

**SANTA FE COUNTY**

**REGULAR MEETING**

**BOARD OF COUNTY COMMISSIONERS**

**July 10, 2007**

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 3:10 p.m. by Chair Virginia Vigil, 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 Virginia Vigil, Chair  
Commissioner Jack Sullivan, Vice Chairman  
Commissioner Paul Campos  
Commissioner Mike Anaya  
Commissioner Harry Montoya [3:30 arrival]

**Members Absent:**

[None]

**V. INVOCATION**

An invocation was given by John Michael Salazar from Human Resources.

[Due to audio difficulties, the initial part of the meeting is presented in summary form.]

**VI. APPROVAL OF THE AGENDA**

- A. Amendments**
- B. Tabled or withdrawn items**
- C. Consent Calendar: Withdrawals**

Roman Abeyta County Manager, announced the following changes to the agenda: addition of IX. B. Discussion of Santa Fe County Transfer Station Hours; tabling of items XII. A. 6, 12, 14, 15 and 16; and item XII. A. 13 was withdrawn. With those changes, Commissioner Anaya moved to approve the agenda and Commissioner Sullivan seconded. The motion passed

by 4-0 voice vote. Commissioner Montoya was not present for this action.

**VII. APPROVAL OF THE MINUTES:**

**A. June 12, 2007**

Commissioner Sullivan noted he had some typographical changes, and called the Commission's attention to the motion summaries on pages 45 and 86. On page 45, referring to BCC CASE # MIS 07-5220 Vista Ltd. Master Plan Extension, the summary read: "The motion to grant a two-year extension in BCC CASE # MIS 07-5220, with the condition that the applicant work with conditions as noted above passed by unanimous [5-0] voice vote." did not adequately reflect the complexities in the discussion. The same was true for case # Z 06-5030, and he suggested that in the future the motion summary simply record the vote.

With those amendments, Commissioner Sullivan moved to approve the minutes of June 12<sup>th</sup>. Commissioner Anaya seconded and the motion passed by 4-0, Commissioner Montoya was not present.

**VII. B. June 22, 2007, Special Budget Session**

Commissioner Anaya moved approval of the June 22, 2007 meeting minutes as submitted and Commissioner Sullivan seconded. The motion passed by 4-0 voice vote, Commissioner Montoya was not present.

**VIII. MATTERS OF PUBLIC CONCERN – NON-ACTION ITEMS**

Steven Rosenthal, president of the board of directors of the Vista Grande Library in Eldorado was present with 12 community members to express thanks to the Commission for their support.

Marilyn Bane, 622 ½ Canyon Road, president of the Old Santa Fe Association, spoke of the 15.4-acre property at the intersection of Old Las Vegas Highway and Old Pecos Trail that is scheduled for annexation by the City. She said the annexation circumvents the RPA procedure and in appropriate zoning and density. She submitted for the record e-mail responses to a petition in opposition. *[Exhibit 1]*

[Verbatim begins.]

MARILYN BANE: If you have the opportunity to comment and recommend to our City Council as to how you feel about this. We urge you to not recommend this and to feel free to make any comments that you would like in opposition. We would support you any way that we can. I have, and the people here who will also be speaking have many different

signatures of many different areas of people. Mine, strangely enough, happen to come largely from the county.

Whether it is Arroyo Hondo, Sunlit Hills, Seton Village, Old Las Vegas Trail, Old Santa Fe Trail, to a person there is opposition to this. If you would like, Mr. Abeyta, if you would like copies of the petitions that I have I'll be glad to supply them to the County if that would be helpful. We will be speaking, if it goes to the City Council as planned on August 8<sup>th</sup>, we will be speaking on behalf of that then. Neighborhood associations who have not been contacted or have not had the opportunity to have their board meetings to get votes will be contacted this week. So I believe that there will be an even greater groundswell of support for denying this. Thank you for your time and your patience. I appreciate it.

CHAIR VIGIL: Thank you, Ms. Bane. You may give the petitions to our recorder who can make it a part of the record.

MS. BANE: I'll be glad to. May I have copies of them? I appreciate it.

CHAIR VIGIL: Thank you. Next.

TERESA SEAMSTER: My name's Teresa Seamster, and my address is 104 Vaquero Road, which is off of 285 South. Just to continue what Marilyn Bane has suggested, I have a petition from a number of people who live in a variety of subdivisions and homeowners associations out in the county who are opposed to any spot annexation by the City of County land, regardless of what the use is. I have a letter here from the Old Las Vegas Highway Community Task Force. I'm a representative of that group. We've been working with the New Mexico DOT for three years on a redesign and re-landscape of Old Las Vegas Highway. That project is not complete as yet and we still have money available to us from the DOT for landscaping and possibly for some historic signing and heritage tour information.

So I can read this letter, but I think since you have such a busy agenda it would be better for me just to simply hand it in. *[Exhibit 2]* It does represent East Ranch in Lamy, 285 South, the Ridges, Eldorado, Rancho de Bosque in Lamy, Eldorado again, Ranchitos de Santa Fe, Tierra de Costa, Rancho Escondidos, Old Ranch Road and Los Vaqueros. So those are the people who have signed this, and these are all representatives who could take petitions back to their neighborhoods and bring back a lot more signatures. Right now they're just the 11 of us on it. Thank you very much.

CHAIR VIGIL: Thank you, Ms. Seamster. You may give those to our recorder. Good afternoon. Please state your name.

ANN LACY: Good afternoon. Ann Lacy. I live at 81 Old Agua Fria Road. Commissioner Vigil, Commissioners, I wanted to very briefly give a little background. The community, I mean the community of Santa Fe and Santa Fe County, have spent over 10 years collaborating with the City of Santa Fe, Santa Fe County, the state legislature, and many private organizations and neighborhood associations in designing, redesigning and preserving Old Pecos Trail, Old Las Vegas Highway, and the gateway at the corner.

Because we have spent over 10 years designing this area, we're really disturbed that suddenly, without much warning, a good chunk of the area and big change near the corner might

be a possibility. Because it's an annexation request, we see that this is the beginning of the end for all of Old Las Vegas Highway, because without some kind of way for the community to collaborate with all the governments and the Department of Transportation, I think we're looking Old Las Vegas Highway being commercialized from Old Pecos Trail all the way to 285.

At the time that the gateway was preserved and over \$600,000 was raised by the community – it took about three years – we were able to actually raise over \$300,000 which was matched with COLTPAC. We actually had an extra \$40,000 and went back to the donors and asked them what they wanted to do with the money they had donated. Did they want it back? And they said, no. We have given this money and it has bought that acreage at the corner for preservation, the last uncommercialized entrance into Santa Fe, but we would like you to take this money and use it someplace else in town. So that money has actually gone to projects in the southeast portion of town along the river, where it's still being used and it's been pretty valuable in helping to raise money for a river corridor.

So with that I guess I just want to say that the efforts at Old Pecos Trail and Old Las Vegas corner, as a commercialized gateway is very much like a commons. We see it as something that the entire community not only enjoys but finds of value. That has been a springboard for other very valuable communal areas in town and we're really hoping that there's some way that as a community that collaborates with the City, the County, the state – state legislators gave \$150,000 to buy part of this corner – that we can keep planning with the County and the community. So I'm hoping that you'll look at this annexation as a problem, not just here but countywide, and somehow assist us participants in really trying to do some long-range planning and collaboration. Thank you.

[Commissioner Montoya joined the proceedings.]

CHAIR VIGIL: Thank you, Ms. Lacy. And welcome, Commissioner Montoya.

COMMISSIONER MONTOYA: Thank you.

MARLA THOMPSON: Hello, I'm Marla Thompson and I live at 2101 Old Arroyo Chamiso. I'm here today representing the Arroyo Chamiso-Sol y Lomas Owners Association. Our association represents DeVargas Heights, DeVargas Heights South, Sol y Lomas, Arroyo Chamiso and Quail Run. We too as an association are here asking for your support in not recommending this annexation along Old Las Vegas Highway. We participated in the big effort that Ms. Lacy just spoke about, trying to preserve that area, preserve that gateway, that entrance to our historic city.

I commend the County for the actions it's taken in its success last Friday with the District Court action and we hope to see more success. I think that they all spoke very well. I'm not going to repeat it, but I too have not spoken to anyone who approves of this spot zoning that the City seems to be doing. So thank you for your efforts and we appreciate your support. I have petitions of 107 that I'd like to submit to the record. *[Exhibit 3]*

CHAIR VIGIL: Please do. Thank you Ms. Thompson. Is there anyone else out there would like to address the Commission on matters that are not a part of the agenda today? Seeing, hearing none, thank you all for coming before us. We appreciate your comments.

Commissioner Campos.

COMMISSIONER CAMPOS: I have a question for Mr. Abeyta. Have you received a letter from the City of Santa Fe asking for comment on this particular annexation request?

MR. ABEYTA: Madam Chair, Commissioner Campos, we did when this application was first submitted. It's been several months now, but we did send a reply to the City objecting to it and letting them know we would like to honor the RPA process before they consider annexation.

COMMISSIONER CAMPOS: The RPA process is no piecemeal annexations.

MR. ABEYTA: Right.

COMMISSIONER CAMPOS: Until we have a regional annexation plan.

MR. ABEYTA: Yes.

COMMISSIONER CAMPOS: Okay. I'd just like to briefly comment that I have talked to Mr. Loftin. Months ago he asked me about this project and I suggested to him that I thought it was a bad idea at this place. Piecemeal annexation always is bad zoning, bad planning, and that we had an RPA plan in hand that we were trying to work on and that it would be helpful if we had cooperation from all folks so that we could actually move forward with an annexation plan that made sense to the community, not just for one landowner. I'm concerned about the encroachment of this annexation into the county which is essentially a rural area, which is an important entrance into the community.

I think the Commissioners should make an attempt to talk to your fellow Councilors and the Mayor and discuss this issue because it's of great important to our planning and to our general public policy by annexation and planning. Thank you, Madam Chair.

CHAIR VIGIL: Any other questions or comments? Seeing, hearing none, thank you all. I just have a real quick question. Any of you who spoke to us, have any of you learned about when the next Regional Planning Authority meeting is? Mary Helen Follingstad is the executive director of that. If you would contact her, we have been discussing annexation and I think that your voices need to be heard in that particular authority so you may.

COMMISSIONER MONTOYA: July 19<sup>th</sup>, Madam Chair.

CHAIR VIGIL: Is it July 19<sup>th</sup>? Okay.

COMMISSIONER MONTOYA: 4:00.

CHAIR VIGIL: You can call the County Manager's office and they'll direct you to it. Thank you all.

## **IX. MATTERS FROM THE COMMISSION**

### **A. Resolution No. 2007-106. A Resolution that is Presented to Stand in Opposition of Proposed Decreased Federal Budget Appropriations Related to the Operations of the Los Alamos National Laboratory (Commissioner Montoya)**

COMMISSIONER MONTOYA: Thank you, Madam Chair. This was a topic of discussion that occurred during the intergovernmental summit that we had a couple of weeks ago. The majority of the officials there, elected and non-elected, asked that we draft a resolution which would essentially ask Congress to not cut anywhere from – and I see Bill Heinbach in the audience. Bill, is this \$100 or \$300 million. Is that correct? That's being proposed right now?

BILL HEINBACH: It's between \$100 and \$400 million cut.

COMMISSIONER MONTOYA: \$100 to \$400 million cut. So all of the other elected bodies, the City of Española, the City of Santa Fe, have been requested to do this, as well as the Pueblos. And again, what we're asking is that they not cut any of this because it will impact us tremendously in terms of the gross receipts tax that Santa Fe County currently receives as a result of Los Alamos National Laboratory. So I would stand for any questions and move for approval.

CHAIR VIGIL: Motion. Is there a second?

COMMISSIONER SULLIVAN: Second.

CHAIR VIGIL: Motion and second. Is there any questions or further discussion?

**The motion to approve Resolution 2007-106 passed by unanimous [5-0] voice vote.**

COMMISSIONER MONTOYA: Madam Chair, just so the Commission knows, we will forward a copy of this to our congressional delegation as well as to the elected bodies that are going to be making the decisions on exactly how much funding Los Alamos will be receiving. So it will go to those congressional committees as well.

CHAIR VIGIL: Thank you, Commissioner Montoya. Before we move on to item B, I just want to announce Mr. Heinbach did leave the Los Alamos National Laboratory's summary document on their achievement, and those are right next to your packets on your desk. Thank you for bringing that, Mr. Heinbach.

**IX. B. Discuss Santa Fe County Transfer Station Hours (Commissioner Anaya)**

COMMISSIONER ANAYA: Thank you, Madam Chair, members of the Commission. I've had a few people call me in regards to why the transfer stations are closed for lunch. I tell them our transfer station employees need to eat lunch at some time, but I also can – they said, well, sometimes we can only get off at lunch and take our trash to the transfer station and it would be more convenient for the residents of Santa Fe County if we could possibly look at something to keep the transfer stations open during lunch, maybe

alternate employees in terms of times they do go to lunch.

I just wanted to bring that up to see if we could accommodate our constituents out there better. I'm involved and the County has been involved with illegal dumping and illegal dumping task force, and now we're starting to do a statewide illegal dumping task force. It would eliminate by opening up the transfer stations and making it more accessible to the public I think that maybe we should talk about it and see what we can do with our Public Works Director to come up with some ideas on how we can make it more efficient for our residents. I stand for any questions.

CHAIR VIGIL: Any questions?

COMMISSIONER MONTROYA: Madam Chair, I think that makes sense. If we were to have the employees rotate rather than – I try to do that in my own office so that we're open 8:00 to 5:00 and there's no break in between so employees alternate during the lunch hour. That would make sense because sometimes it is inconvenient when you're in the middle of doing something and then you have to wait the whole hour or 45 minutes before you can go to the transfer station, so I'd like to see that.

CHAIR VIGIL: I'm going to recommend, Roman – actually there were other issues that were brought up in the previous meetings so perhaps we need to set an agenda item on cleaning up some of what needs to be cleaned up in solid waste. One of the issues that I brought up was there are many residents who go there to deliver recyclables and they're charged against their coupon. I wonder if that's discouraging recycling and if it is in fact, should we be doing that?

So those kinds of things need to be clarified and so perhaps a future agenda item where all our concerns can be addressed.

MR. ABEYTA: I'll do that, Madam Chair.

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

CHAIR VIGIL: Commissioner Anaya, do you have any specific matters?

COMMISSIONER ANAYA: I'll pass.

CHAIR VIGIL: Okay, Commissioner Sullivan.

COMMISSIONER SULLIVAN: Madam Chair, just quickly. First of all, thanks to the volunteers and the supporters of the Vista Grande Library who were here this afternoon and for all they've done for the entire 285 area in providing that wonderful service out there that's been expanding and just meeting a tremendous need. So we appreciate your being here and appreciate all of your efforts and we'll try to double your salary next time around. In fact we'll guarantee that.

CHAIR VIGIL: He's saying that because he's not going to be here to vote on it.

COMMISSIONER SULLIVAN: I'm also saying it because they don't get any

salary and two times zero is zero.

CHAIR VIGIL: We could double that.

COMMISSIONER SULLIVAN: Other than their director. But the other item is a quick question to Roman. We talked at our meeting on June 12<sup>th</sup> about coming up with a complaint procedure for the public to file a complaint about a particular County individual or an action. This came up in the discussion of the transfer station. Have we made any progress on that?

MR. ABEYTA: Madam Chair, Commissioner Sullivan, nothing to report at this time but we're looking at several different options. So I'll have something for you by the next meeting.

COMMISSIONER SULLIVAN: Okay. Again, my interest was in getting someone who calls in and says I don't like this or I have a complaint against that, and have them be more specific and if they feel strongly about it to put it down in writing and get it to you so you can take some definitive action, rather than just dealing with hearsay. I think that's important.

Then the last thing, Madam Chair, also at our June 12<sup>th</sup> meeting we talked about the wastewater study that's ongoing and I had some strong thoughts that we needed to ensure that that looked at what would be involved in the Route 14 area to develop a regional network of infrastructure, particularly a spinal system that the County could move forward with and then recoup the costs subsequently as developments take place. And I just wanted to ask Doug or Dr. Wust or whoever's here if we've made any progress or if the consultant has any recommendation on that.

DOUG SAYRE (Utilities Director): Commissioner Sullivan, we have – we addressed some of your specific questions with the consultant, ASCG, and they are due to submit their first draft of that feasibility study, I believe it's on Thursday of this week, so we'll look into that to make sure that those specific concerns are addressed and how we do that. I think what we discussed is the financial aspect of this. We wanted to have him present some things and then we would come back to him about how we see the infrastructure and the plant can be financed or supported with I guess the way developments are possibly occurring in that State Road 14 area, so we'll be looking into that, very definitely.

COMMISSIONER SULLIVAN: Okay. Again, my theory being this undertaking, the plant expansion, or actually a new plant, plus the trunk lines is beyond the capacity probably of any one developer and so I think here's where the County has the duty to step in and put in that spinal system and then recoups the logical costs, recoups the cost of the plant operations and so forth through wastewater fees, but it can also recoup the trunk line costs and connection costs through agreements with developers as they come forward. I think that's the only way we're ever going to truly get off the dime on this regional wastewater and it sounds like you're moving that way on the study.

MR. SAYRE: Madam Chair, Commissioner Sullivan, I certainly agree and that's what we'll look at addressing about doing that.



COMMISSIONER SULLIVAN: Thank you, Madam Chair. That's all I had.

CHAIR VIGIL: Commissioner Campos.

COMMISSIONER CAMPOS: I'll pass at this time.

CHAIR VIGIL: Commissioner Montoya.

COMMISSIONER MONTOYA: Thank you, Madam Chair. Speaking of wastewater, we had a site visit yesterday, went down to Willard, which is in the heart of New Mexico. At least that's what the sign said. Population about 30. It's a pretty small place, but they had a pretty impressive wastewater system and then one that I think Doug might agree would work in the Sombrillo area with the funding that we have, so we're taking a look at the potential. Go ahead, Doug. You can supplement what I say. Looking at the potential of where these would be located, because we do need probably about a quarter of an acre to put in that type of a system. Doug, do you want to add anything?

MR. SAYRE: Madam Chair, Commissioner Montoya, we certainly we're I think impressed and enthused about a cluster type of wastewater system that Willard put in, because it went into an older community and addressed a lot of the needs and also put in a treatment system that was more affordable for the people rather than say maybe a central, complete collection system with a central treatment plant. So I think we can certainly look into this, look at this aspect, especially for some of these northern communities such as Sombrillo or Chimayo or some of these other areas that need wastewater treatment facilities.

This certainly provides a means and ways to get it accomplished, and I agree with you.

COMMISSIONER MONTOYA: Yes. They're very affordable, looking at probably about a third of the cost. Is that about right?

MR. SAYRE: I think it was two-thirds of the cost, wasn't it. I think the central treatment plant was going to be about \$1.6 million and they came in with about \$900,000 for this complete system, which is about 2/3 the cost.

COMMISSIONER MONTOYA: Certainly I think something that we need to consider when we look at the development of wastewater systems in this cluster manner.

And then the second thing, Madam Chair, the reason I was late is I got detained at the jail, not because I couldn't make bail –

CHAIR VIGIL: They finally caught up to you.

