyzed or whoever's got that data, that that be included as part of the packet.

COMMISSIONER HOLIAN: A new water quality test, because it's fairly old now if they have one it would have been for 2004.

CHAIRMAN MONTOYA: Okay, so a new water quality test.

COMMISSIONER HOLIAN: On the 500-foot well.

MS. VAZQUEZ: Commissioner, the water quality test was just completed.

COMMISSIONER STEFANICS: On the 800.

MS. VAZQUEZ: On the shallow well. On the existing Kingsmill well.

COMMISSIONER HOLIAN: Oh, okay.

MS. VAZQUEZ: So the water quality report that was just done was done on the Kingsmill, the original Kingsmill well.

COMMISSIONER STEFANICS: The motion is for the CDRC to look at the most current water test on both wells.

COMMISSIONER HOLIAN: Both wells.

CHAIRMAN MONTOYA: Okay. And with the two new conditions, or are you going to leave those out?

COMMISSIONER HOLIAN: About what?

CHAIRMAN MONTOYA: Well, a 30,000-gallon water storage tank would be required for fire protection and sprinkler systems will be required in each residence for the Urban Wildland Interface Code. Okay. So we add those two conditions, and do we take the two that have been done out?

MS. COBAU: Mr. Chair, that certainly makes sense. If they've met those conditions there's no reason to include them.

CHAIRMAN MONTOYA: Okay. So we were told by staff that those conditions have been met, correct?

MS. LUCERO: Yes, Mr. Chair, that's correct.

CHAIRMAN MONTOYA: Okay. So 15 and 16 will be eliminated. 17 and 18 will take the place of 15 and 16, and we'll add 17, which will be the water quality test on



both wells. Commissioner Anaya.

COMMISSIONER ANAYA: Yes, Mr. Chair. Did I hear from staff that the applicant followed everything that the County asked them to?

MS. COBAU: Mr. Chair, Commissioner Anaya, we've met with this applicant on this subdivision numerous times over maybe the last year and a half, and they have been very willing to do everything we asked regarding road realignment, lot configuration, avoiding the floodplain, things like that. With this subdivision it's always just been water. And they drilled another well and tested the well based on what our County water staff wanted. So I think the answer to that is yes. They have been working diligently with staff.

COMMISSIONER ANAYA: So they've done everything that they've – our County Attorney who we rely on has said that there's water there, it's good water – it's not great water, but it's good enough water, and we're sending them back. I don't agree to that so I'm going to vote against it.

CHAIRMAN MONTOYA: Okay. Other discussion?

**The motion passed by 3-2 voice vote with Commissioners Holian, Stefanics and Vigil voting in favor, Commissioners Anaya and Montoya voting against.**

CHAIRMAN MONTOYA: The motion passes 3-2 so this will go back to the CDRC at their next meeting, Shelley?

MS. COBAU: I believe we'll have to renote it. Is that correct, Vicki? We'll have to renote it so we'll have to look at noticing deadlines.

MS. LUCERO: That's correct. More than likely it won't be going until February.

CHAIRMAN MONTOYA: February?

MS. LUCERO: At the earliest.

CHAIRMAN MONTOYA: Okay.

COMMISSIONER STEFANICS: Mr. Chair, just a comment.

CHAIRMAN MONTOYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: I'm happy to hear it back here as soon as it's done. I think that you can only beat something so much.

COMMISSIONER VIGIL: After it goes to CDRC can it come to us? Could it be at our next meeting? If it goes to CDRC in February can it come to our land use meeting in February?

MS. COBAU: No, because the CDRC February meeting occurs after the land use meeting of the BCC in February. So your meeting in February is on about February 9<sup>th</sup>, and the CDRC is more like February 17<sup>th</sup>.

COMMISSIONER VIGIL: So February 26<sup>th</sup> is our next meeting. Would it be available then?

MS. COBAU: We could bring it to the admin meeting if that's something that is agreeable to you at the end of February, conceivably, if we double notice it.