COMMISSIONER MONTOYA: I was doing a site visit, and Madam Chair, I've got to say that from the time that I last visited the jail, which was probably about a year and a half ago to the time that I walked in this afternoon, it just felt totally different. The environment was a lot more friendly. People greeted you with a sincere welcome. That's how I felt. It was just a completely different feeling than what I had when I visited the last time. Unfortunately, I didn't have enough time to go through the facility but I would encourage the rest of the Commissioners to go take a look and visit with some of the staff. I certainly feel like the hard work and the commitment this Commission has put towards that jail is paying off. It's like I said, it felt a lot different and a lot better.

CHAIR VIGIL: Anything further, Commissioner Montoya? Thank you.  
Commissioner Anaya.

COMMISSIONER ANAYA: I'll pass.

CHAIR VIGIL: And Commissioner Campos.

COMMISSIONER CAMPOS: I'm done.

CHAIR VIGIL: I just want to ask a quick question. The City is moving forward on ENN meeting for the Southwest Sector Plan. Do we have staff planners that are participating in that?

MR. ABEYTA: Madam Chair, I don't know if we're actually attending the meetings but we are gathering information. If you'd like, we can send staff to those meetings, see what we can do to accommodate that.

CHAIR VIGIL: I think it probably would be wise to monitor the meetings because a lot of the decisions that are going to be made are going to cross-impact both county and city residents particularly in the traditional historic village of Agua Fria. One of the concerns that I particularly have is whether or not the Southwest Sector Plan actually complements or coincides with the Arterial Roads Task Force. I did get some information on that from Judy McGowan, but the problem that the residents in that southwest sector are having are traffic. What this piecemeal annexation that's occurred with the San Ysidro Village and other proposed annexation are doing to the traffic there. I know the City requires that traffic studies be done but I'm concerned how comprehensive those traffic studies are, how much input the County has in those.

So I think all of that information needs to be a part of our understanding and our representation at the southwest sector ENN meetings. Okay. Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Madam Chair. I have one issue and that is Representative King for the last four or five years has been getting money from the legislature to help us remodel the grandstand at Madrid Ballpark, which is about ready to fall down. It's probably one of the first – or it was the first lit ballpark in the country. And I just want to know where we're at with that. So does Representative King. We don't want anybody to get hurt there. I know that staff has been talking with the Town of Madrid to either find out if they're going to donate the property to us, so that we can start using that money to start rebuilding that grandstand, and I just would like to get a follow-up on what's happening. Thank you, Madam Chair.

MR. ABEYTA: Madam Chair, we'll look into that and get with Commissioner Anaya by tomorrow.

CHAIR VIGIL: Thank you, Mr. Abeyta. Now we'll go on with the Consent Calendar. I did ask early, Commissioner Montoya, you weren't here. There's only two item on that. Are you wanting to remove any one or discuss.

COMMISSIONER MONTOYA: Both of them. No, I'm just kidding.

**X. CONSENT CALENDAR**

**A. Miscellaneous**

- 1. Resolution No. 2007-107. A Resolution Requesting Approval of the Fiscal Year 2008 Final Budget**
- 2. Resolution No. 2007-108. A Resolution Authorizing the County to Relinquish Ground Lease No. BL-1505 With the State Land Office for the County Business Park; Delegating Authority to the County Manager to Execute Relinquishment Document**

COMMISSIONER MONTOYA: Move for approval.

COMMISSIONER SULLIVAN: Second.

**The motion to approve the Consent Calendar as published passed by unanimous [5-0] voice vote.**

**XI. STAFF AND ELECTED OFFICIALS' ITEMS**

**A. Matters from the County Manager**

**1. Update on Various Issues**

MR. ABEYTA: Madam Chair, the only thing I have is we received a letter regarding Santo Domingo Pueblo and their intentions on incorporating more property into their Pueblo limits. We have spoken with them. They don't have any plans right now for that property. They definitely do not have any plans for a casino or anything like that. So we're in discussions with them, but we feel comfortable that there are no plans for anything in the immediate future. And I'll keep the Commission updated as we get more information from them.

COMMISSIONER MONTOYA: Madam Chair.

CHAIR VIGIL: Commissioner Montoya.

COMMISSIONER MONTOYA: So, Roman, does that mean that we'll send forward a letter supporting their request to place that land in trust?

MR. ABEYTA: Yes. But I'll be sure to run that by the Commission before we sent it off.

COMMISSIONER CAMPOS: Madam Chair.

CHAIR VIGIL: Commissioner Campos.

COMMISSIONER CAMPOS: Would you identify the land? Where is this

land?

MR. ABEYTA: Madam Chair, Commissioner Campos, this land is along I-25 as you go down La Bajada Hill, if you're heading towards Albuquerque, on your right-hand side. It's 2300 acres. So it runs from there all the way into Santo Domingo Pueblo, and then north to the southern end of the Santa Fe Canyon Ranch property.

COMMISSIONER CAMPOS: I assume no decision has been made as to whether to oppose or favoring the action.

MR. ABEYTA: No. No. But I think the main concerns that some of you have raised with me is just the proposed use for that land. And like I said, right now, in our discussions with them, they don't really have any concrete plans but as we get more information I'll share that with you.

COMMISSIONER CAMPOS: If they didn't have concrete plans why would they be moving forward with their proposed conversion?

MR. ABEYTA: It sounds like they just want to increase the size of their Pueblo and protect that property, from what they're discussing.

COMMISSIONER CAMPOS: This is a process that involves the BIA?

MR. ABEYTA: Yes.

CHAIR VIGIL: Commissioner Sullivan.

COMMISSIONER SULLIVAN: What Pueblo is that?

MR. ABEYTA: Santo Domingo Pueblo.

COMMISSIONER SULLIVAN: Santo Domingo Pueblo. And what benefits does putting it in trust give to them?

MR. ABEYTA: I'll have to ask Steve to answer the question.

MR. ROSS: Madam Chair, Commissioner Sullivan, it relieves them from exposure to state and local taxes, for one thing. It protects the Pueblo from, particular to the County, our land use regulations.

COMMISSIONER SULLIVAN: So in that 2300 acres anything could be developed that they saw fit and any water use could be undertaken, notwithstanding our hydrologic requirements.

MR. ROSS: That's correct. It becomes a part of the Pueblo.

COMMISSIONER SULLIVAN: I think that's a pretty big concern. I'd feel uncomfortable putting forward a letter of support even if they don't have any immediate uses for the land, but to have that much of Santa Fe County deleted from our Code and from our stringent water protection requirements would raise a red flag for me at least.

MR. ROSS: Madam Chair and Commissioner Sullivan, the procedure is the letter comes in from BIA and they ask specific questions, and there are four questions. Is it on the tax roles right now? is one of them. What is the current use of the property? What are the County services that currently benefit the property? The letter that goes back to BIA simply answers those questions and BIA weighs the answers to those questions. In conjunction with the answers they receive from the governor's office, because they've also

received a letter, and from the other counties that are affected, and make their own decision.

So the letter wouldn't support the application, it just merely would answer these four questions.

COMMISSIONER SULLIVAN: And this land is already owned by the Santo Domingo Pueblo?

MR. ROSS: That's right.

COMMISSIONER SULLIVAN: Well, that same issue came up when we were reviewing the racetrack, and there was some discussion of the racetrack being put into trust for, not Santo Domingo Pueblo, but for the Pojoaque Pueblo. I know that – I think not having it in trust gave us an ability to deal with the issues that the neighbors had and to come to some agreement jointly with the Pueblo as to what we'd do out there. So I'd feel very uncomfortable having that island deleted from Santa Fe County. But as you say, that's not the issue that you're responding to now. You're just answering some specific questions. Thank you.

CHAIR VIGIL: Any further questions or comments? If you would keep us updated on that, Mr. Abeyta. I think my initial concern is to make sure that the county residents had some public input at some level, if that's at all possible, and not knowing what the BIA process is I wanted to provide that opportunity for Santa Fe County residents. Anything further from any of the Commissioners? Okay. And Mr. Abeyta, is there anything further from you?

MR. ABEYTA: That's all, Madam Chair. Thank you.

## **XI. Matters from the County Attorney**

### **1. Executive Session**

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

#### **b. Limited Personnel Issues**

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

#### **d. Discussion of Bargaining Strategy Preliminary to Collective Bargaining Negotiations with a Bargaining Unit**

CHAIR VIGIL: Can I ask you, Mr. Ross, how much time you approximate this will take. It is now 4:00. Public hearings, have they been noticed for 6:00 or 5:00?

MR. ROSS: Madam Chair, they're always noticed for 5:00. So we can do the best we can to get out. We have a lot of issues to discuss, so I would estimate an hour to an hour and a half.

CHAIR VIGIL: Thank you. Is there a motion?

COMMISSIONER CAMPOS: Madam Chair.

CHAIR VIGIL: Commissioner Campos.

COMMISSIONER CAMPOS: I move that we go into executive session on the ground noted by Attorney Stephen Ross.

CHAIR VIGIL: Is there a second?

COMMISSIONER SULLIVAN: Second.

**The motion to go into executive session pursuant to NMSA Section 10-15-1-H (7, 2, 8 and 5) to discuss the matters delineated above passed upon unanimous roll call vote with Commissioners Campos, Montoya, Sullivan, Vigil and Anaya all voting in the affirmative.**

[The Commission met in executive session from 4:00 to 6:15.]

CHAIR VIGIL: The meeting of July 10, 2007 of the Board of County Commissioners will reconvene. Is there a motion to come out of executive?

COMMISSIONER SULLIVAN: So moved,

COMMISSIONER CAMPOS: Where we only discussed items as noted on the agenda a, b, c and d. I'll second that.

CHAIR VIGIL: Okay. There's a motion and a second.

**The motion to come out of executive session passed by unanimous [4-0] voice vote.** [Commissioner Montoya was not present for this action.]

## **XII. PUBLIC HEARINGS**

### **A. Land Use Department**

- 1. Request Authorization to Publish Title and General Summary of an Ordinance Amending Article III Section 10, Article V Section 9, Article VII, Section 6.5 and Article X of the Land Development Code, Amending the Requirements for Community Water and Sewer Systems or Shared Wells for Subdivisions and Land Divisions; Repealing Previous Inconsistent Language (Commissioner Sullivan)**

COMMISSIONER SULLIVAN: Madam Chair, this is something that the staff and I have been working on for a number of months, primarily Penny Ellis-Green and Karen Torres with the Water Resources Department, and also Steve Ross. This does two things. One is that in the current Code we have a number of conflicting areas of language regarding water and community water systems and definitions and so forth that frankly this creates loopholes that can be a problem in good development review processes.

The other portion of this ordinance – and again, Karen is here and of course, so is

Steve. I don't see Penny but Penny did a great deal of work in getting all of these various sections codified. The other part is the table that is shown on page 2 of the ordinance, and that's a table that is currently in the ordinance. Primarily the changes in this table are to encourage – more than encourage, but require that when we have these subdivisions that are five and more lots that they have a community water system and that if they're under 2.5 acres in lot size that they also have a community liquid waste disposal system. If they're over 2.5 acres then they would only have to have community water.

This has been the area that we've had a great deal of problem in public health and safety in developments that are right on the periphery of the city in the county where rapid development is growing and dense development is growing, and we're seeing sprawl occur just for the purpose of getting around the need to have a community water system. I think we need to recognize that sprawl is not a good thing in these areas and a community water system is a fact of life. I think we would see more cooperation between developers in putting together joint lines to tie into the County system and finding solutions to connect into sewer.

So that's a primarily difference in how we would address water and sewer systems and I'll yield to staff for any other comments. Who's going to talk about that?

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: is there an amount of lot sizes, or not sizes, but amount of lots that it would pertain to?

COMMISSIONER SULLIVAN: Yes. That's on this chart. If you look at this chart, Commissioner Anaya, if you're in a small-lot development, two to four lots, there's no requirement for sewer or water. The only requirement, regardless of what the size of your lot is is that you have a shared well system, if you're more than one house. Once you get into the subdivision category that we normally see here, other than a couple of the large subdivisions, for example, like Rancho Viejo which already have sewer and water and so it's not an issue. Most of the subdivisions that we deal with are in the five to 24 category. What we want to see is we want to see community water systems begin to be put in place for those subdivisions. And that would be required in this category. Sewer wouldn't be required if they were over 2.5-acre lots, just the water.

COMMISSIONER ANAYA: On the well, when you say shared well, is it one well per two? Or one for four? What is your thinking there?

COMMISSIONER SULLIVAN: It could be either. If you look down at note 3 down at the bottom of that table, it says a shared well shall serve no more than four dwelling units. So it could be two, three or four.

COMMISSIONER ANAYA: Thank you, Madam Chair.

CHAIR VIGIL: Are there any other questions for Commissioner Sullivan? If not, did staff want to make any statements with regard to this? If not, I have questions for staff.

COMMISSIONER CAMPOS: Madam Chair.

CHAIR VIGIL: Commissioner Campos.

COMMISSIONER CAMPOS: Is there anyone from staff that would like to give us an overview and an evaluation?

CHAIR VIGIL: Has staff had the opportunity to do an overview and an evaluation on this?

MR. ROSS: Madam Chair, Commissioner Campos, a number of staff participated in drafting this.

COMMISSIONER CAMPOS: Anyone want to give us an overview and an evaluation of the proposed ordinance?

MR. ROSS: Well, I think the most important thing the proposed ordinance does is that it puts a lot of proposed developments on community water and sewer or community water systems that previously could have been served by some sort of a well system. So if the goal is to move a large number of people onto public or quasi-public water supplies. That's what this ordinance would do. I guess that's the central feature of an ordinance like this.

COMMISSIONER CAMPOS: I understand that. But what about water rights?

MR. ROSS: Water rights – the devil's in the details. A community system under our Code requires water rights. You can't use a 72-12-1 domestic well as a source for water for a community water system. You need to have water rights.

COMMISSIONER CAMPOS: That will be probably likely the most contentious issue.

MR. ROSS: I think for most people that is the biggest hurdle in doing a development is securing and transferring to a well the water rights. No question. It's expensive, time-consuming, difficult. And this ordinance would move that burden onto a larger class of developments.

COMMISSIONER CAMPOS: Okay. Thank you.

COMMISSIONER SULLIVAN: Madam Chair, just in response to that, that one issue. That's one of the reasons I didn't suggest we work on this until we had adopted an allocation policy. So we now have a water allocation policy that answers that five to 24 question for the smaller lot developments. We now have a policy that allows small developments to come forward and obtain water, at a fee, and in a priority process that the Commission determines, from the County without having to acquire water rights. They will pay us a fee to be determined by the BCC, and the BCC will use that money to acquire water rights more economically. We can negotiate for them and we can purchase them in a bulk rate more easily than individuals can, going out on the market, and that also prevents competition in the market, driving the price up with having lots of individual buyers out there running around, particularly those that don't know too much about how to purchase water rights.

So I think the water rights issue would have been a deal-killer before that allocation policy. With that now I think we've got really good balance on how we deal with both large and small.



CHAIR VIGIL: Commissioner Sullivan, have you had any feedback from water associations that are currently in existence?

COMMISSIONER SULLIVAN: I have not.

CHAIR VIGIL: Okay. Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, currently, right now, what is our status with two and four lots? They could put shared wells or they can put individual wells for each?

COMMISSIONER SULLIVAN: That's correct.

COMMISSIONER ANAYA: So that would be the change.

COMMISSIONER SULLIVAN: That would be the change for those.

COMMISSIONER ANAYA: Okay. So what's the change on the five and 24? That they can use shared wells? Right now?

COMMISSIONER SULLIVAN: On the five to 24 – is it okay if I respond, Madam Chair? On the five to 24, Commissioner Anaya, the change is that now they're required to have a community water system. See the A's across the chart?

COMMISSIONER ANAYA: What are they required to do now?

COMMISSIONER SULLIVAN: Now, they're not required to have a community water system. They can use domestic wells and they can daisy-chain those domestic wells together. In other words, they can drill two or three or four different wells and make them a little system which doesn't come under the Environment Department's review or doesn't come under their quality requirements or their reporting requirements. So we have these little systems developing out in the county that are not managed well and don't have Environment Department overview.

COMMISSIONER ANAYA: But they're following the Code.

COMMISSIONER SULLIVAN: They're following the current Code, yes. And that's – one of the issue is that with these individual wells daisy-chained together we have these makeshift systems that really aren't in the best public interest in terms of having good quality and reliable water.

COMMISSIONER ANAYA: And they're not required to put in a sewer system either.

COMMISSIONER SULLIVAN: That's correct.

COMMISSIONER ANAYA: Okay. What about 25 to 99? What is the current Code?

COMMISSIONER SULLIVAN: I'll have to check with staff. I don't believe there's too many changes on the 25 to 99.

MR. ROSS: Madam Chair, Commissioner Anaya and Sullivan, the only change on 25 to 99 is the A on more than 10 to 40. So a community water system isn't currently required for that classification of development.

COMMISSIONER ANAYA: I'm sorry. Say that again.

MR. ROSS: It's the column that has the title more than 10 to 40, and you go

down to the row that says 25 to 99, and there's an A there, that A isn't in the current Code.

COMMISSIONER ANAYA: Oh, okay.

MR. ROSS: So a community water system would be required for that category development and it isn't currently required.

COMMISSIONER ANAYA: Okay. So the change on the 5 to 24 is you would need a community water system and you would need a liquid disposal system. But right now you don't need those under 5 to 24.

MR. ROSS: Right.

COMMISSIONER ANAYA: Okay. Thank you.

CHAIR VIGIL: Any further questions? We can reserve them for later. This is a public hearing.

COMMISSIONER SULLIVAN: No, it's just title and general summary.

CHAIR VIGIL: It's listed and then noticed under public hearing. Is there anyone out there that would like to address the Commission on this. Please come forward. Ms. Guerrerortiz. Is there anyone else besides Ms. Guerrerortiz?

[Duly sworn, Oralynn Guerrerortiz testified as follows:]

ORALYNN GUERRERORTIZ: Hi. I'm Oralynn Guerrerortiz with Design Ingenuity, P.O. Box 2758, Santa Fe, New Mexico. Sorry, I didn't have a lot of time to think about this. I furiously wrote a few notes. I think that we actually dealt with this ordinance once before. It was proposed back in I think 2003. At that time it failed, but I think at point we presented several arguments which I'll try to remember.

There's a lot of different issues that Commissioner Sullivan covered. One of them was that water systems aren't regulated by the Environment Department for quality and things like that for some of the smaller developments. That's true, but requiring or calling a system a community water system doesn't mean anything from the Environment Department. The Environment Department regulates under the Safe Drinking Water Act, and it's 15 connections or more, or 25 people or more being served. And then they regulate. Then they test for water quality.

And the reason I know this is because I did have a project about seven years ago that you all approved and there was a condition requiring me to file it with the Environment Department as a public water supply, and to have it regulated by them. And I had to go through gyrations to try to convince them that they had to do this and they just did not want to do it. It's because they basically have their manpower and their resources focused on the Safe Drinking Water Act, and they didn't really care about what the County said about how the County defined something. So that was one issue that I think that you may want staff to look at a little more closely, work with the Environment Department and see in fact if you're going to get more regulation on water quality.

The way I read this ordinance is that one of the major issues is that water rights are required. So now if I wanted to do a five-lot family transfer in Santa Cruz, I'd need water rights under this ordinance. I think that really hurts the little person. The reason we have set

up the water rights requirement for when you have more lots is because it's more affordable when you're spreading it over many lots.

Community water also implies things like fire protection needs. Fire protection standard at 500 gallons per minute for two hours with 20 psi, minimum cost, \$150,000. That's a 50,000 gallon tank and pressure – unless you elevate them, which I don't want to propose. Unless you elevate them then you're adding a pressure system to actually deliver the water at that kind of rate. That's a \$60,000 pump, two of them – about \$30,000 each, two of them, so you have redundancy, plus the tank at about \$90,000. So you've got a minimum cost of about \$150,000, which may be okay if you're spreading it across a lot of lots, but if you're spreading it across five lots, then you're talking \$30,000 a lot, plus the cost of water rights.

I really appreciate that the Commission is going to consider providing water rights to people who are close in, but if somebody's developing up in Chimayo, if somebody's developing in Edgewood, they don't have the ability to connect to a County system. And the way this ordinance is written, it's broader, so there's much bigger impact.

I also think that one of the goals or one of the things that will come out of the way the ordinance is proposed is we will get worse sprawl. Instead of having a 24-lot subdivision, we'll see a lot more four-lot subdivisions, because people will try to get under the rules. And I think that that is a disadvantage. Because there are things that come in that before 24 lots, like affordable housing, which you will not get at four lots. And so you must recognize that there will be impacts from this that could be not good for the community on the whole. I think that's as much as I want to say right now and I'm sure if I had more time to think about it I'd come up with more concerns. Thank you very much.

CHAIR VIGIL: Thank you, Ms. Guerrerortiz. Anyone else out there that would like to address the Commission on this item? Seeing none, Mr. Ross, or anyone from staff, have we had the actual opportunity to have staff do an impact analysis of this? I'm not hearing what the consequences are and I guess one of my concerns is in my district, I represent a water association, a very traditional historic water association, and I would like to know how they think this might impact them. I don't know that this has gone through any kind of a process from those associations that we're trying to affect.

MR. ROSS: Madam Chair, we have not shared this with anyone before tonight, we being staff. Generally, the way this works is we come to you for title and general summary and then we start the public process at that point, which usually involves – would have to in this case – two public hearings before this body. Certainly we can fashion any sort of method by which the public can be made more aware of this and be given an opportunity to comment. Certainly, sending it to the various affected associations makes a lot of sense to me.

CHAIR VIGIL: It would make sense to me that we get their comments, because often what we as Commissioners learn on items that we take action on is that those affected people didn't know about it, probably because they're not keeping their eye on the

legal notices or on our website. But I'm concerned that there may be some adverse impacts on some of our water associations and how we move forward. I want to make sure that if we're giving something of this caliber that we're doing it in the best interests of the entire County and I'm not sure that we even know that at this point in time. Those are just my comments. Are there any other comments from Commissioners?

COMMISSIONER CAMPOS: Madam Chair.

CHAIR VIGIL: Commissioner Campos.

COMMISSIONER CAMPOS: At this point we're just authorizing publication so that we can have the discussion with the community. I think there will be a lot of interest and a lot of input. I would suggest we move forward so we can have the discussion. I'm sure down the road we're going to have staff with more input.

CHAIR VIGIL: What's the pleasure of the Commission?

COMMISSIONER SULLIVAN: I would agree, Madam Chair. I think your suggestion is good. We need to get comments from the water associations. I think if anything, probably this will help bolster the associations because it will encourage new developments to seek out the associations and upgrade their systems and buy into them and make them more viable than they are now, and if necessary, bring water rights to them. Most associations require that of new participants. So I think the point is well taken and I would look forward to getting their comments. I think they'll be positive and if there are other ways to deal with some of the issues we can certainly work with that.

I'd move for approval of the authorization to publish title and general summary.

COMMISSIONER CAMPOS: I'd second that, and just a brief comment. I think the issue here is how much will it cost to get a certain amount of quality. Do we just have developments that get in as inexpensively as possible and then the buyers suffer the consequences when they do not have the quality. I think this would enhance the quality, yet there's going to be that discussion between quality and cost. I think that's going to be the main discussion here.

CHAIR VIGIL: I would just comment that I agree probably on its face there are some positive impacts. But the spillovers, the really rippling effects of this is we've heard testimony tonight that our family transfers may be affected. I want to make sure that when we know what we're acting on, we're actually knowing that we're acting on it in its fullest scope. So anyway, I heard a motion. Did I hear a second?

COMMISSIONER CAMPOS: Yes. I seconded.

CHAIR VIGIL: There's a motion and a second that we approve item XII. A.

1.

**The motion to authorize publication of title and general summary passed by majority 4-1 voice vote with Commissioner Vigil voting against.**

**XII. A. 2. Request Authorization to Publish Title and General Summary of an Ordinance Amending Ordinance No. 1996-10, As Amended, the Santa Fe County Land Development Code, Article XV, to Create a Media District Within the Santa Fe County Community College District [Exhibit 4: Use Table]**

CHAIR VIGIL: Who will take the lead on this?

JACK KOLKMEYER (Land Use Administrator): I will, Madam Chair. Good evening, Madam Chair, Commissioners. This item is to request authorization to publish title and general summary for an ordinance amending Ordinance 1996-10, as amended, the Santa Fe County Land Development Code, Article XV, to create a media district within the Santa Fe Community College District. In your packet you have a draft copy of the proposed ordinance. You have a map showing the location of this area and also a set of design standards that I believe has been updated. I'd like to thank Senior Planner Robert Griego from Land Use, who along with Sue Hermann from Legal prepared this draft Media District Ordinance.

As you know we've been struggling with the business park in the Community College District now for some years. We've had proposals for a film operation there that got turned down a couple of years ago. We've had requests for flea markets and for storage units and we've gone back and forth. We've had problems with the short-term leases for that property. A while back in conjunction with staff and the Commissioners, it was decided that the County should go forward and purchase this property, which we now are pursuing that with the State Land Office.

In the interim we've gone back and we've looked at our Growth Management Plan, the Community College District Plan, the County business plan and economic development planning that we've been doing over the past few years, it's become clear that those people coming forward to us have been for potential uses for the business park that seem very logical for that area have come from printing and publishing, from the film industry and also from other related industries such as the broadcast media.

In particular, one of the problems that this group comes forward with is the need to change the massing of some of the buildings, to have heights that are not in direct alignment with the Community College District standards because of the nature of some buildings such as soundstages and those kinds of things. It's also a very tricky property because it sits wedged in between the state penitentiary and the County detention facility, so it hasn't been viewed in the past years as one of the more desirable properties for certain kinds of businesses.

Also there's been the issue that will the County business park, once it could move into operations, would it in fact be competing with the other employment centers throughout the Community College District? So for those principal reasons we've decided that to really focus on a particular thing that the Community College District can contribute to and this

particular business park could contribute to would be the creation of a media district, particularly to provide a specific district where a variety of media businesses that I just mentioned – the film industry, publishing, broadcast media, can be located to accommodate the special needs for film and media businesses. The County has received, as I also said, significant interest from these types of industries over the last couple of years.

The proposed media district is located within the Community College District. Ordinance 2000-12 identifies land use and zoning regulations for the Community College District. The proposed media district as most of you already know, is approximately 65 acres and is located entirely on the County development park property within a designation in the Community College District of an employment zone. Employment zones, just to refresh this for all of us are defined as areas within the Community College District where businesses with special needs for access, buffering, technology, storage and size can be located by providing additional economic opportunities of enhanced employment, growth close to residences to help meet the goal of economic sustainability.

The Community College District plan actions for the district also include the following: strategically place the district within the regional economy, provide a variety of employment in a diverse array of settings complementary to the economic needs of the district, and third, to provide a variety of learning environments and programs related to employment opportunities within the district. The existing development standards for employment zones identified in the zoning matrix of the Community College District Ordinance do not meet specific needs for major media and film production companies to locate. For example, the maximum height for employment zone is 30 feet, which is not adequate for buildings such as soundstages and film scene production, which can range anywhere from 60 to 80 feet.

The proposed media district supports the County's Growth Management Plan, the Community College District Plan, the County economic development plan and the County business plan, as I pointed out earlier. The County community business plan explicitly identified the film and publishing industries as target industries for Santa Fe County.

So finally, and probably most importantly in this matter, the creation of a media district will allow the County to implement its economic development strategies by focusing on targeted and desired industries, industry clusters, while we'll create economic development opportunities that will not compete with other economic development in the Community College District. We are therefore requesting authorization to publish and title and general summary for this ordinance and myself, Robert Griego and Sue Hermann will be happy to answer any questions for this particular stage of this project. Thank you.

CHAIR VIGIL: Commissioner Montoya.

COMMISSIONER MONTOYA: Thank you, Madam Chair. Regarding the bid that we have in to purchase this property, when are we going to hear whether or not we're going to be able to buy that land?

MR. KOLKMEYER: I believe it's July 16<sup>th</sup>. Is that – July 19<sup>th</sup>, Commissioner.

COMMISSIONER MONTROYA: That's the closing date? Okay.

CHAIR VIGIL: Any further questions? Any other Commissioners?

Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Kolkmeier, what about the height variance? Are you going to just change the standard so it's no longer 30 feet so we don't have to mess around with variances every time there's a project? How do you deal with that? I don't see anything in the ordinance itself that addresses the height issue.

ROBERT GRIEGO (Senior Planner): Madam Chair, Commissioners, would you mind if I approach. This matrix is actually in your packet but this one is much cleaner and it will show you very clearly. [Exhibit 4] There's a height section in the zoning matrix that will answer your question.

COMMISSIONER CAMPOS: For this particular ordinance?

MR. GRIEGO: For this particular ordinance.

COMMISSIONER CAMPOS: Okay, that's fine. Just explain it to me.

MR. GRIEGO: Okay. Madam Chair, Commissioners, the zoning matrix in the Community College District – what we did was we amended it for a media district. So within the media district we looked at the development standards for size, density, height, and such.

MR. KOLKMEYER: And Commissioner Campos, if I might while Robert is passing that out, there are specific recommendations that you'll see under height. For maximum building height, for up to 60 feet for special needs structures, and up to 80 feet for up to 40 percent of a specific building footprint. So to answer your question specifically, yes. Because we wouldn't want to go and do variances every time something came in to do this, so we would build it in with a specific design standard mechanism in this new ordinance.

COMMISSIONER CAMPOS: Okay.

MR. KOLKMEYER: And of course this evening is just to request to publish title and general summary. And we can go into greater detail as we move forward with the public hearings on this as well, too, Commissioner.

COMMISSIONER CAMPOS: Do you think this will be an issue that will be of great interest to a lot of people?

MR. KOLKMEYER: The issue of height, Commissioner, or –

COMMISSIONER CAMPOS: The issue of height, the 60 and the 80-foot.

MR. KOLKMEYER: We've already had a discussion about some of the proposed uses in Las Soleras and we know some of those heights – I think that was at the last EZC meeting. Probably it will be, because again, this is a fairly prominent part of the Community College District. Although as I pointed out before, having the County detention facility on the south side and the state penitentiary on the west side, those are also already fairly tall buildings. There's a slight drop in the terrain. We don't even have a specific proposal before us yet. We're having some discussions as you already know with Santa Fe Studios and other interested parties as well. But we think that projects like that can be designed so that the higher buildings can be on that portion of the property on the north side

of the business park that slopes downward. But they'll be visible, for sure. I think we'll be really interested and really concerned to hear from the residents of that area and also from other interested parties because this will be a large project that will also employ a lot of people and employ people in the industry that we think is important for this area. But height will probably be – and probably the massing of some of these buildings will be an issue also, Commissioner Campos.

COMMISSIONER CAMPOS: Okay. Thank you, Mr. Kolkmeier.

CHAIR VIGIL: Any other questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Jack, the red flag to me is of course the height issue, 80 feet, and the definition which you have there on A. 6 on the left-hand side of your exhibit, of what a special needs structure is. I think that everyone will say, well, I've got a special needs structure. But you define them as being a particular media usage, such as sound and recording stages and broadcasting studios. Now, Que Suave doesn't need an 80-foot building to broadcast from as I'm sure you know. But probably what you're thinking about is not the building but is some kind of a – I'm not sure what you're thinking about, but I think we need to be a lot clearer about what the so-called special need structures are, and we need to define or breakout whether you're talking about buildings or whether you're talking about antenna or some time of transmitting devices. Because an 80-foot high building might have one local reaction. An 80-foot antenna might not have as violent a negative reaction as an 80-foot building. So I think we probably need some clarity on that in those definitions.

The other question I had was where does the 80 feet come from?

MR. KOLKMEYER: Madam Chair, Commissioner Sullivan, your first point is a good one, Commissioner Sullivan. It also includes such things, because we've had discussions with some of the interested parties out there for the use of wind generators also, which are pretty high. So there's antennas, although the broadcast industry tends to not use antennas in the same way that they did 10 or 15 or 20 years ago because it's so satellite oriented these days. But antennas – the 80-foot comes from a fairly typical soundstage and studio, as they are developed in Los Angeles for major film companies. That's where that figure comes from.

COMMISSIONER SULLIVAN: Just in comparison, do you know how high the Lencic soundstage is?

MR. KOLKMEYER: I don't know exactly but it's probably 40-some feet, would be my guess. The Lencic right behind us here?

COMMISSIONER SULLIVAN: Yes.

MR. KOLKMEYER: That's probably 40-some feet. Because the height restriction in downtown was 54 feet, I believe, which is the height of La Fonda.

COMMISSIONER SULLIVAN: But I think they got an exception.

MR. KOLKMEYER: To go higher than that? I don't recall.

COMMISSIONER SULLIVAN: To go higher than that to float the sets up



and down. I was just trying to get a visual comparison of what 80 feet looks like.

MR. KOLKMEYER: Well, we really don't have 80-foot tall buildings around here. So it is kind of hard to visualize. If you've seen pictures of the soundstages in Albuquerque, I believe those are 70 feet. The soundstages that they've developed in Albuquerque. Probably the closest would be St. Vincent's Hospital, because those are four storied but they're not your standard 12-foot stories. I believe they're 15 feet. So that's probably 60 feet.

COMMISSIONER SULLIVAN: Okay.

MR. KOLKMEYER: I just got information that the Lensic is around 80 feet.

COMMISSIONER SULLIVAN: Is around 80 feet. Okay. So if we wanted to know how high 80 feet is we go out the front door and look at it.

MR. KOLKMEYER: Yes. Take a look over there.

COMMISSIONER SULLIVAN: Take a look at the Lensic and see if we like that.

COMMISSIONER CAMPOS: Commissioner, how tall is this building, do you think, as an engineer?

COMMISSIONER SULLIVAN: I don't know how tall this building is.

COMMISSIONER CAMPOS: We might have the answer.

COMMISSIONER SULLIVAN: This building is not 80 feet, though because the Lensic is higher than this building.

MR. KOLKMEYER: And they're not in open fields, either.

COMMISSIONER SULLIVAN: So then the other issue that we've dealt with before is in dealing with the film industry is fire protection, when they're doing work on the lots. I don't see anything about fire protection in here. Now, we do have – one of the questions I wanted to have the staff look at is we do have a separate ordinance that we passed fairly recently about providing fire protection during media events and we did that so Chief Holden didn't have to come back to us every time we had one of these special events. I don't know if that ordinance applies here. If it does, then we're covered. It was just something I would point out for you to take a look at.

MR. KOLKMEYER: We will take a look at that, but again, the nature of those types of permits where we have some of the issues with fire protection have to do with outdoor shooting like on Eaves Ranch and Bonanza Creek. In the soundstages, the nature of the filming will be different but we'll make sure that that gets covered and we'll look at that also.

COMMISSIONER SULLIVAN: Well, aren't you anticipating some outdoor filming, because that brings into my next issue, which is the lighting. We have an exception here to the County's lighting policy that allows them on a temporary basis to put, I guess, big floodlights out there to enable them to shoot outside. And my question about that is can we pass a County ordinance that contradicts the state statute, the Night Sky Ordinance, the state statute. Because right now our ordinance and anything that's constructed has to meet the

Night Sky Ordinance which is a state statute, not an ordinance.

In here we're saying for temporary uses we allow them to not have to comply with that lighting ordinance. But our County lighting ordinance I think mirrors the state Night Sky Statute. So my question is, can we do that?

MR. KOLKMEYER: Madam Chair, Commissioner Sullivan, we'll have to look into that specific request, but as far as we know, the proposal that we've seen so far from the previous film production company that came forward, Whirling Rainbow and now Santa Fe Studio, would – there will be a need for a back lot. But again, this would be very different from the kind of lighting that's used on outdoor sets. But because this is high up there by the County detention facility, we would want to make sure that we don't get that kind of lighting situation that we have for these large outdoor productions. And how exactly we'll go about doing that – Shelley just informs me that the CDRC can approve unshielded lighting on a temporary basis per our current Code right now.

COMMISSIONER SULLIVAN: I don't know if that's legal either. Because we have a state statute that says you –

MR. KOLKMEYER: We'll look into that.

COMMISSIONER SULLIVAN: Yes. I throw it out as something that –

MR. KOLKMEYER: Lighting will be a huge issue here, same as height will be as well.

COMMISSIONER SULLIVAN: I think the concept of this 65-acre parcel as being a media center is a good one. The devil is always in the details and we need to be sure that this doesn't become a mechanism just to throw up anything that anybody wants out there. Thank you, Madam Chair.

CHAIR VIGIL: And I just want to respond because I'm familiar with the night sky lighting section. I think it is actually specific to permanent lighting, and what we're addressing here is just lighting for filming purposes, correct?

MR. KOLKMEYER: That's correct.

CHAIR VIGIL: This is a public hearing. Is anyone out there wanting to address the Commission on this item. We are on item XII.A. 2.

MR. ROSS: Madam Chair, we're actually here on a request to authorize publication of title and general summary. We don't necessarily have to have a public hearing.

CHAIR VIGIL: It's actually advertised, as I said to Commissioner Sullivan for the first item, under public hearings. So with that, I think since it's been noticed that way I would move ahead and request that the members of the audience address the Commission if any of them would like to. Seeing, hearing none – Commissioner Anaya.

COMMISSIONER ANAYA: I'm just happy to see this come forward. I think this is a great opportunity for Santa Fe County and us developing that business park. So I move for approval.

COMMISSIONER MONTOYA: Second.

CHAIR VIGIL: There's a motion and second.

**The motion to authorize publication of title and general summary passed by unanimous [5-0] voice vote.**

**XII. A. 3. Request Authorization to Publish Title and General Summary of an Ordinance Amending Article X of the Land Development Code to Amend the Definition of Community Water System and Include a Definition of a Water and Sanitation District; Renumbering Remaining Definitions**

PENNY ELLIS-GREEN (Deputy Land Use Administrator); Thank you, Madam Chair. The proposed ordinance would define a water and sanitation district as a community water system, thereby requiring the same water supply submittals for a development using a water and sanitation district as is required for a development using a community water system. A water and sanitation district would also be listed within the definitions and defined as a community water system. The existing Code does not have specific requirements for water and sanitation district and this ordinance would clarify this. The draft ordinance is attached. It's amending Article X of the Land Development Code. And I'll stand for questions.