COMMISSIONER VIGIL: I think there's such administrative stuff that needs to be taken care of with CDRC. I think if you could expedite it I would recommend that. So for the admin meeting, is there any opposition to that? We'll just have to advertise it as a public hearing. So hopefully you'll be back before us February 26<sup>th</sup>.

MS. VAZQUEZ: I have a question. May I ask a question?

CHAIRMAN MONTOYA: Sure.

MS. VAZQUEZ: There's no requirement for CDRC to actually view the site, but I'm wondering if there's a possibility if there could be a request. And I don't know, because this might prolong the issue more, but I think one of the issues that was raised by a lot of people is they didn't know the topography out there. They didn't see it. If it could be done within the time frame so we could get back to you by February 26<sup>th</sup>, if it could be a suggestion that they view the site.

COMMISSIONER VIGIL: Actually, that's what we just recommended, Ms. Vazquez.

MS. VAZQUEZ: For them to view the site?

COMMISSIONER VIGIL: The CDRC?

MS. VAZQUEZ: Yes. To view the site.

COMMISSIONER VIGIL: Oh. That's your request? I don't think we can impose that on them. But certainly you're welcome to bring in as much displays and demonstrations to identify that.

MS. VAZQUEZ: All right. So thank you for trying to expedite this in bringing it back to you. We appreciate that very much and we'll do what we can at CDRC. Thank you.

COMMISSIONER VIGIL: Thank you.

CHAIRMAN MONTOYA: Thank you.

- XV. A. 12. **CDRC CASE # VAR 09-5160 Hume Variance.** Jane Hume, Applicant, requests a variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow a Family Transfer Land Division of 5.00 acres into two lots. The property is located at 48 Apache Plume Road, within Section 29, Township 16 North, Range 10 East (Commission District 4) John M. Salazar  
*[Exhibit 7: Supporting Material]*

CHAIRMAN MONTOYA: I don't have any information –

MR. SALAZAR: Mr. Chair, that was placed in the pocket of your packet. The front pocket.

CHAIRMAN MONTOYA: Okay.

MR. SALAZAR: So Mr. Chair, so as not to hog the whole night I let my fellow co-workers go to break it up a little so you wouldn't be bored by me. On October 15, 2009 the CDRC met and acted on this case. The decision was to recommend approval of the requested

variance by a 4-3 vote.

Jane Hume, the applicant, is requesting a variance of Article III, Section 10. She would like a family transfer to divide the land into two 2.5-acre lots. Article III, Section 10 states the minimum lot size in the area 20 acres per dwelling unit; lot size may be reduced to 5.00 acres with community water, which the subject property is on. The applicant is requesting this variance so that she may leave some property to her son.

There are currently two homes and a studio on the property. The applicant occupies one residence with a studio and her son occupies the second residence. The property is served by Sunlit Hills Water System and two conventional septic systems. Enclosed in Exhibit G is a service agreement which has not been executed. This would give a second meter to the property. It would give the second residence its own meter actually. Sunlit Hills Water agreed if the applicant were to receive the variance they would hook the second home up on its own separate meter.

The CDRC recommends that the request for a variance be approved. As mentioned, Article III, Section 10 states that the minimum lot size is 20 acres per dwelling unit. It can be reduced to five acres with community water. Should the BCC decide to approve this variance staff recommends the following conditions. Mr. Chair, may I enter those into the record?

[The conditions are as follows:]

1. The applicant shall apply for a small-lot family transfer with the Santa Fe County Land Use Department.
2. Water use on the property shall be restricted to 0.25 acre-feet per year for each lot.
3. Annual water meter readings shall be submitted to the Land Use Administrator every January.
4. Further subdivision of the subject property shall be restricted after the family transfer is completed.

MR. SALAZAR: I'll stand for questions from the Commission.

CHAIRMAN MONTOYA: Questions for staff? Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. So, now in this case, because they can be on community water, could they do a family lot split and get down to 2.5 acres?