CHAIR VIGIL: Any questions?

COMMISSIONER MONTOYA: Madam Chair, how does this tie in with the previous, #1 on the agenda regarding the community water and sewer systems and shared well, the proposed ordinance from Commissioner Sullivan?

MS. ELLIS-GREEN: Madam Chair, Commissioner Montoya, it doesn't change when you're required to do a community water system, it just defines a water and sanitation district as being a community water system.

COMMISSIONER MONTOYA: Okay.

CHAIR VIGIL: Any further questions? Penny, how is this distinguished from water associations and all other kinds of community water systems? I'm not sure what's trying to be done here. For example, how would Agua Fria Water Association fit under here?

MS. ELLIS-GREEN: Madam Chair, I believe it would fit under a community water system. At the moment, under the water section of our Code we have municipal or County-owned water utilities and then all other community water systems. So we're just really clarifying that a water and sanitation district is a community water system.

CHAIR VIGIL: Okay. Any further questions? What's the pleasure of the Commission?

COMMISSIONER MONTOYA: Madam Chair, move for approval to publish title and general summary.

COMMISSIONER SULLIVAN: Second.

CHAIR VIGIL: Motion and second.

**The motion to authorize publication of title and general summary passed by unanimous [5-0] voice vote.**

CHAIR VIGIL: And Mr. Ross, I guess just for clarification, while these don't necessarily require public hearings, they probably should have been noticed under our Water Resource Department or another one, so I will request comments from the public just because they've been noticed as such.

MR. ROSS: Madam Chair, that's perfectly appropriate. What Mr. Kolkmeier and I were just discussing is the way that the agenda is laid out for these kinds of matters is a little confusing, so we'll talk to Mr. Abeyta about that.

CHAIR VIGIL: And I think these could have come under Water Resource Department as I mentioned, but because they're under Land Use and public hearings, I think we need to comply with the way it was noticed.

**XII. A. 4. Request Approval of Resolution No. 2007-\_\_\_. Amending Resolution 1999-137, the Santa Fe County Growth Management Plan, to Adopt and Incorporate the Pojoaque Valley Community Strategic Plan (1<sup>st</sup> Public Hearing) [Exhibit 5: Community Plan]**

CHAIR VIGIL: Renee, the floor is yours.

RENEE VILLAREAL (Community Planner): Good evening, Madam Chair, Commissioners. For this presentation, members of the Pojoaque Valley Planning Committee and County Planning staff will briefly go over the highlights of the Pojoaque Valley Community strategic plan. This is, as you said, the first of two public hearings to present this plan.

First the background of the planning process will first be presented and then we'll go into the specific actions of the plan. I'd like to acknowledge that this plan is the culmination of four years of work of the Pojoaque Valley Planning Community. As we see changes in land use patterns in the valley and more commercial development occurring adjacent to the traditional community, along with changing values and community needs, the committee acknowledges the necessity to be proactive rather than reactive to changes occurring in and around the traditional communities in the valley.

Initially the planning process began in 2002 as a group of citizens from the traditional communities of the Pojoaque Valley came together to identify common issues and concerns and they began to explore how to address them. Community members identified reasons to develop a community plan, which include preserving and protecting the historic and rural nature of the community, seeking a stronger, more unified voice in an unincorporated area of

Santa Fe County, the need for local development review, to improve land use controls and community services, and to provide the opportunity to work with community and neighbors on common issues and collaborative projects.

The planning process was initiated by Santa Fe County Resolution 2002-163, which gave authorization to establish a representative planning committee, initiate a planning process to prepare a community plan, and to establish the initial planning boundary, known as the Pojoaque Valley Traditional Community District. The Pojoaque Valley Traditional Community boundary is indicated in the turquoise on this map, and surrounding it are the Pueblos, as I'm indicating with this light. There's purple and blue and there's like a light pink that are the tribal nations, Pueblo communities. And in the gold you'll see an active land grant, which is the Jacona land grant, indicated in gold.

Why a community strategic plan? Well, in 2003, the strategic planning method was selected by the committee members because they felt a strategic approach would better help them control their future in the valley with short and long-term actions to address specific issues with an implementation strategy associated with each action. We also felt strategic planning was more appropriate for this area because it's unincorporated, it has less political control and has various governmental jurisdictions in which to work with.

The community planning process structure that was selected, we have a chairperson and vice chairperson. We used the consensus decision making process and we, as I said, we selected the strategic planning method. Regular committee meetings have been held on a bi-monthly basis.

As you can see by this chart the planning process is pretty elaborate. We started with vision and mission statement development. We went on to community assessment, internal and external analysis done, the SWOT analysis. As you can see the specifics of the areas we looked at are indicated in white. Then we went on to scenario development and action plans were developed and assigned. We're not at the point where we will be getting adoption at the plan and at that point we will be looking at implementation and monitoring of the plan and its associated ordinances.

As you can see, the center focus is community outreach. There was extensive public outreach. The Pojoaque Valley Planning Committee not only met consistently on a bi-monthly basis throughout the planning process but all meetings have been open to the public. In addition to these meetings the PVPC has held focus groups in the community. We've had two community-wide forums in 2005. We had a mixed-use informational meeting at the beginning of this year where we mailed invitations to property owners in those areas, the proposed mixed-use zones that we'll talk about in just a bit. Recently, we had a community open house in May in order to solicit final input and participation from the greater Pojoaque Valley community.

We have also attended community events where we disseminated information about the plan, and we also had people fill out surveys. I would like to also mention we have held meetings with tribal leadership on a consistent basis to inform them of the process, present

our goals and also to just keep them updated on what we're doing and identify opportunities for collaboration.

In addition to this, we've notified all property owners in the traditional communities. Several community-wide mailings were done using the County Assessor's database. We've had community members who have attended our meetings included in our mailing list and also were sent notices and agendas either through e-mail or through regular mail. Our meeting dates were posted, not only throughout the community, on flyers, but also on the website. We have our notes and also background information about the planning process on the County website. And of course we use the newspaper to notify about upcoming meetings.

At this time I'd like to hand it over to David Dogruel. He's the chairman of the Pojoaque Valley Planning Committee.

CHAIR VIGIL: Thank you, Renee. Nice job. Mr. Dogruel. Please state your name and address for the record.

MR. DOGRUEL: Thank you, Renee. Madam Chair, Commissioners, my name is David Dogruel, P.O. Box 3045, Santa Fe, New Mexico, a lifelong resident of Nambe, and current chair of the Pojoaque Valley Planning Committee. Renee already covered the process that we went through as far as strategic planning and engaging our community and formulating this plan. What I'd like to share with you and with the audience is the actual product of the plan. In your packet you have copies of the plan. The executive summary I think nicely summarizes what we're trying to accomplish with the plan so if you'd like to refer to that as a quick summary, that's the place to look.

There are two components of the strategic planning process, of both the vision and mission. We chose 2025 as the date for what we'd like our community to look like by 2025. The vision incorporates a number of the components that all members of the planning process thought were very important, and I'm not going to read this whole thing, but things like rural communities, the historic roots, rural character, harmonious relationships, gardens, animals, small business, clean air, land and water, community facilities and services, properties – good access to our properties, waste management, public open space, community energy, community cooperation, and achieving all that through a cooperative planning and implementation effort are really what guided our vision.

To get to that vision, that drove really the development of our mission statement and that's what guided our plan and eventually our actions which I will share with you in just a moment. While I'm not going to read all these, these all support the concepts of that vision of where we want to be in 2025, and include things like, again, rural character, harmonious relationships, secured access to properties, good facilities and services, open space and kind of citizenship issues – education, participation of our children.

Prior to that mission statement and some work of the committee, we really narrowed it down to kind of five what we call major themes for the plan. [inaudible] Those are to create public places that support our community and serve our youth, preserve clean water supply, strengthening and building community relationships in communications with our

neighbors. That also ties in increasing local input and education about zoning, which is really what a community plan is, a zoning document when it comes down to it. Grow the local economy, we felt was very important. And finally, the last part of the last kind of theme is really what has to be the first theme, is to create some type of body or an entity that's going to help make this happen in cooperation with Santa Fe County and with you.

I'm going to move on to the specific actions, and the first one, this theme is about creating public spaces. The first action is to provide a new state-of-the-art multi-purpose community center. Some of the things we see for this are educational, entertainment and informational uses. Again, I'm not going to read all these but a performing center, place for children, mentoring, oral histories, art, branch college courses, extension service, recreation, which is something that is very important for the entire county. Possibly a Sheriff's substation, a police or a fire substation, Sheriff substation, things like that.

Other communities in Santa Fe County have state-of-the-art facilities and we feel Pojoaque would benefit from such a state-of-the-art facility. Another action under that theme is to create a connected trail system which will serve as a running course for the high school cross country team and for other runners that use this area. A recent article in the *New Mexican* about the Butterfly Run had some quotes from some international runners. They come up from UNM to train here. The climate and environment of running in northern New Mexico is a particularly valuable training area, so we'd like to develop this trail system which will benefit both high school and other runners, hikers, bikers, horseback riders, involving both the Pueblo of Pojoaque, San Ildefonso Pueblo, and the County.

A recent trails meeting of Santa Fe County showed that the countywide trails system is a project that the County is interested in and the concept is currently supported by the Pueblo of Pojoaque. Where would this trail be? Well, it already exists, adjacent to the Jacona campus in Jacona and there's both a short and a long route which goes primarily in the Jacona land grant. However, part of one of the loops does go into BLM property, and then a short piece does intersect a corner of lands owned by the Pueblo of Pojoaque. So we'd like to get that trail system finalized, marked, get some information posted at the front of it, to allow all of the citizens of Santa Fe County to use this, and eventually be able to connect to Caja del Rio trails which extend all the way out to the southern part of the county.

As far as serving our youth – and again, some of these concepts as you're looking through this plan may seem a little bit outside of a land use document, and what we wanted to do through the strategic plan is to try to address some additional community issues that again are outside somewhat of land use. So here the plan advocates for support of community education and job opportunities and recreation for our valley youth, recreation could be tied into the trails and the community center. Clean water of course is an issue that's facing everyone in Santa Fe County, and some of our actions under this theme are to improve acequia diversions and delivery systems. We'd like to start with a pilot project on an existing acequia. Another action is to protect and utilize domestic wells to the extent possible. Again, this is all pending the outcome of the Aamodt water suit. We'd like to promote some projects

that involve removing non-native vegetation from our acequias and other riparian areas.

This was touched on a little bit earlier business of this meeting, using water fairs to continue to monitor water quality in the valley. Traditional actions under this theme are to develop and implement some strategies for water conservation – looking at graywater, water catchment, perhaps retrofitting some domestic appliances and landscaping.

Pursuing some options for wastewater management and treatment, looking at advance treatment systems, again this was spoken of a little earlier, cluster development and how water and wastewater can be better managed for those type of developments, and also updating substandard septic systems when new developments are proposed or under construction.

Another big theme is how to strengthen relationships with our neighbors, both Pueblo and non-Pueblo. Two ideas here are to create a youth counsel of both Pueblo and traditional community youth to address youth-related issues and also to address some community problems in collaboration with our neighbors. Some of these are already programs that are existing, things like graffiti and animal control, speeding, road maintenance. We'd also like to expand into some kind of more social ideas about suicide prevention, teen pregnancy and drug and alcohol abuse. CARE Connection is a program that Santa Fe County already has in place and we think that's a good place to start as well as a program such as Commissioner Montoya's Hands Across Cultures.

We'd also like to, again, this being a zoning document, really educate folks and communicate and evaluate and modify existing regulations as needed to address current and future density and family transfers and affordable housing. You as Commissioners have heard it many times before that how dare anyone in Santa Fe County tell me what to do with my land, but managing growth and development is something that we have to do as our society moves forward. Specific to the Pojoaque Valley we've decided that  $\frac{3}{4}$  of an acre is the minimum lot size that will be preserved. We feel that is currently supported by current water quality and is currently manageable. We will also maintain current family transfers.

However, we will encourage alternative development patterns, things like clustered housing, clustered development, where houses are built a little closer together, again, using more intelligent, common utility water/wastewater systems, and leaving more open space for folks that value that, as well as continuing to promote affordable housing.

In your packet is a traditional community land use table that's been modified specifically for our Pojoaque plan for our valley. I'm not going to go into that in any great detail. The goal of that is to really make your jobs as Commissioners easier and County staff easier to minimize variances. We'd like folks to know what developments are appropriate and not appropriate that are requested of the County so frequently. This involves improved public notification and education. Recently the Qwest towers issue in Pojoaque drove a necessity to include a much more rigorous public notification process in our plan.

We'd also like to continue resolving some of these boundary issues with out neighbors on a case-by-case basis. A quick example of what this district land use table looks



like, it has a residential district and mixed-use districts which I'll show in a moment, and a bunch of uses that are permitted, conditions, special uses or uses that are not allowed in the Pojoaque Valley.

Growing the local economy, we felt was also very important as Renee mentioned. The vast majority of development, both commercial and residential is occurring in areas outside of the traditional community, so we wanted to look at how we could empower our neighbors to do some economic development. Some actions include revitalizing and cultural practices, there are some programs that have already begun in that area. Continuing to support arts and crafts in the Pojoaque Valley, supporting home businesses and home occupations, specifically to our plan, home businesses have been added to the residential use category.

Moving on to the creation of these proposed mixed-use corridors or mixed-use districts. The only one currently existing in the Pojoaque Valley is a node at the intersection of US 84/285 and New Mexico Highway 503. We are proposing three additional districts along US 84/285 north to the edge of the traditional community, headed toward Española, along New Mexico 502 with approximately a 500-foot buffer from the road setback, and additionally, further out on New Mexico 502 on some areas that currently house some amount of commercial and mixed-use development as well as expanding that to include some areas of the Jacona land grant that are currently publicly for sale. There's also an additional very small piece here in Cuyamungue, adjacent to US 84/285.

Again, our district land use table does include uses for these mixed-use zones and we have put in some special conditions, for example, I show here as a use standard for offices, the limit of 20,000 square feet for the Pojoaque Valley, we felt would be appropriate.

And finally, this is this last kind of action that really has to be first after this plan is adopted, is to create some type of entity that will look after the interests of the Valley as well as serve as kind of a local development review committee, which would be a kind of standard role for such a group. But like I mentioned, it's role will be somewhat expanded from the traditional LDRC. These committee members, we would envision would be representative of all of our traditional neighborhoods in the valley and approved by the Commission.

Some things that have actually been accomplished during the planning effort, in addition to actually preparing the plan, through the efforts largely of Commissioner Montoya, revitalizing and renovating our Pojoaque tennis courts, which are used by a number of people in the valley, including one of our planning committee members who's here tonight. The farmers' market, while the committee certainly can't take exclusive credit for that, it was a concept that was discussed early in the planning process and several folks took that idea and ran with it, and I believe Mr. Vicente Roybal-Jasso is here tonight and he has really spearheaded the development of the farmers' market.

Some efforts in junk car education and remediation for Code enforcement have been done. During this planning process we've been pleased to see the opening of the Santa Fe County northern satellite office in Cuyamungue, and finally some progress on the community

center and the trail system actually has been made during this planning process.

With that I'd like to conclude and thank the Commissioners and the audience. We'd be happy to entertain any questions, as well as incorporate any ideas of improvements you have in the plan before its final draft which we will bring before at the next meeting. Thank you.

CHAIR VIGIL: Thank you, David. Are there any questions of Renee or David? Seeing, hearing none, this is a public hearing. Is there anyone out there that would like to address the Commission on this item? Please come forward. We will not be taking action on this item; this is just the first public hearing. Welcome.

DAVID ORTIZ: Madam Chair, my name is David Ortiz. I reside at 217-B State Road 503 in Nambe. I would like to express my support for the plan as it's been presented. I served as its vice chair and I was involved in the process from the beginning. I had some concerns, initially, that motivated me to participate in the planning process. Those concerns were addressed in the plan. One of them was the preservation of the acequia system in the valley and the promotion of the rural nature of the valley, and I think that's been addressed quite adequately in the plan.

The other concern was that I wanted to make sure that we could provide and protect the family transfer policy in the plan, because as you know, land values in the valley have become very expensive and the only way that our future generation can remain in the valley is if we're able to pass on land to our children. I think, again, that has been preserved in the plan and I stand in full support of the plan. So thank you very much for allowing me.

CHAIR VIGIL: Thank you. Thank you, David. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Two quick questions for the staff. In most of these plans we've seen two items addressed and I don't see it here and may just have missed it. One is the limitation on water usage. Is the quarter acre-foot water use in there?

MS. VILLAREAL: Madam Chair, Commissioner Sullivan, you're referring to the water limitations?

COMMISSIONER SULLIVAN: Limitation per residence. Yes.

MS. VILLAREAL: It's going to remain what the standard is right now. We couldn't change anything because of the Aamodt suit. We would like to recommend or encourage limited water use but as far as right now, at this moment, we can't restrict any water use so the use is three acre-feet.

COMMISSIONER SULLIVAN: Well, a lot of this is recommendatory in this plan and I would certainly – I understand that Aamodt's three feet but it only applies to certain parts of the area. I think you have other areas, don't you, that are not a part of that Aamodt?

MS. VILLAREAL: Actually, Madam Chair, Commissioner Sullivan, the entire area of the traditional community is held under the jurisdiction of the Aamodt suit.

COMMISSIONER SULLIVAN: So the committee is proposing that in their judgment it's okay for everyone to use three acre-feet for residential usage.

MS. VILLAREAL: I don't think in that particular case that we're supporting that use but I think that with the Aamodt suit, and I don't know the final details or what's been working out with the settlement, but I think it's going to require limitations on water use.

COMMISSIONER SULLIVAN: And what is the committee's position on those limitations? What do they feel is reasonable?

MR. DOGRUEL: Madam Chair, Commissioner Sullivan, and again, I don't want to kind of beat the same dead horse, but in the absence of a finalized Aamodt settlement, we felt in the plan putting in specific numbers would be inappropriate subject to federal adjudication.

COMMISSIONER SULLIVAN: I guess my thought on that would be that part of the community planning process is influencing the growth and influencing the decision making, both at the County level as well as at the federal level, and one way to do that is to make your case, is to state your opinion, to state what you feel is in the best interest of the public in that area. It's sometimes a controversial part of a plan, but if we just want to have a feel-good plan we can have a feel-good plan. If we want to have a plan that people get together and knock heads over and say, look, do we recognize that there's a water shortage problem or do we bury our heads in the sand. I'd like to see at least a statement, notwithstanding what federal jurisdictions may do, as to what the committee feels is an appropriate water usage for this area. Typically, those are put into these use tables is where they are.

MR. DOGRUEL: Madam Chair, Commissioner Sullivan, I agree with all your statements in concept and idea. I think to put a specific number on water use in the Pojoaque Valley would be incredibly contentious. We certainly support and would be happy to enhance or add some language for stronger advocacy for water conservation and minimizing uses where possible. Then again in the absence of the settlement of the Aamodt suit and an actual number that adjudicates actual water rights we feel it would be difficult at best to put an actual number in a plan that would be in any way, shape or form more restrictive than what the Aamodt settlement is proposing

If you've followed the suit there's a vast difference of opinion in the Pojoaque Valley whether folks feel the settlement is fair, the amount of water that is being proposed for domestic use for wells, is fair. Other people feel it's incredibly generous. To come up with a number, I think again would be incredibly difficult. But we'd be certainly happy to add some language in line with your comments and suggestions toward minimizing water use, encouraging conservation and developing kind of water-sensible strategies for future development. To put an actual number on it right now for a domestic well in the Pojoaque Valley, I think would be an incredibly difficult issue.

COMMISSIONER SULLIVAN: I can only say to you that in every one of these community plans it's been an incredibly difficult issue. There are the same pros and cons and tugs and pulls that occur between those who feel there's a divine right to three acre-

feet and those who have other opinions as to how we're going to have enough water for future generations. And they've come up with a number. Consensus planning doesn't mean that every single person agrees. Consensus planning means that you have a consensus and that you move forward.

So that's an area that I think needs work. The other is – and again, I may have missed it in here, are there provisions on guesthouses?

MR. DOGRUEL: Madam Chair, Commissioner Sullivan, there are not specific provisions on guesthouses. However, accessory structures as far as living units are addressed in the use table. For clarification and confirmation of that Renee or Mr. Kolkmeier –

COMMISSIONER SULLIVAN: What is an accessory structure and what are you proposing in your plan as definition of an accessory structure?

MR. DOGRUEL: Well, certainly, we're not getting down to the level of tool sheds.

COMMISSIONER SULLIVAN: Well, we have people living in tool sheds. You'd be surprised. You'd be surprised what people can live in. And again, one of the most difficult areas that our Code enforcement people have is in so-called guesthouses which become a second permanent residence in an area where zoning only permits one permanent residence. So is it addressed anywhere in the plan now, specifically, the plan we're looking at?

MR. DOGRUEL: Madam Chair, Commissioner Sullivan, I'll defer that question to Renee Villareal or Jack Kolkmeier. I believe it's covered currently in the Code and not specifically modified for our plan.

MS. VILLAREAL: Madam Chair, Commissioner Sullivan, actually that's correct, what David just mentioned. We didn't change anything that's currently in the Code.

COMMISSIONER SULLIVAN: What's in the Code now?

MS. COBAU: Madam Chair, Commissioner Sullivan, current Code specifies that an accessory structure can have a kitchen or a bath, but not both.

COMMISSIONER SULLIVAN: And that's okay with the Pojoaque Planning Committee, that these accessory structures as guesthouses can't be lived in permanently. Because particularly in the Pojoaque area, in the northern part of the county in general you see a lot of that.

MS. VILLAREAL: Madam Chair, Commissioner Sullivan, we did discuss extensively about those issues and although there is concern, part of it is we don't have the Code enforcement to make sure that it's not occurring. We can only go by what the Code – what people come in and try to approve for guesthomes. At that point we can do our best with Code enforcement and that was one of the, I guess concerns of, well, if we have something in the plan, how is the County going to enforce it. And I think that's always an issue because we have limited staff to enforce our Code and the regulations.

COMMISSIONER SULLIVAN: Thank you. Thank you, Madam Chair.

CHAIR VIGIL: Any further questions?

COMMISSIONER MONTOYA: Madam Chair.

CHAIR VIGIL: Commissioner Montoya.

COMMISSIONER MONTOYA: I just want to commend the committee that are here. If the members would stand up and be recognized. I think they certainly should be recognized. Don Wilson, Carl Berney, Mary Louise Williams, Chuck Berger, of course David Ortiz, and then in the back, Joe and Amelia Garcia, as well as David Dogruel and Vicente Roybal-Jasso, who was a member of it.

Madam Chair, the work that these people put in over the last four 4 ½ years to produce the document which really didn't create a whole lot of controversy which initially it did, when we first talked about having a land use for the Pojoaque Valley. There were some people that were concerned and I think Mr. Ortiz mentioned that he certainly was one of them, in terms of protecting some of the things that are currently in our Code. So I think they've done an excellent job in terms of putting together not only a land use plan but also a community plan that is going to require some resources on behalf of the County, the state, and even the federal government to accomplish some of these things. I think that's something different than some of the other plans that have come before us in terms of really providing the long-term vision that we'd like to see continue in the Pojoaque Valley.

So I'd just like to commend the work that has been done by this group and others who have come and gone as the process has progressed. But it certainly is something that I believe that this Commission should adopt and unfortunately, as David did mention, Commissioner Sullivan, the Aamodt lawsuit will essentially dictate what we will be able to use for water and that is why it wasn't included on this and until that settlement is final, we really can't determine or would we want to determine what we think we should be able to use, because essentially the agreement's going to be drawn up between the different governments including the Pueblos that are involved. So once that's done then we can probably incorporate something easily into this plan. But I just wanted to mention that, Madam Chair, in terms of the tremendous work that this group and others have done. Thank you very much.

CHAIR VIGIL: Commissioner Montoya, I have a question. Are you saying that because this particular plan incorporates a capital outlay sort of infrastructure proposal that this commits the County to dollars to this community, or FTEs, or anything of that nature, based on our adopting the plan or the ordinance?

COMMISSIONER MONTOYA: No. No, what I'm saying is that this plan as it's been constructed does request and as I mentioned it, is going to request from the County, from the state and from the federal government capital resources to complete some of these projects. So the requests are going to be coming from the community to those entities for assistance in completing some of these tasks. But in no way does it commit the County to anything.

CHAIR VIGIL: Okay. Thank you. I actually want to thank the people who

were involved in this planning process. We think this is one of the most powerful tools that our County has and that's the ability for communities to come together and make decisions for their own future. Thank you for all the work you put into it. Anything else from members of the Commission? With that we'll move forward on this and we have another hearing. When will that be held, Ms. Villareal? Do you know? It's August 14<sup>th</sup>?

MS. VILLAREAL: That's right, Madam Chair. August 14<sup>th</sup>.

CHAIR VIGIL: Thank you very much.

COMMISSIONER MONTOYA: Thank you.

**XII. A. 5. CDRC Case #V 07-5180 Ramona Maestas Variance Ramona Maestas, Applicant, is Requesting a Variance of Article III, Section 10 (Lot Size Requirements) of the Santa Fe County Land Development Code, to Permit a Second Residential Unit on 1.06 Acres. The Property is Located Off State Road 502 at 8 Sombra de Jose in Jacona Within Section 12, Township 19 North, Range 8 East (Commission District 1)**

VICENTE ARCHULETA (Review Specialist): Thank you, Madam Chair. On May 17, 2007, 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 with staff conditions. The applicant is requesting a variance of Article III, Section 10 of the Land Development Code in order to allow placement of a second home on 1.06 acres. The property is located at 6 Sombra de Jose within the Traditional Community of Pojoaque. Article III, Section 10 of the Land Development Code states the minimum lot size in this area is .75 acres per dwelling unit. This could be reduced to .33 acres with community water and community sewer.

There is currently one home, one septic system, and a well on the property. The applicant has been approved for an additional septic system on this property. The applicant is requesting this variance because she is in poor health and needs her daughter Laura Griego to care for her. The applicant's daughter states that there is no other family to help with the responsibility of taking care of her mother. The applicant's daughter also states that she can not afford to pay for someone else to take care of her mother and her mother is on a fixed income that will enable her to pay for her own care. The applicant's daughter states that she now lives in La Madera (Rio Arriba County), which is approximately 70 miles away and has to travel daily to Pojoaque to make sure her mother does not need help with anything and the travel has become a burden on her and her mother.

Article II Section 3 of the County Code states that 'where in the case of proposed development it can be shown that strict compliance with the requirements of the code would result in extraordinary hardship to the applicant because of unusual topography or other non-self-inflicted condition or that these conditions would result in inhibiting the achievement of

the purposes of the Code, the applicant may submit a written request for a variance.” This section goes on to state, “In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified.”

Staff recommends that the CDRC deny the request for a variance, based on Article III, Section 10 of the Land Development Code, which states that the minimum lot size in this area is .75 acres per dwelling. While the applicant’s needs to care for her family member may be a valid non-self inflicted condition, staff does not support this variance request as it would result in increased density not allowed by the code.

If the decision of the BCC is to recommend approval of the applicant’s request, staff recommends the following conditions be imposed. May I enter the conditions?

[The conditions are as follows:]

1. Water use shall be restricted to 0.25 acre-feet per year, per dwelling unit. A water meter shall be installed, and annual water meter readings shall be submitted to the Land Use Administrator by January 31<sup>st</sup> of each year. Water restrictions shall be recorded in the Santa Fe County Clerks Office.
2. No additional dwellings will be allowed on the property.
3. The existing driveway will serve both homes.
4. The applicant shall submit an updated Environmental Department Liquid Waste Permit showing the correct lot size and correct number of homes.
5. The applicant shall upgrade the existing septic system to serve both homes. [See below]
6. No further division of this land shall be permitted.
7. The applicant shall remove all un-permitted accessory structures.

Madam Chair, I’d like to make a clarification on condition #5. It should read: The applicant shall upgrade the existing septic system to serve both homes and shall provide documentation that all NMED and Code conditions regarding a liquid waste system are in compliance. Thank you, Madam Chair.

CHAIR VIGIL: Thank you, Mr. Archuleta. Are there any questions of staff?  
Is the applicant here?

[Duly sworn, Laura Griego testified as follows:]

LAURA GRIEGO: My name is Laura Griego.

CHAIR VIGIL: Laura, do you agree with all the conditions as have been presented to the Board of County Commission?

MS. GRIEGO: Yes, I do.

CHAIR VIGIL: Would you like to address the Commission on your case?

MS. GRIEGO: Yes, I would. This whole process started for me quite some time ago before my grandmother passed away and my mother’s health started going bad. My mother and I, in trying to care for my grandmother, my grandmother just passed away. Then

my brother died and my mom's health got worse. And me going back and forth every day added more stress to my mother's condition, because she worried about me always being on the road with my kids late at night and traveling back and forth.

She asked me this past winter about me trying to move closer to her. I went to Española and started looking for a place to move my mobile home. I went to every trailer place in the valley and there wasn't anywhere that I felt that I could take my kids – I have small kids – that they would safe while I was at work, or anybody that I knew for childcare to help me be closer to my mother.

Meanwhile, it's added expense. So my mom said, well, the yard, the land where she lives is really big. I could move my home there. I don't want to be an inconvenience to my aunties who live on both sides, so I told my mom, okay, if I can be there and not be a problem to anybody, it's going to help me financially and also help my mother and she doesn't have to be stressed out about me being on the road all the time. My kids have an opportunity to go to a better school. And my mom, if something happened to her and her being alone there.

Meanwhile, I came and I started the whole process. I brought with me all the papers that my mom had for the land, which were the survey, the warranty deed, and I came to the office and I asked for permission to place my home on that land. At that time I was never that, because of the size of the property that I wouldn't be able to move there. Instead they gave me a really nice actually diagram and they showed me steps of what I needed to do and permits that I needed to acquire to be able to do this. So I started the process. I missed work. I went to every office they said I had to go to. I paid for all these permits. I got my own septic permit which cost me money and I had to abide by a lot of conditions that the Española office gave to me. I did everything that they asked of me.

Meanwhile, still going back and forth, still trying to care for my mother, missing work, paying for all these permits, paying to get it posted in the newspaper, going and taking pictures of signs – doing everything that they asked. And now, today again I ask for permission to put my home next to my mother's to help take care of her. There's nobody else to do it and I would like to be able to care for my mother the way that she did for her parents until they passed away. And that's why we're asking for the variance.

CHAIR VIGIL: Thank you very much. Are there any questions of the applicant? Commissioner Sullivan

COMMISSIONER SULLIVAN: Ms. Maestas, is it your intent – you live in La Madera now.

MS. GRIEGO: Yes, sir.

COMMISSIONER SULLIVAN: And do you work in La Madera?

MS. GRIEGO: No, sir. I work in Española.

COMMISSIONER SULLIVAN: You work in Española. So you have to commute from La Madera to Española of course.

MS. GRIEGO: Yes.



COMMISSIONER SULLIVAN: So is the idea that you will then – do you own property or do you just live in a mobile home park in La Madera?

MS. GRIEGO: The property that I live on now belongs to my ex-husband. I own the home; he owns the land.

COMMISSIONER SULLIVAN: Okay. So your intent then is that you would move your home to your mother's property and you would continue to work in Española.

MS. GRIEGO: Yes. I have to work. I have kids.

COMMISSIONER SULLIVAN: Sure. And you and your kids would live then in –

MS. GRIEGO: And be able to go to a better school.

COMMISSIONER SULLIVAN: Thank you, Madam Chair.

CHAIR VIGIL: Any further questions?

COMMISSIONER MONTOYA: Madam Chair.

CHAIR VIGIL: Commissioner Montoya.

COMMISSIONER MONTOYA: Could you or staff clarify on this septic system, is this replacing an existing one for accommodating the new structure that's going to be placed there along with the existing?

MS. GRIEGO: We talked about with this gentleman here about updating the existing system that's there so that it could – my mom's house and my home could both use that.

COMMISSIONER MONTOYA: So it would be one septic system then.

MS. GRIEGO: Yes. That's a condition that he's asking for. I obtained my own permit to have my own septic. I already have that. But he wants be to put in a septic for both of our homes to use. Which if that is a condition I would do that because my mom's could use to be updated anyway. I just don't like the idea because if anything happened I don't want to inconvenience my mother because I added my house on to there.

COMMISSIONER MONTOYA: And you'll also be using the same well?

MS. GRIEGO: Yes.

COMMISSIONER MONTOYA: Okay.

CHAIR VIGIL: Any further questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Question for staff. On condition 6 it states no further division of this land shall be permitted. Is the applicant requesting a division of the land?

MS. COBAU: Madam Chair, Commissioner Sullivan, I don't believe the applicant is asking for a division of the land. I believe they're asking for a second dwelling unit on that and we could probably strike that condition.

COMMISSIONER SULLIVAN: Well, I think there's some value to the condition in that what we do see happening from time to time is as soon as a second house gets put on there then the next step is they come in for a lot split. And they say, well, the house is already there and now I want to split the lot. So I think that's a useful condition. I

just wanted to clarify whether they're making that request at that time, but right now, your understanding is their request is to place a second residence, permanent residence on this property that's about an acre in size.

MS. COBAU: Commissioner Sullivan, that's correct, and if I could clarify, we did ask that it be on a shared septic because the NMED criteria requires that for a separate individual septic that it be placed on no less than .8 acre and that's based on adequate percolation tests and variables for those adequate percolation tests include the soil type, groundwater depth, which in this area it's been brought to our attention that the groundwater is somewhat shallow. We have to make sure that setback distances are maintained, and I believe when the NMED was approached for the initial permit the lot size on the plat, some of the documentation that was given to the NMED was not correct, and that's one of the conditions, that the correct lot size be given to the NMED. That will go away if it's on a shared septic.

COMMISSIONER SULLIVAN: I believe that was Commissioner Montoya's question. Thank you, Madam Chair.

CHAIR VIGIL: If there are no further questions, this is a public hearing is there anyone out there who would like to address the Commission? Please step forward.

[Duly sworn, Jose Duran testified as follows:]

JOSE DURAN: Madam Chair, Commissioners, Jose Duran, P.O. Box 4342, Fairview, New Mexico. I too would like to verify that Laura does suffer hardship traveling an hour and 45 minutes to and from her home to take care of her mother. I have helped her. Sometimes she'll borrow the truck to even go throw trash for her. She'll make sure her mother has medication and if I can parallel my situation. When I took care of my grandfather it was where a family takes care of each other. It's not a nursing home and with a good role model, because she's responsible, this would benefit her and her children. Pojoaque School is about 5, 10 minutes from where she lives. Walmart in Española would be another 30 minutes, so this would cut time, like in 2/3.

Any time she needs help I will help her where her mother's concerned. I do recommend that she upgrade the septic, because that's what I had to do. Keep everything within approval notice for permits and getting the house set. Please take this into consideration for her.

CHAIR VIGIL: Thank you, Mr. Duran. Is there anyone else out there that would like to address the Commission on this?

[Duly sworn, Amelia Garcia testified as follows:]

AMELIA GARCIA: I am Amelia Garcia. I am a little concerned about the facts as have been presented. I would like documentation that her mother is actually very sick and she needs medical assistance. I don't understand how she can come from La Madera and work at Walmart and take care of her mother at the same time. Now, how does a person have employment and take care of a sickly person, and who does it during the day. There's neighbors there, family members that are capable of helping her without her coming all the

way from the Walmart or all the way from La Madera. I think that she's just giving us a story that she really needs to park a double-wide on such a small area and the Codes do not allow that. I think our County should stick to our ordinances and follow through and discourage this type of allowing people to do that without [inaudible]

CHAIR VIGIL: Thank you, Ms. Garcia. Is there anyone else out there? Please come forward and I will allow you a few minutes. David, did you want to address this case?

[Duly sworn, David Dogruel testified as follows:]

MR. DOGRUEL: David Dogruel. I previously stated my name and address. Madam Chair, Commissioners, I certainly appreciate that the applicant the hardship the applicant has expressed to you and to the audience. However, in previous testimony before the Commission requesting variances that affect both my neighborhood and the valley in general I always ask the Commission to take these words into account, that the needs of the many outweigh the needs of the few. The needs of the neighbors and the community always have to be considered heavily and significantly when any variance that will impact their quality of life is requested of the Commission.

Again, certainly not meaning to demean or diminish the hardship that's been expressed by the applicant, the needs of the neighbors and the needs of the community in regards to again, higher density, sprawl, water, and in this case wastewater implications have to be considered. So I would like that entered into the record and ask you to weigh that consider in your decision regarding this variance. Thank you.

CHAIR VIGIL: David, what does your planning process, how did you all address the mobile home situation?

MR. DOGRUEL: Well, mobile homes are a de facto form of affordable housing. Some people of course cannot afford site built or custom homes, so mobile homes are a type of housing that can be afforded. It's the only thing affordable to certain people. We haven't made any specific exclusions or limitations on mobile homes. Again, our desire is as staff has recommended, that the additional home on the 1.06 acres not be allowed, because we are currently supporting and advocating in our plan fairly strict adherence to the one dwelling per  $\frac{3}{4}$  of an acre. Again, that's what we consider the minimum acceptable due to current water quality standards. Apparently a separate septic permit was granted for this lot, apparently due to some incorrect information on a plot. So I find it disturbing that NMED would grant a second septic permit for more than one dwelling on a 1.06-acre piece. There was an additional  $\frac{3}{4}$  of an acre that was supported by current water quality. So even upgrading this septic system to allow a second dwelling on this 1.06-acre lot I think is somewhat dangerous.

But back to your question, Madam Chair. We have not tried to exclude or put any specific language regarding mobile homes. Our plan simply requests and advocates that the  $\frac{3}{4}$  of an acre minimum lot size be maintained and through our district use tables we are wanting to attempt to minimize the number of these such variance requests that are made, again, primarily for preservation of rural quality, which includes adequate land per dwelling,

and of course this  $\frac{3}{4}$  of an acre for water quality and for wastewater.

CHAIR VIGIL: Thank you, David. Are there any other questions? You actually wanted to address the Commission with a summary, and then Commissioner Anaya.