MR. SALAZAR: Mr. Chair, Commissioner Holian, since the minimum lot size is five acres with community water that's the lowest it can go even through the family transfer. That's why we're here tonight to see if the applicant can get the 2.5 acres.

COMMISSIONER HOLIAN: Because I don't quite understand. You say that people can get down to 2.5-acre lots if they prove they have water. Well, in this case they do have water.

MR. SALAZAR: Mr. Chair, Commissioner Holian, Karen Torres isn't here but I don't believe Sunlit Hills has done a – have they done a test to prove 100-year supply?

MS. COBAU: Mr. Chair, Commissioner Holian, John, I don't think so. I think the only recognized systems we have now are Entranosa down in Edgewood, and I believe



Eldorado recently. I don't believe Sunlit Hills has given us the documentation to demonstrate they have the availability or ability to deliver a 100-year water supply to all their customers.

COMMISSIONER HOLIAN: Okay. Thank you.

CHAIRMAN MONTOYA: Any other questions for staff? Commissioner

Holian?

COMMISSIONER HOLIAN: No.

CHAIRMAN MONTOYA: If the applicant would come forward and be sworn in please.

[Duly sworn, Jane Hume testified as follows:]

JANE HUME: I'm Jane Hume. Good evening Chairman and Commissioners. Thank you for being here at this late hour. Although I am well aware that many people in our community who have had multiple hardships in 2009 and I had a lot of evidence of that tonight with listening to other people. I come to you to request that you approve my lot split family transfer as a hardship case as well. In June of 2009 I lost my husband of 35 years. He was terminally ill for a year and a half. My son and I were his major caregivers and I'm a realtor and I couldn't really dedicate a lot of my time to my real estate agency business.

I was left with no life insurance and incredible medical debt. If I'm not permitted to split my lot I will possibly leave my home leaving nothing to my son or a place to live. Since I am a realtor I was able to research other properties in my subdivision that are on less than five-acre parcels. On my street along, Apache Plume, there are four such properties on lots varying from 1.001 acre to 4.9. There are two 2.5-acre lots. There are an additional five properties of less than five acres on Timberwick Road.

Sunlit Hills III is a very rural area with no covenants or homeowners association. We built that home while living in the trailer for six years. It's a beautifully well constructed 2300 square foot home with many aesthetic details. My husband was an artist as well as a realtor. Dwight and I move to Santa Fe 17 years ago with our son and we have become very involved in Santa Fe, and we have made many treasured friends here. In fact several of my neighbors are still here with me tonight to speak in my behalf. My hope is that Santa Fe will continue to be the supportive community that caused us to relocate here from Texas. The density will not change and I agree with all the staff recommendations. And with your permission I would like to give you a little packet that shows the other homes that are less than five acres. *[Exhibit ???]*

CHAIRMAN MONTOYA: Sure. Any questions for the applicant.

Commissioner Holian.

COMMISSIONER HOLIAN: Mrs. Hume, my deep condolences on your loss. I read about it in the newspaper. I was very sorry to hear that. I don't totally understand why you want to divide the lot. Why you cannot just leave the lot to your son as is.

MS. HUME: I don't think I understand. It's on a five-acre parcel right now and there is a house on that. My mortgage is almost \$5,000 a month. So my hope was that if I could divide it into two 2.5-acre parcels I could possibly sell my house for what I owe. I owe about \$650,000 on my house. And it's really a tough nut right now because I'm trying to catch up with as much of my indebtedness that I have. So I was in the hopes that if I could sell my house

for \$650,000 – I don't think I could sell it for any more than that in this market – then I could have the 2.5 acres and my son and I could live in the trailer on the 2.5 acres. And that would be then my son's only inheritance, since my husband did not have life insurance, and this is really our only asset.

COMMISSIONER HOLIAN: And have you talked to your neighbors. That is an area that has mostly five-acre lots.

MS. HUME: I have two of my next-door neighbors with me today, speaking on behalf and they are very favorable. I sent out my letters and I don't think that we have gotten any objections. I'm not sure. There is a lot right across the street on Apache Plume directly across from Ken and Jane Johnson, and that's the 1.01-acre lot. So there's a lot of diversity as far as lot size in that particular area.