MR. DURAN: Madam Chair, Commissioners, this is a good example of why people complain. I put my house on a one-acre next to my grandfather, and the only person that helped was his daughter. I took care of him during the week, just like she's going to do, travel back and forth when I moved from Las Cruces. I left all the regulations to the professionals. I followed the rules, and this is what happens. When somebody complains they do not want to take responsibility. They see what goes on. They do. But until they get to know you as a person, then they will help you. And this is in short term. This is 10, 20, 30 years down the road. You only get one mother and one father and she has one mother.

Now, I live next to my father and if he needed help, I would help him. He lives close to the one-acre where I'm at and I'm perpendicular to where he is. So I can see where the citizens are concerned about that. And I can verify she doesn't live in a tool shed. It's a mobile home, but this is long term. There will be noise when they put in the septic and that's good. It's upgraded. For the most part it's going to be the daughter that's going to be there. Whether it's to bathe her 10 years down the road, and I'm not going to disclose the age but my grandfather was 80 and once Alzheimer's sets in or cancer as in our case then there will be somebody.

Sometimes you miss work and you can't make those funds up unless you have personal or sick hours accrued but I can relate with her. There's always somebody quick to criticize, but who's there in the end? It's a family member, a daughter, or the son. Thank you.

CHAIR VIGIL: Thank you. Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, is the public hearing closed?

CHAIR VIGIL: Is there anyone else that would like to address the Commission on this? I will close the public hearing then.

COMMISSIONER ANAYA: Thank you, Madam Chair. First of all I'd like to commend Laura for taking care of her mother. In the past these issues have come forward and this is a question of staff. We've granted temporary permits for a period of two years and then after the two-year period we renewed it or looked at it to see if it needed to be renewed. Are we not doing that anymore to people that want to take care of their parents when they're elderly?

MS. COBAU: Madam Chair, Commissioner Anaya, we're no longer issuing temporary permits or temporary variances. We've been advised by Mr. Ross that there's not a provision in the Code to issue temporary permits. So we're bringing this forward based on legal recommendation of how to handle these cases from this point forward.

COMMISSIONER ANAYA: So Madam Chair, is that something we need to put in the Code for situations like this, and what happens to all the temporary permits that we issued years ago?

MS. COBAU: Madam Chair, Commissioner Anaya, I think we have 15 or 16,

outstanding temporary permits currently on our books that will be expiring. We found that it's very difficult for Code enforcement, once somebody pays for a septic system and they pay for all the infrastructure for the temporary second dwelling unit they don't like to remove it. They have a very difficult time enforcing the temporary nature of the placement of a home on a site such as this. So we're just going by what we've been told, Commissioner Anaya, by legal.

When someone is approaching the permit counter for placement of a temporary dwelling unit, they're being denied and they're being sent over to the development review side of the hallway and requesting variances.

COMMISSIONER ANAYA: Madam Chair, but on this particular case, you're asking the applicant to reconstruct the old septic system, so that would be easier for them if they decided to pull out, or if we decided that they needed to pull out. Then they wouldn't be installing two separate septic systems. I realize where you're coming from; you're not issuing them anymore. But does this Board have the right, which I think we do, to issue a temporary permit in this case? Thank you, Madam Chair.

CHAIR VIGIL: Okay Any further questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Maybe we could get Mr. Ross back to address Commissioner Anaya's question. I think that in the cases in the past we've, even though we may not have the authority in our Code, if the applicant agrees to the condition then it becomes enforceable. So there is that option I think that we could discuss. On the flipside, I realize the difficulty that Code enforcement has in having to track these temporary residences and then once the mother or the family member passes away then requiring them to move the structure out. It's not a pleasant enforcement situation. So I guess the first question would be for Mr. Ross.

MR. ROSS: Madam Chair, Commissioner Sullivan, I guess we're talking about – from what I just heard from Shelley, we're talking about the temporary permits. The problem with temporary permits – I know we issue them but the legal problem is they're not provided for in the Code. So we've got it on our list of things to address in the Code rewrite. We have a historical pattern of granting them absent anything in the Code.

COMMISSIONER SULLIVAN: If the applicant agrees. I know in other land use issues where we bring forward items that may not be specifically in the Code that pertain to a unique land use situation and the applicant agrees with them, are they then enforceable?

MR. ROSS: They're enforceable against the applicant.

COMMISSIONER SULLIVAN: So in this case if that were an option the Commission was leaning toward then it would be a matter of seeing if the applicant agreed to that condition. And if they did, would it then be enforceable.

MR. ROSS: Against the applicant.

COMMISSIONER SULLIVAN: Yes. Okay. I think that clears it up. We don't have it in the Code and we probably should but on the other hand we need to make a decision right here and tonight so we need to have some options. Thank you, Madam Chair.

CHAIR VIGIL: Any further questions? Seeing, hearing none, what's the pleasure of the Commission?

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: From the testimony that I've heard I would like to move for approval with the condition and strike condition #6 and add condition #8 to be a temporary placement of a period of two years, and then we renew it after a period of two years.

CHAIR VIGIL: There's a motion. Is there a second?

COMMISSIONER SULLIVAN: Second.

COMMISSIONER CAMPOS: Clarification. Commissioner Anaya, we're not voting on the variance, right? We're just allowing a temporary placement?

COMMISSIONER ANAYA: Temporary placement for two years.

COMMISSIONER CAMPOS: Okay.

CHAIR VIGIL: Okay. There's a motion. Is that clear, Mr. Ross, for you?

MR. ROSS: Madam Chair, that sounds good to me.

CHAIR VIGIL: Can I just for clarification purposes, Commissioner Anaya, you did say that item 6 be discluded, however, I think the discussion lent itself to include that so that no further division of this land shall be permitted. Does you motion still include discluding it?

COMMISSIONER ANAYA: Oh, I must have fell asleep.

CHAIR VIGIL: So you would want to include that no further division of this land shall be permitted?

CHAIR VIGIL: Would that be the appropriate language or would the appropriate language be no further structure would be placed on this land since this isn't actually a division?

MR. ROSS: Madam Chair, is this a land division? No, it's not a land division. So the latter language should do it.

COMMISSIONER SULLIVAN: Madam Chair, just take out the word "further" because this is not a land division so if you just delete the word "further" the condition becomes no land division shall be –

CHAIR VIGIL: No division of this land shall be permitted. Commissioner Anaya, is that the intent –

COMMISSIONER ANAYA: That's fine.

CHAIR VIGIL: Is that the intent of the seconder?

COMMISSIONER SULLIVAN: Yes, Madam Chair.

CHAIR VIGIL: Any further discussion?

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

**XII. A. 7. CDRC Case #V 07-5200 Rancho de Gonzales Variance Rancho de Gonzales (J.J. Gonzales), Applicant, Requests a Variance of Article III, Section 4.2 (Types and Locations of Commercial or Industrial Districts) of the Santa Fe County Land Development Code to Allow Commercial Zoning Outside a Commercial District. The Subject Property is Located at 27328 East Frontage Road, Adjacent to National Guard Armory, Within Section 33, Township 16North, Range 8 East (Commission District 5) Vicente Archuleta, Case Planner [Exhibit 6: Informational Packet]**

MR. ARCHULETA: Thank you, Madam Chair. On May 17, 2007 the County Development Review Committee met and recommended approval of this case.

The applicant is requesting a variance of Article III, Section 4 to allow that his property to be zoned commercial. Article III, Section 4.1 of the Land Development Code states: "Commercial and industrial non-residential land uses are permitted only in zoned districts." There are several reasons why commercial districts are established. The main reason is to avoid strip commercial patterns of development along highways. Commercial districts are allowed at qualifying intersections and are specifically not allowed to develop as strips along a highway. The size and type of uses allowed in a district are based on the capacity of the roads at the intersection.

The applicant's property is located in an area where there is no qualifying intersection. The applicant states, "In 1990 the National Guard moved its headquarters from Santa Fe to the East Frontage Road on land they acquired from the State and from several land owners, including Rancho de Gonzales. On the parcel they acquired from Rancho de Gonzales they built a multi-story pyramid shaped building for their headquarters. This building has impacted the property because of its imposing nature and its proximity to the Rancho de Gonzales property boundary and the helicopter traffic resulting from transporting National Guard officials can be very loud. The National Guard Complex has had a huge impact on the East Frontage Road. For example, it occupies approximately 1000 acres. They employ several hundred people that commute to and from the facility each day, they have living quarters for several hundred soldiers, have numerous buildings, have hundreds of military vehicles ready to be deployed and a firing range that they use at all hours of the day and night."

The applicant also states, "The National Guard and the New Mexico Corrections Department have expanded their facilities to the extent that they now occupy all the land between NM State Road 14 and the I-25 East Frontage Road. They do not have to comply

with zoning regulations on their property. This impacts everyone living on the East Frontage Road between the La Cienega exit and the NM 599 bypass.”

In the surrounding areas, there are numerous commercial properties. North of the National Guard are Tent Rock Construction and Lamoreaux Crane Service, to the south is Charlie’s Auto Mechanic Service and Jonathon’s Towing Service. Across Interstate 25 are the I-25 Business Park, Reliable Towing and Excel Roofing.

Currently on the property there are three single-family residences on the 47.017 acres. Various family members have resided there in the past and the Applicant states: “In the last few years it has been difficult to rent the houses due to the proximity of the Prison and the National Guard Complex.

Article II Section 3 of the County Code states that “where in the case of proposed development it can be shown that strict compliance with the requirements of the code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted condition or that these conditions would result in inhibiting the achievement of the purposes of the Code, the applicant may submit a written request for a variance.” This section goes on to state, “In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified.”

Article III, Section 4.1 of the Land Development Code states, “Commercial and industrial non-residential land uses are permitted only in zoned districts.”

Staff does not feel unusual topography or non-self inflicted condition is demonstrated as required by Article II, Section 3.1 and thus would not be considered a minimal easing of Code criteria, therefore, staff recommends denial of the requested variance.

CHAIR VIGIL: Thank you. Are there any conditions of approval?

MS. COBAU: Madam Chair, there are conditions. I’d just go on to say if the decision of the BCC is to approve this variance request we recommend the following conditions, and there are two conditions, Madam Chair.

CHAIR VIGIL: And those will be entered into the record. Thank you.

[The conditions are as follows:]

1. Commercial use shall not exceed size and intensity of those uses allowed in a neighborhood or small-scale center district. [See Exhibit 1]
2. A master plan, preliminary and final development plan must be submitted for review and approval by the BCC as required by Santa Fe County Land Development Code prior to commencement of construction of any kind.

CHAIR VIGIL: Are there any questions of staff? Commissioner Sullivan.

COMMISSIONER SULLIVAN: The question I had is is this property in the Highway Corridor?

MR. ARCHULETA: Madam Chair, Commissioner Sullivan, it’s in the scenic corridor, which is outside of the two-mile where there is no ordinance at this point.



COMMISSIONER SULLIVAN: Okay, but there is a Highway Corridor plan?

MR. ARCHULETA: That's correct.

COMMISSIONER SULLIVAN: And so certainly a condition here could be that if we're changing this from residential to commercial that the applicant could agree to comply with the conditions of the corridor plan, could they not?

MR. ARCHULETA: That's correct.

COMMISSIONER SULLIVAN: Okay. I notice – the other question I had, Madam Chair, was that I noticed that in the CDRC meeting on May 17, 2007 the minutes state that Mr. Archuleta stated staff does not feel unusual topography or non-self-inflicted condition is demonstrated as required by Article II, Section 3.1 and thus would not be considered a minimal easing of the Code. Therefore staff recommends denial of the requested variance. Then in your presentation this evening staff is recommending approval of the variance. What's happened between the CDRC meeting in May and the meeting today?

MS. COBAU: Madam Chair, Commissioner Sullivan, there was some pretty compelling testimony that was made during the CDRC hearings. Based on the recommendation of the CDRC we have, at a staff level, revised our recommendation based on the testimony at CDRC, and we did a little bit more research in the area.

COMMISSIONER SULLIVAN: Okay. So you changed your mind, essentially. Okay, that's legal and not fattening. In the map, Exhibit 1 in the packet showing where the property is located and the proximity of the National Guard facility, there are of course subdivisions immediately to the north and immediately to the south of this property. Fairly large residential subdivisions that are presumably also impacted by the helicopters flying in and the shooting range. So I can see that while it's not the most desirable of neighbors to have next to you for a residential development, since they're there, you would certainly have that knowledge if you built. So I'm not totally convinced that the National Guard makes the property unusable.

In terms of the use code, are there not other uses other than residential that are permitted in this property or on this property?

MS. COBAU: Under current zoning it would be for residential use only. People could have a home occupation, but that would be the closest to a commercial use that would be permitted under the current Code criteria on this parcel. And Commissioner Sullivan, I know the copy on Exhibit 1 is not a very good quality, but there is just vacant property to the south. There is a subdivision immediately to the north of the National Guard Armory and there are certainly subdivisions on the north side of i-25, but there is just vacant land to the south of this property.

COMMISSIONER SULLIVAN: Just to the south of the word "underground", isn't that a subdivision? I think it is.

MS. COBAU: I don't think so, Commissioner Sullivan. I think that that's – okay, Vicente's telling me that is a subdivision. I thought it was a bad copy.

COMMISSIONER SULLIVAN: It's in my district. I recall walking around

out there. It was kind of a tough area to campaign in. A lot of dogs. Anyway, so the only current uses that would be permitted would be residential and home occupations. And what would be the lot sizes that would be permitted without going to water or sewer?

MR. ARCHULETA: Madam Chair, Commissioner Sullivan, the minimum lot size would be 2.5 acres.

COMMISSIONER SULLIVAN: Two and a half acres without water or sewer. Proof of geo-hydro would be half that. Would that be correct?

MR. ARCHULETA: That's correct. This is the Basin Hydrologic Zone.

COMMISSIONER SULLIVAN: Okay. So it's 2.5 and half that with geo-hydro.

MR. ARCHULETA: Family transfer.

COMMISSIONER SULLIVAN: Oh, half that for family transfer, not proof of geo-hydro. So family transfer could be half. Thank you, Madam Chair.

CHAIR VIGIL: Any further questions of staff? Mr. Gonzales would you please come forward.

[Duly sworn, J.J. Gonzales testified as follows:]

J.J. GONZALES: My name is J.J. Gonzales. I reside at 54 Entrada La Cienega, Santa Fe, New Mexico. I represent Rancho de Gonzales Partnership. We have owned this property probably since for the last 50 years. My father purchased this property in 1952 and when he acquired this property there was nothing between what is now I-25 and Highway 14. In 1955 the state penitentiary moved out there and they started encroaching on all the surrounding neighbors. We used to have grazing leases on that property and in a few years all those were taken away from us. The penitentiary started fencing all their property for security reasons.

In 1990 the National Guard decided to use some of that state land to move their headquarters. A lot of people that live out there, they moved out there probably in the sixties and seventies and that was just before the County Code was adopted so they all had one, two, 2.5-acre lots. They purchased 10-acre lots, divided them into parcels. The thing is many of the people that live out there today have been out there for many, many years. They were there way before the National Guard moved out there. None of us ever had a choice with the National Guard. They are exempt from all the County Codes. They just build whatever they want to build, whatever height they want. If they want to have their helicopters come to the headquarters to pick up their officials, that's what they do.

It's a very busy place out there, especially now in this situation we're in in the wartime. They mobilize a lot of people in and out of that area. I do have an area photograph here; I want to show you some of the main features that exist out there. And if I could have my brother come up here and hold this photograph.

CHAIR VIGIL: You have a handout. You're free to do that now that you're up if you'd like to.

MR. GONZALES: We have a packet that we've prepared and presented for

the CDRC. I think you have that information somewhere in your packets, but these are the ones that we've prepared.

Basically, what we have here is the Gonzales site is right in this area. It's a 47-acre site. Over north of the Gonzales property is a helicopter landing pad. That is a very busy place at times. Next to that is the headquarters which is over a five-story building that is right next to our property, on the north boundary of our property. Over east of there we have I believe the underground bunkers. I don't know what they store there, but they're visible from our property. Over further to the east they have a firing range. And that is usually in operation. Today was a very busy day. I happened to be out in La Cienega today, one of the few days I stay out there during the day, and there was activity there all day long. I know at nighttime you can hear whatever they do for night training.

So there are several areas here that have a big impact on Rancho de Gonzales. In your packet I have a table of contents there and that shows all the photographs I have. It also shows, I have pictures there of all the commercial development that is surrounding Rancho de Gonzales property and how it's impacted us. We have three houses on the property. It's been pretty much vacant all these years except for the three houses that we have. We've never actually thought of doing much development on that property. This last year we had a couple of vacancies out there in the houses. We had a difficult time renting those houses. That's when I realized that residential is not so suitable here.

We had people ask us if they could do some commercial type of development. I told them that this wasn't zoned for any type of commercial development. If you look at your packet you see Exhibit #1, it shows the way that the penitentiary and the National Guard complex has been developed in the last probably 30 or 40 years. They occupy everything from I-25 all the way to Highway 14. Our little piece of parcel there is just on the southeast corner of this big, huge 2,000, 3,000 acre state piece of property.

Also, in the first photograph after Exhibit #1 you'll see there's a big national headquarters building there. That's the big, five-story building you see from our property. The next photograph there is the helicopter landing pad, and you see some helicopters there that are on the pad. The other photograph shows the helicopters approaching that. Sometimes they land as many as three helicopters at one time on that piece of property. The next photograph there shows the bunkers. And then I couldn't get any other photographs, like the firing range, but we have aerial photographs of that. And you'll see the National Guard and the penitentiary, that is what in that Google area map that we pulled up, that's what was there maybe two or three years ago.

Now every year or every day or every month, they have more development that they're doing there. Towards the end of our packet we have the letters from the neighbors. We have two real close neighbors that have property adjoining to our property and they wrote us letters of support. My other neighbor, he's very supportive of our request for a variance. I don't think that anybody out there really has any complaints about what we've done. I don't think the County has received any negative feedback from our proposed request

for rezoning.

I think that if you look at that property, see all the businesses that surround it. Exhibit #2 shows many of the business that are right up and down on the frontage road, there's probably 20 or 25 businesses right now that are home occupation businesses. There's some commercial businesses. There's Santa Fe Bronze. There's Custom Craft. There's a roofing business, towing business. There's a lot of commercial businesses that are surrounding us. To the south we have at least two or three towing companies that exist in that area. And I think that's one of the things that when this came before the CDRC and before the County originally made their first assessment of it, we hadn't prepared anything and they just saw that our presentation was very well presented and they decided that there were some non-self-inflicting conditions that existed on the property. And I think for those reasons I would ask you to grant our variance on this rezoning. Thank you very much.

CHAIR VIGIL: Thank you, Mr. Gonzales. Are there any questions of the applicant?

COMMISSIONER MONTOYA: Madam Chair.

CHAIR VIGIL: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Gonzales, regarding the letter from the New Mexico Department of Transportation, what were they requesting the permission to survey?

MR. GONZALES: They were interested in acquiring their property to move their headquarters from Cerrillos Road out to our piece of property. And they sent us a letter some time in March asking for permission to survey, and we did grant them permission to access the property for a survey. I think after that they have found another site that they would like to acquire.

COMMISSIONER MONTOYA: Okay. Thank you.

CHAIR VIGIL: Further questions of the applicant? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Gonzales, the property immediately to the south of you, which shows on Exhibit 2 with a number 1 on it, and the next page after Exhibit 2 you have a picture of the sign there that says that this property is available and that it's zoned general retail and commercial. Has this parcel been given a variance, that whole parcel, for commercial?

MR. GONZALES: As far as I know, that piece of property was purchased from Rancho de las Golondrinas and that is owned by a partnership that is advertising that parcel as zoned as retail-commercial. That's what they have it advertised as. And that is a picture of the sign that we happened to see there. As far as I know that parcel has never been changed to commercial, but they're advertising that parcel for commercial purposes.

COMMISSIONER SULLIVAN: Vicente, do you agree with that? The question was the piece of land south of the Gonzales property –

MR. ARCHULETA: At this point, Commissioner Sullivan, this hasn't come in for any type of change of use so right now we would consider this a residential piece of

property.

COMMISSIONER SULLIVAN: Yet the sign that's up there says that it's zoned general retail and commercial, buy part or all.

MR. ARCHULETA: I don't believe – this property has not been zoned so I think they're saying that it has the potential, whoever the Old Santa Fe Realty is, is saying they may have the potential to become commercial. But that has to go through the zoning process and master plan.

COMMISSIONER SULLIVAN: It seems to be somewhat deceiving on the sign there, but obviously nobody's bought the land yet. I bring that up because if the Commission had already zoned this as commercial and then the subject property was in the middle, that would seem like, well, we've got commercial type property on both sides, it would seem to be logical that the one in the middle would be that way as well. Okay, so that's probably still residential. Thank you, Madam Chair.

CHAIR VIGIL: Further questions of the applicant? Mr. Gonzales, are you in agreement – I forgot to ask you – with the conditions put forth by staff?

MR. GONZALES: Yes.

CHAIR VIGIL: And there was a recommendation that you also comply with the Highway Corridor Ordinance. Are you in agreement with that?

MR. GONZALES: I've attended the Highway Corridor meetings and that I think had been dropped in that area, between 599 and Exit 271. There was such an outpouring of local opposition that I think the meeting they had last March, I think they probably dropped that. They tried to enforce the Highway Corridor out there and I think the people do not want to be included in the Highway Corridor because they had to give up too much of their property. So I'll go along with whatever the current Code calls for in that area. But I don't think the Highway Corridor is in force in that area.

CHAIR VIGIL: Okay. Is that correct, Shelley?

MS. COBAU: Madam Chair, that is correct. The Highway Corridor Ordinance is only in effect within the two-mile radius of the city limits. But I would like to point out to the applicant that because there's a frontage road, the setback criteria is substantially reduced from properties that don't have a frontage road, and the Highway Corridor plan in this case, the setback could be reduced to 25 feet with a screen and with a landscape buffer. So it wouldn't take 150 feet off the front of the property as in much of the other Highway Corridor areas. In other properties that have come in on the south side of I-25, such as the Carlos Gallegos property, that's closer to the La Cienega exit, he did agree to comply with the Highway Corridor plan and provide that 25-foot setback from the frontage road.

CHAIR VIGIL: Okay. Is that something that staff would work out with the applicant should it be necessary to?

MS. COBAU: Madam Chair, the second condition requires that the applicant come forward with a master plan for staff review and back to the BCC for final approval of

their master plan. So I believe that those type of details could be worked out during the master planning process.

CHAIR VIGIL: Okay. Thank you. This is a public hearing. Is there anyone else out there who would like to address the Commission on this item of the agenda? Seeing, hearing none, the public hearing is closed. Any further questions? What's the pleasure of the Commission?

COMMISSIONER MONTOYA: Madam Chair, move for approval of this along with the staff conditions.

COMMISSIONER ANAYA: Second.

CHAIR VIGIL: Motion and second. Any further discussion?

**The motion passed by 4-1 voice vote with Commissioner Sullivan voting against.**

CHAIR VIGIL: Mr. Gonzales, you have your request.

- XII. A. 8. EZ Case #V/S 03-4833 Valle Serena Reconsideration of Condition Valle Serena Subdivision (Zena Boylan), Applicant, Siebert and Associates (James Siebert), Agent, Request Consideration of a Condition Imposed by the BCC to Connect to a Community Sewer System. The Property is Located Approximately One Mile East of NM 14, on Valle Del Monte, Within Section 25. Township 16 North, Range 8 East and Section 30, Township 16 North, Range 8 East (5-Mile EZ, District 5) Vicente Archuleta, Case Planner [Exhibit 7: July 9 Letter]**

MR. ARCHULETA: Thank you, Madam Chair. On June 12, 2007, the Board of County Commissioners met and tabled this case so the applicant could address issues brought forth by the BCC about connections to the County utilities for sewer service. On February 13, 2007 the Board of County Commissioners met and approved the final subdivision plat and development plan for phase 2 of the Valle Serena Subdivision with staff conditions, plus an additional condition imposed by the BCC to connect to either Rancho Viejo's community sewer system or the private Turquoise Trail Subdivision sewer system.

The applicant requests reconsideration of the condition imposed by the BCC to require the connection to community sewer service. The applicant states, "In my initial discussions with Rancho Viejo it was possible from an engineering standpoint to connect to the Rancho Viejo sewer system. I have since been informed by Isaac Pino that such a connection could only be approved in conjunction with a rate hike, a rate hearing before the Public Regulation Commission requesting an extension of the current Rancho Viejo sewer service area. The Valle Serena Subdivision is not contiguous with the Rancho Viejo

boundary and additional properties would have to be included in the request for a modification to the Rancho Viejo sewer service area.

“While Rancho Viejo does not have a problem providing sewer service to Valle Serena, with a maximum of 14 lots, Rancho Viejo is not willing to commit to sewer service for the other vacant properties that would have to be included in the extension of sewer service request to the PRC. The addition to the Rancho Viejo sewage treatment plant would be designed to principally accommodate the future growth of Rancho Viejo. Connection to the Rancho Viejo sewer system is not feasible given the expansion of the service area through the PRC and the concerns that Rancho Viejo would have regarding the obligations that would be inherent in an expanded service area.

“Connection to the Turquoise Trail sewer system would require the approval of the City Council in addition to approval from Thornburg Enterprises, LLC. There was a concern regarding the deferral of the wastewater costs to the buyer of the lot.”

Recommendation: The applicant requests a reconsideration of the condition to connect to the Rancho Viejo or Turquoise Trail sewer systems and instead use conventional, onsite wastewater treatment systems, and install a dry sewer line within the subdivision that would connect to the County sewer line. All lot owners within phase 2 of the Valle Serena Subdivision would be advised in the disclosure statement and restrictive covenants that the septic tank and leachfield system would have to be abandoned and reclaimed according to NMED standards and they would have to connect to the County sewer system at such time as they are informed by the County Water Resources Division that such a connection is required. Thank you, Mr. Chair.

COMMISSIONER SULLIVAN: Thank you, Vicente. Any questions for staff? Seeing none, applicant.

Oath

JIM SIEBERT: My name is Jim Siebert, this case was tabled to allow the applicant and staff time to investigate the details of connecting to the County sewer system. We have done that. We've spent a great deal of time with County utility staff working out the particular details of this. What I'd like – and what the maps indicate is what are the principal participants in the system and what you have – this is Valle Serena here, consisting of 14 lots in phase 2. This is the Sonterra development sitting here that's 520 lots including commercial development. The Santa Fe Skies RV Park, which is 98 spaces, and the San Cristobal development. Sonterra is an approved master plan. San Cristobal is an approved master plan and Santa Fe Skies is actually an operational RV park at this time.

What we did is determine what would be the actual service area on a gravity flow standpoint for a regional sewer. The assumption is that the regional sewer would be coming up the drainage of the La Cienega Creek. What we've done is determine in the Sonterra and some of the backup information towards the back of your packet indicates this is really the majority of the Sonterra development, with the exception I think it's 89 lots, could be served by a sewer line that would come through the Valle Vista, the Valle Serena development, and

then a portion of San Cristobal could also be served by a sewer line in La Cienega Creek.

What Vicente did is use the San Cristobal master plan, determined what the gravity flow area is and approximately 790 units could gravity flow into this particular area.

Then what we did is come up with costs. Well, in the first, we call the phase 1 would be through the Valle Serena project, and this would be a 10" County sewer. Down the County Road Bajo and then down to the drainage of Cienega Creek. The second phase assumption is that you would then have a sewer line here. Obviously you wouldn't build them separately, but it would serve two distinct areas. This serves this area and the southern part of Sonterra. This would serve the majority of Sonterra and Santa Fe Skies. Santa Fe Skies would have to lift the effluent to the sewer manhole here on Camino Bajo. They're in the same situation we are. They find it impossible to connect into the Thornburg sewer system.

What we further discussed was – this is the Valle Serena development – is that how do you guarantee the Sonterra and some of these other areas can be served in the future with the regional sewer system for Santa Fe County. In this particular case, the applicant, Zena Boylan, controls this property here as well as Valle Serena. What we looked at is bringing a sewer line up to Camino Bajo, which sits right here, which is a County road, from which point then you have County roads that could provide access all the way to State Road 14. The third alignment is Cienega Creek.

To kind of summarize the proposal, is that we are asking to temporarily permit onsite septic systems. We would include in the disclosure statement and the covenants that those septic systems would have to be discontinued when a regional sewer system is there. The applicant would actually construct a gravity flow sewer system – it would be a dry system – within the subdivision itself that would be designed to connect to the future County sewer system. She would also agree to granting the necessary easements that would allow the County sewer system to be installed from Camino Bajo to the eastern end of her property. Then what we did is we just calculated some costs, and this is where, frankly, we do get into some theory. We discussed this before, what would be a reasonable proportion and share. We calculated the cost of a 10-inch sewer and the number of participants in that, which as we stated earlier would be principally Sonterra, Valle Serena, and Santa Fe Skies and came up with a cost there of \$8,127.

Included in this cost is an assumption that the sewer system might not be available for five years. There is an annual compounded eight percent inflation factor built into that. Then there's a 12-inch sewer that goes up through the La Cienega Creek drainage and crosses State Road 14, so included in those costs is a boring under State Road 14. And those costs, for the proportion for that line, proportionally would be \$4,161 on a pro rata basis for Valle Serena. The total cost to Valle Serena for the regional sewer system would be \$12,289.

What we're proposing to do is for that \$12,000 that there would be either a letter of credit or an escrow account created to provide a contribution to the future regional sewer system. We feel that this is a real advantage to the County from the standpoint that now you



have an opportunity not only – this subdivision is on County water. You now have the opportunity to collect that water, treat it, and have the potential to reuse it. We think it's a very sustainable solution. The other thing, we think it's a good solution actually be beginning the regional sewer system. We spent a great deal of time with County utility staff kind of figuring out the basics of this and when you proceed forward I think this will, especially with the provision of easements, facilitate that process. And I'll answer any questions you may have.

CHAIR VIGIL: Are there any questions of the applicant? Seeing, hearing none, this is a public hearing. Is there anyone in the audience that would like to address the Commission on this case? Seeing hearing none, I will close the public hearing, ask the Commission what is their pleasure?

COMMISSIONER SULLIVAN: Madam Chair.

CHAIR VIGIL: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I'd like to ask Mr. Sayre for his comments on the proposal on the costs and preliminary engineering, which I think appears to be fairly well done. Doug, could you give us your thoughts on this?

MR. SAYRE: Madam Chair, Commissioner Sullivan, we have sat down with Jim Siebert on this and we've looked at all the development we think could come into this what we call kind of the regional sewer and also what we call a little bit of a subregional sewer that just serves this subdivision as well as a portion of Sonterra. I think we tried to come up with a concept that we thought was equitable between all of these entities, to say how could this be set up?

We also looked at the costs. I did some costs. Jim did some costs. I primarily used the current costs that we have on the Valle Vista sewer system because we had eight and ten-inch pipe on that, and found some 12-inch current costs on sewer pipe. So we used those costs to try project. Then with the details, the manholes, the depth, the various factors that would come into installing a sewer in this location. I think we prefer the La Cienega Creek route. That gives us more opportunity for more subdivisions or more entities to connect, and that's one of the advantages of using that route. It's certainly the lowest part of the basin. Almost all of the proposed San Cristobal development would come into this regional sewer. That part that can come into the portion that we've already built down near the County development park and where it goes across presently over to the prison wastewater system. So the rest of it can come in there at maybe a lower part of this. So we think all of the San Cristobal development can be served by this regional sewer also.

I've tried to meet with them, by the way, to discuss this but we looked with our consultant about what sizing should be done, so we met with them to develop this. But I think the cost and I guess the participation factor seems reasonable to us and I have reviewed it with Jim and perused it over fairly intricately about how, what we thought was reasonable to do. So I think this presentation is certainly within what the boundaries of what we discussed with him to do and what I thought was directed by the Commission to do.

COMMISSIONER SULLIVAN: We're not being presented with the arroyo routing here, right? He's cutting off and going down the County road, right?

MR. SAYRE: No. The way I saw it, I think he showed a regional two sewer – let me check that. He's using the La Cienega Creek route.

COMMISSIONER SULLIVAN: He is? Okay.

MR. SAYRE: On what he refers to as the phase 2 regional sewer, that's La Cienega Creek. That's definitely the lowest part of the basin which would make all of the area accessible to that sewer.

COMMISSIONER SULLIVAN: Okay. Then the amount of units he's calculating in San Cristobal would be consistent with using that lower sewer route.

MR. SAYRE: That's correct, Commissioner Sullivan.

COMMISSIONER SULLIVAN: Okay, so just by way of history here we went back some time and the Commission was told that the phase 2 of this would have a community water system and if it got community water it would have a community sewer system. It did get community water and then the applicant came back and said, well, now we want septic tanks. So we've been fine-tuning this problem for several Commission meetings. I think we're getting pretty close to something that's acceptable. I think the chairwoman brought up the question at the last meeting about can we commit to a specific dollar amount when we don't have final plans, and I would add to that to of course the \$12,000 doesn't have any contribution to the wastewater treatment plant either. This is only for sewer lines. Is that correct, Mr. Sayre?

MR. SAYRE: Commissioner Sullivan, that is correct.

COMMISSIONER SULLIVAN: Yes. Okay. But nonetheless, I think we're moving towards a process and a strategy here which I think is important. We've kind of dumped it on this 14-unit subdivision, but nonetheless, the process is we need to design a regional sewer. We need to know where it's going to go. We need to know what it's going to cost and we need to know how much the development community needs to pay for it in order to use it. And we need to require that they do use it. Those are my goals. So I think this does a pretty good job at it. Thank you, Madam Chair.

CHAIR VIGIL: Any other questions, comments? Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, this is a question for staff: Did the applicant say that in phase 2 of his subdivision that he was going to provide a wastewater treatment facility?

MR. ARCHULETA: Madam Chair, Commissioner Anaya, I believe the applicant – that may have been said at phase 1. But for phase 2 they've been proposing onsite liquid waste systems from the start.

COMMISSIONER ANAYA: So I guess this question goes to Commissioner Sullivan. I believe you read back in the minutes that they had proposed a wastewater treatment plant.

COMMISSIONER SULLIVAN: Yes, Madam Chair, Commissioner Anaya.

In our meeting of January 13, 2004, which I just happen to have a copy of the minutes here, when we dealt with phase 1 of this, which consisted of six units to be on septic tanks, Mr. Siebert testified, "I think with regard to subsequent, should Zena Boylan ever decide to proceed forward, and that's dependent upon the availability of County water, that she would agree to have a community system, or if a County system is available, to tie to that."

Of course the community water did become available. The County water system did become available, so that was a commitment that there either be a tie to a County system, if it's available, which at this current time is not, or that they would agree to have a community system. Based on that testimony the Commission approved the development plan for phase 1. And that's where the commitment comes for the community system, 2004.

COMMISSIONER ANAYA: Thank you, Madam Chair.

CHAIR VIGIL: Any further questions? What's the pleasure of the Commission?

COMMISSIONER ANAYA: Move for approval with conditions.

CHAIR VIGIL: There's a motion. Is there a second?

COMMISSIONER CAMPOS: Second.

CHAIR VIGIL: There's a second.

COMMISSIONER SULLIVAN: Madam Chair, discussion.

CHAIR VIGIL: yes.

COMMISSIONER SULLIVAN: The conditions, and I recommend that we vote in favor of this.

CHAIR VIGIL: Were you referring to the conditions as proposed by the applicant, Commissioner Anaya?

COMMISSIONER ANAYA: Oh, I don't see any conditions.

COMMISSIONER SULLIVAN: Yes. I think to make it clear, Commissioner Anaya, if we could propose it with the conditions or those proposed by the applicant in their letter dated July 9, 2007, because those aren't reflected in the – it looks like the same letter but the current one is dated July 9<sup>th</sup>, that he passed out.

COMMISSIONER ANAYA: This one?

COMMISSIONER SULLIVAN: Correct. That's the one where he lays out the estimated costs and their agreement to build the onsite sewer and their agreement to participate in the offsite sewer to the tune of \$12,000 and some change, and the agreement to provide, and I assume, Mr. Siebert – correct me if I'm wrong – this is at no cost – necessary easements to the County to access that regional sewer.

MR. SIEBERT: Madam Chair, Commissioner Sullivan, that's correct.

COMMISSIONER SULLIVAN: Okay. Did I summarize the letter, Mr. Siebert, correctly?

MR. SIEBERT: Yes, you did.

COMMISSIONER SULLIVAN: Okay.

COMMISSIONER ANAYA: So with the letter dated July 9, 2007.

COMMISSIONER CAMPOS: The seconder is fine with that.

CHAIR VIGIL: Motion and second. Any further discussion?

COMMISSIONER MONTOYA: Madam Chair.

CHAIR VIGIL: Commissioner Montoya.

COMMISSIONER MONTOYA: Do previous conditions still apply?

MR. ARCHULETA: Madam Chair, Commissioner Montoya, the conditions of the approval, they still apply.

COMMISSIONER MONTOYA: They still apply? Thank you.

CHAIR VIGIL: That goes to the intent of the motion being made. Any further questions?

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

COMMISSIONER SULLIVAN: And Madam Chair, thank you, staff for spending the time for spending the time to sit down and get these answers to the questions in a timely fashion.

[Commissioner Campos left the meeting.]

- XII. A. 9.CCRDC Case #Z/V 07-5030 Los Cabos Master Plan/Variance and Land Division. Los Cabos LLC (Ron Adams), Applicant, Tigges Planning Consultants (Linda Tigges), Agent, fro Master Plan Approval for a Commercial Development Consisting of 18,750 Square Feet, and a Request for the Following Variances of Article XV, Section 6.B.1 (Community College District): a Variance to Allow On-Site Septic Systems Rather Than Connecting to Community Sewer; and Article XV, Section 4.B.2.b.ix (Community College District) and a Variance to Allow a Development Which is Not Mixed Use. The Applicant Also Requests Plan Approval to Divide 3.27 Acres Into Three Lots For Commercial and Industrial Use. The Subject Property in Located Within the Community College District, Off NM State Road 14, East of the Santa Fe Brewery, Within Section 24 and 25, Township 16 North, Range 8 East (5-Mile EZ, District 5) Vicente Archuleta, Case Planner**

CHAIR VIGIL: I will just state before I give it over to you, Mr. Archuleta, that Commissioner Campos had to leave early so we still have a quorum. There's four of us but maybe we could move forward on these cases. We have two more after this one. Vicente, it's yours.