COMMISSIONER HOLIAN: Okay. Thank you.

CHAIRMAN MONTOYA: Any other questions for the applicant? Okay. This is a public hearing. Thank you, Ms. Hume. We will have people that are going to speak. Maybe you can all get sworn in right away, if you'd please stand.

[Duly sworn, Debbie Avivi testified as follows:]

DEBBIE AVIVI: My name is Debbie Avivi. I live at 46 Apache Plume. We're right next door to Jane. My husband is an artist and he and Dwight, Sr. who passed away were good friends and they spent a lot of time in their studios and talking over the fence and I can tell you that we know it was Dwight's intention to leave this property to his son. I know we're asking for flexibility in rules and regulations here but I believe in Santa Fe we have this flexibility in order to benefit our community. And I can tell you that by being able to keep Jane and her son in our community it's a great benefit for all of us.

I can also tell you that I lost a horse last week and I walked every acre of Sunlit Hills for days. And I saw many houses on less than five-acre lots. And I would truly hope to believe that if we allow other people to be on less than five-acre lots that we could allow Jane and her son to be on a less than five-acre lot in order to ensure that they remain in our neighborhood. Thank you.

[Previously sworn, Ken Johnson testified as follows:]

KEN JOHNSON: My name is Ken Johnson. I'm with my wife Jane here. We're in rather a unique position. This land used to be ours. I sold the five acres to Dwight and Jane. I didn't put that land on the market; I talked them into buying it. And I did so because I wanted good neighbors around us. For about ten years we had two good neighbors, Dwight and Jane. Now we only have one and with your help we would like to keep her. Thank you.

CHAIRMAN MONTOYA: Thank you. Okay, this public hearing is closed. Questions for staff or for the applicant? Commissioner Vigil.

COMMISSIONER VIGIL: On the recommendation of staff, it's again saying BCC recommends. I'm sure that's CDRC.

MR. SALAZAR: I had BCC on the mind, Commissioner Vigil.

COMMISSIONER VIGIL: Okay. What is staff recommending?

MR. SALAZAR: Staff originally recommended denial to the CDRC, just

because our Code states a minimum of 20 acres and five acres with community water.

COMMISSIONER VIGIL: Okay. And so if the hardship exists here it's more of a personal hardship than a terrain hardship, right?

MR. SALAZAR: That's correct, Commissioner Vigil.

COMMISSIONER VIGIL: Okay. Thank you, Mr. Chair.

CHAIRMAN MONTOYA: Okay. Further discussion?

COMMISSIONER ANAYA: Move for approval.

COMMISSIONER STEFANICS: I'll second.

CHAIRMAN MONTOYA: Commissioner Anaya makes a motion for approval, with conditions?

COMMISSIONER ANAYA: With conditions.

CHAIRMAN MONTOYA: Okay, and second by Commissioner Stefanics.

COMMISSIONER ANAYA: I have one question.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Did you find your horse? Okay, good.

CHAIRMAN MONTOYA: Commissioner Holian.

COMMISSIONER HOLIAN: Mr. Chair, I would like to say that given the circumstances 2.5 acres is not inconsistent with a lot of the lots in the area and the fact that you already have two homes on there, I think it's entirely appropriate for us to grant this. Was this the baby horse that was lost that I heard about? Because there was another horse lost in Sunlit Hills too, just few days ago.

CHAIRMAN MONTOYA: Okay, enough talk about horses.

**The motion passed by unanimous [5-0] voice vote.**



**XVI. ADJOURNMENT**

Chairman Montoya declared this meeting adjourned at approximately 9:15 p.m.

Approved by:

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Board of County Commissioners  
Harry Montoya, Chairman

ATTEST TO:

VALERIE ESPINOZA  
SANTA FE COUNTY CLERK

Respectfully submitted:

Karen Farrell, Wordswork  
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