MR. ARCHULETA: Thank you, Madam Chair. On June 6, 2007, the Community College District Development Review Committee met and acted on this case. The decision of the CCDRC was to recommend approval subject to staff conditions.

The applicant is requesting approval for master plan zoning approval for a commercial development consisting of 18,750 square feet, and a request for the following variances of Ordinance No. 2000-12 (Community College District): a variance to allow onsite septic systems rather than connecting to community sewer; and a variance to allow a development which is not mixed use. The applicant also requests plat approval to divide 3.27 acres into three lots for commercial and industrial use. The property is located in an Employment Center District of the Community College District.

Los Cabos Subdivision is planned for non-residential use. Though the final uses will not be determined until the development plan is submitted, for purposes of determining parking, water use and traffic generation, the buildings are expected to be used for work spaces, small offices and warehousing.

The applicant also requests a variance of Article XV of Santa Fe County Land Development Code, Ordinance No. 2000-12, Community College District Land Use and Zoning Regulations, requiring the connection to community sewer systems. Community water and sewer are within 200 feet of the proposed project.

Article XV, Section 6.B.2 states: "If a community water supply service and/or community sewer supply service is not available within 200 feet of the property boundary, schools and other public buildings may be developed utilizing private water supply wells and/or private wastewater treatment systems provided, however that any such private water supply wells shall demonstrate water availability pursuant to Article VII, Section 6 and any such private wastewater treatment systems shall conform to the requirements of Article VII, Section 2.

"Notwithstanding the foregoing, within one year of community water and/or sewer service becoming available within 200 feet of the property boundary, the facility shall connect to the community systems and decommission the private systems and cap any on-site water wells. Such decommissioning and capping shall conform to NMED and NMOSE regulations and guidelines."

Article XV, Section 6.B.3 states: "Except as identified in the preceding two paragraphs, the requirements for community water and community sewer systems set forth in the County Land Development Code Article VII, Section 2 and Article VII, Section 6, respectively, shall apply for all developments within the CCD." Therefore a variance is required.

Article XV, Section 4.B.2.b.ix states: "In an Employment Center Zone, an applicant may propose a phase which is not mixed use if:

- 1) the phase following the non-mixed use is a mixed use phase; and
- 2) the proposed use is for a major employer, is not retail, creates a significant number of new jobs and all infrastructure is adequate; and
- 3) the Board finds, in their discretion, that (a) the proposed non-mixed use phase

bears a sufficient connection to the approved, proposed or built residential uses in the same Zone or any adjacent or contiguous Zone such that the overall mixed use intention of this Ordinance will be achieved: and (b) the uses in the non-mixed-use phase promote and advance the county regional goals for employment and economic development and are compatible and appropriate with principles of the CCD and meet the requirements of the Land Use Table.” Therefore, a variance is required.

Article II, Section 3.1 (Variances) states: “Where in the case of proposed development, it can be shown that strict compliance with the requirements of the Code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self inflicted conditions or that these conditions would result in inhibiting the achievement of the purposes of the Code, an applicant may file a written request for a variance. A development review committee may recommend to the Board and the Board may vary, modify or waive the requirements of the Code and upon adequate proof that compliance with the Code provision at issue will result in an arbitrary and unreasonable taking of property or exact hardship, and proof that a variance from the Code will not result in conditions injurious to health or safety. In arriving at its determination, the Development Review Committee and the Board shall carefully consider the opinions of any agency requested to review and comment on the variance request. In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified.”

The application was reviewed for the following: existing conditions, adjacent property, open space, access, water, fire protection, liquid and solid waste, terrain management, landscaping, traffic, parking, lighting and signage.

Recommendation: Staff recommends denial of the variance to CCD Ordinance 2000-12, as the applicant has not demonstrated that the development meets the criteria established in Article XV, Section 4.B.2.b.ix for mixed use and the request is not driven by topographic or other non-self inflicted conditions. Regarding the variance of Article XV, Section 6.B.2, regarding the requirement to connect to County water and sewer, the applicant has provided documentation indicating that they are unable to comply with this criteria and staff feels this is not a non-self inflicted condition and the variance may be supportable.

If the decision of the BCC is to recommend approval of the variances as requested, Staff recommends master plan approval for a commercial development consisting of 18,750 square feet and plat approval to divide 3.27 acres into three lots for commercial and industrial use subject to the following conditions. May I enter those conditions into the record?

[The conditions are as follows:]

1. All redlines comments must be addressed.
2. Master plan with appropriate signatures must be recorded with the County Clerk.
3. A detailed signage and lighting plan shall be submitted with the Preliminary development plan. Signage and lighting shall conform to EZO requirements. All

- lighting shall be shielded.
4. All utilities shall be underground.
  5. The applicant must submit access permits as required by NMDOT.
  6. Compliance with the Santa Fe Metro Area Highway Corridor Ordinance standards.
  7. A discharge permit from NMED shall be required prior to final development plan approval.
  8. A contract from a solid waste disposal service must be submitted prior to final development plan approval.
  9. The dumpster(s) location must be identified on the final development plan. Dumpster(s) must be screened by a 6' opaque wall or fence.
  10. A detailed landscape plan must be submitted with final development plan application. All new trees shall be a fifty percent mix of evergreen and deciduous trees. Trees shall have a caliper of 1.5 inches and be a minimum of six-feet tall at time of planting. Shrubs shall be a minimum of 5-gallons at time of planting
  11. A detailed drainage and grading plan with calculations shall be submitted with the development plan for parking lot and impervious surface drainage that will not be retained in cisterns.
  12. A detailed fire protection plan to be approved by the County Fire Marshal shall be submitted with the final development plan.
  13. Compliance with applicable review comments from the following:
    - a) State Engineer
    - b) State Environment Department
    - c) Soil & Water District
    - d) State Highway Department
    - e) County Hydrologist
    - f) Development Review Director
    - g) County Fire Marshal (Site Plans & Building Plans)
    - h) County Public Works
    - i) State Historic Division
    - j) Technical Review Division
  14. Applicant shall submit detailed building elevations, building height shall not exceed 24 feet.
  15. The applicant must address all minor redline comments by the County Subdivision Engineer as shown on the plat of survey and terrain management plan. These plans may be picked up from Vicente Archuleta, Development Review Specialist within the Land Use Dept. These plans must be resubmitted with the Mylar prior to recordation.
  16. All three lots shall connect to community sewer when within 200 feet of original lot.
  17. Single point of access off Fireplace Drive, with Knox lock gated emergency access only on State Road 14.

CHAIR VIGIL: Are there any questions of Mr. Archuleta?

COMMISSIONER SULLIVAN: Madam Chair, one question.

CHAIR VIGIL: One question, Commissioner Sullivan.

COMMISSIONER SULLIVAN: Vicente, your testimony was that there is sewer within 200 feet of the property. Is that correct?

MR. ARCHULETA: Madam Chair, Commissioner Sullivan, that's correct. That's the City sewer line that Thornburg has put in for Longford Homes.

COMMISSIONER SULLIVAN: Okay. Thank you.

CHAIR VIGIL: Ms. Tigges, please state your name and address for the record and be sworn in for testimony.

[Duly sworn, Linda Tigges testified as follows:]

LINDA TIGGES: Linda Tigges, 1925 Aspen Drive. I would like to introduce the applicant, Ron Adams, and our civil engineer, Joe Chato. We do agree with the conditions of approval except for the last condition, condition #17 that was added by the Community College District Development Review Committee, and I'll be discussing that later in the presentation.

First I'd like to locate the property for you. It is – on this map first it's right here on State Road 14 where State Road 14 bends to the east. And to maybe orient you further, the property is, for those of you who've lived in this area, it's the extension of State Road 14 before the interstate went in. It's the old right-of-way that has been abandoned by the Highway Department and after some intervening purchases was purchased by the applicant.

So to the east is the proposed Harley Davidson development. Here's Fireplace Road, PNM, the La Cienega Fire Department. Here is the Santa Fe Brewery. Sonny Otero's project is here and here's Mesa Steel down here. It's in the midst of commercial development. The site plan –

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Linda, are you just talking about the thing in white?

MS. TIGGES: Yes. It's three acres.

COMMISSIONER ANAYA: Just a strip. How wide and long is it?

MS. TIGGES: I'd have to look on the plat. It's enough to accommodate three lots.

COMMISSIONER ANAYA: Okay. I think it's – well, I better not estimate. Joe, maybe you could look that up for me. He wanted to know how long and how wide. This is the site plan. The idea is to have three units on it, three industrial, commercial units on the project, divided into three lots. The applicant has not got a tenant for any of these. His plan is if he gets approval, to sell them. However, we are suggesting that they would be partly office, partly warehouse and partly workspaces, similar to the projects in the Turquoise Trail



Park and in the general area.

We worked to meet these standards of the Community College District. It is in an employment center. We set back 50 feet from Fireplace Road over here. We did 50 percent open space. We have a 33 percent park area and there is a central area, a seating area here. In the middle we have 75 parking spaces.

In terms of infrastructure, I think you can see that the southern most property, the entrance is from State Road 14 where the two on the north, the entrance is from Fireplace Road, and we checked that out with the Fire Department and it was acceptable. We have a water availability for 1.25 acre-feet of water. For sewer line, we are as Vicente pointed out, we are requesting a variance and would provide three liquid waste systems, which leads me to talk about the variances.

The first variance is for the liquid waste system. There is a sewer line right to the west but it is a private line, the Thornburg line, and we have two letters in the packet, I think it's exhibit 12-A, the one from Thornburg himself, and one from the head of the – I guess it's a sewer organization that says that they are provided that line by the City under contract. They are not able to add anyone else to the contract and they don't have capacity for us anyway. So we're asking for a variance for that. I think that's why the staff recommended approval. If you can't find the letters I have them here and I can hand them out.

MR. ARCHULETA: Madam Chair, Commissioner Sullivan, that is on Exhibit G.

MS. TIGGES: Okay.

CHAIR VIGIL: Please proceed, Linda.

MS. TIGGES: Thank you. The second variance has to do with the nature of the Community College District employment zones. When that was adopted I think the idea was that each employment zone would have some mixed use, a mixed-use aspect. The definition of mixed use in the Code, in the Community College District Ordinance says "Mixed use means and refers to a land use pattern which provides for integration of appropriate residential and non-residential uses." I don't believe that it was intended to apply to a three-acre parcel. That's why we're asking for a variance. The parcel is bounded on one side by a brewery and the other side by Harley Davidson. They have a recreational track on their lot, and then also in the area is other industrial development. Residential in this area would be inappropriate and probably hard to market.

The third item I wanted to bring up was the last item on the conditions of approval in Vicente's report, item #17. The Community College District Board was concerned about additional access off State Road 14 so they wanted us to have access only from Fireplace Road. It would be around the top all three units. We would like to have that condition deleted for two reasons. The first is that we had hoped that because these would be warehouse work spaces, it would be best if they could have security. If they could have gates or fences. The first two would be connected so this one couldn't, the northern one couldn't but the other two parcels would be able to have gates. If there's one road going all the way down the cul-de-

sac then the only one with any security is the last one.

To answer your earlier question, it's 149 feet across.

The second point is that this is an extension of State Road 14. We already have access, traditional access from the south. The old pavement runs right down the middle of the property. It will be removed. So we've already got access from the current State Road 14. And then finally, and maybe most importantly, you can see here, this is the current and former access, and this is a road that goes across – well, I should say a driveway that goes across the property to Sonny Otero's property. That's his access point. That's his entrance. If we were to close off this southern boundary we would be not only blocking access to the subject property but also to Sonny Otero's development. So there's some legal aspects there that give us some concerns.

So for those reasons we're asking that condition #17 be deleted. With that, I'll stand for questions.

CHAIR VIGIL: Questions for the applicant. Seeing, hearing none, this is a public process. Is there anyone out there who would like to address the Commission on this item. Seeing, hearing none, the public hearing is closed. What's the pleasure of the Commission? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Madam Chair, I'm looking at the – it doesn't have an exhibit number but it's similar to the one that she's showing there of the access on to 14. The problem I see with that and I imagine that's what Community College District Committee was concerned about was that as you come out on that access going southbound you've got a pretty dangerous situation. You're coming out at an angle, and I think that that's an issue, and there's the short-cutting issue of driving through to get from one road to the other. So deleting that condition would concern me.

I'm still also concerned that the letter, the boilerplate letter from the City saying you have to go through the process in order to get City sewer or City approval. But I think as we saw with the previous applicant there are ways to look at how to pre-sewer the development and prepare it for County sewer, which hasn't been done here. We just can't continue to develop all along Route 14 on septic tanks. It's not going to be practical. And if there was no pre-sewering ahead of time then we'd have to come in and tear up the applicant's paving to do that and that would be extremely difficult. Again, there's no indication of contribution to offsite costs of future sewer lines.

Are these things, Ms. Tigges, that you've looked at?

MS. TIGGES: One of the conditions of approval was that when a public sewer line came within 200 feet we would connect to that sewer line. So that was an acceptable condition.

COMMISSIONER SULLIVAN: That's a standard – that's County ordinance, so there's nothing fancy about that. The suggestion that I'm making is we're having a number of small developments such as the one that just preceded you pop up along Route 14, all of whom want to put septic tanks in. We're very close to putting sewer throughout that

area through a regional sewer system. We're currently doing a study of a regional sewage treatment plant that would be located there as well, a spinal system for regional sewers that the previous development referred to and gave some costs on.

So we need to have a mechanism that these developments can easily connect to sewer, because once lots are sold or once something happens out there and construction occurs and everything is paved over, then it becomes much more difficult to get a sewer line in and require them to hook up to a sewer.

CHAIR VIGIL: What's your recommendation, Commissioner Sullivan,

COMMISSIONER SULLIVAN: My recommendation is that the applicant be required to pre-sewer the site for future connection to the regional sewer system, and that the applicant also agree to pay its pro rata share based on flow volume of the cost of the interceptor sewer collection lines of that system, and that they either bond or through a letter of credit provide the necessary financial documents to accomplish that.

CHAIR VIGIL: Ms. Tigges?

MS. TIGGES: I think the applicant would rather not do that of course, because it's hard to know when the sewer would come through there, and there hasn't been any specific date given for that. However, if it is a policy for all persons in the area, a general policy, rather than an ad hoc policy, and there's some assurance that it is a general policy, then that would be more acceptable. And what I've heard tonight is that it applies to two subdivisions that have been before you tonight. I think we'd need some assurance that it was an area-wide County policy and also some indication of the charge.

Now, you might keep in mind that we're asking for master plan here, not development plan. Specific property owners would come in for development plan.

COMMISSIONER SULLIVAN: Madam Chair, I guess the problem I have is that if they're going to sell lots there and we don't know what's going to go on those lots, and I might just ask Ms. Tigges, are any of those proposed to be storage units, self-storage units?

MS. TIGGES: At this time we don't know what the use would be. We have a fairly broad use list. I don't believe there are any proposals for it to be a storage unit. They're more work space.

COMMISSIONER SULLIVAN: Okay. Because I saw storage units require a variance there. They're a conditional, not a permitted use.

MS. TIGGES: Well, then we are not asking for self-storage units.

COMMISSIONER SULLIVAN: Okay. You're not asking for a variance for self-storage units. Okay.

MS. TIGGES: No. That's correct.

COMMISSIONER SULLIVAN: But I think you may not have been present but in past meetings and in this meeting the staff has reported on the wastewater system and the study. It's about 2 ½ years down the road. It's coming. We would need to have some mechanism more than just a disclosure document that would enable the County easily to

require that these lot owners that you're going to sell these lots to hook into the sewer. And it's just awfully difficult to come back and say, okay, here's the sewer; now, tear up all your pavement and change your connections on your building and hook in.

MS. TIGGES: Just to repeat, the applicant would agree, I believe, to City policies that are area-wide and are not, do not have the appearance of just applying to this property.

COMMISSIONER SULLIVAN: We've only applied the policy. I guess if you need some other assurances you might want to – we'd be glad to table this for you this evening and you can work with staff and get some comfort zone on that. Perhaps, Mr. Sayre, you might have some comments that might assist as well.

MR. SAYRE: Madam Chair, Commissioner Sullivan, could I address this situation presently? We have contacted PNM. We have contacted the Santa Fe Brewing Company. This particular client I thought had been advised that we were considering how we could sewer this area, how we could work this. We've tried to work with all entities in the area to say this is coming. The feasibility study is going to be here and approved, we think, within the next couple of months so that we can look at how this can be addressed. I think this situation is similar to the previous one with Valle Serena. We want to see how this can be done.

We worked out an easement for the water line from the brewing company, also from Sonny Otero. They have access to this because it's next to them. I think we could work out where the sewer would be in the vicinity of this so that both the brewing company and this entity could connect, and I do agree with you, we probably need to go ahead and put in the dry sewer system so that we don't tear up the system later on. But we could have it set up similar to what we're going to require for Valle Serena, so that they put in the onsite system now, but they would readily connect to the sewer system when it can be connected to the regional system. I think that can be worked.

We can work, I think, on a participation basis between PNM, the Santa Fe Brewing Company, who is really interested in getting off their current system and on to a regional system, and probably Sonny Otero, and this entity, to work this all out. We have looked at this; it could probably be gravity on down over underneath the freeway and possible to the Komis property where there would be a lift station. So we're trying to look at what's the most feasible way to handle wastewater treatment in this area, as well as across the interstate.

So that's coming and I think if we can have those conditions we can work out how the cost factors should work on that, if that's agreeable.

CHAIR VIGIL: Thank you, Mr. Sayre. Ms. Tigges, did you want to respond?

MS. TIGGES: Yes. Thank you. That was very helpful and I did have a chance to talk to the client. He has agreed to have that be a condition of approval and I think I heard two things. One, the setting it up as a sewer, and then also the pro rata share for the – treatment plant or the sewer line? If you could be more specific.

COMMISSIONER SULLIVAN: The offsite sewer line.

MS. TIGGES: The offsite sewer line.

COMMISSIONER SULLIVAN: Not the treatment plant.

MS. TIGGES: Not the treatment plant. Okay.

COMMISSIONER SULLIVAN: That would be a big hit.

MS. TIGGES: Yes, it would. And I think maybe, just to be clear in my mind that this would be a condition I guess on the plat, because at this time we don't – the way the cost is based on the flow, we don't know what that flow is. So it would be a condition on the plat that the developers of the property would pay the pro rata share, rather than at the master plan level.

COMMISSIONER SULLIVAN: I think, Madam Chair and Ms. Tigges, that that – we are just at master plan approval now. I think that my preference would be that we leave that detail for the applicant and the staff to work out when you come back for development plan approval.

MS. TIGGES: Thank you.

COMMISSIONER SULLIVAN: It may be, as was the case with Valle Serena, the applicant is paying it, and then they're selling 14 lots. It was \$12,000; it wasn't a lot of money. I don't know what the case would be here, but you may want to get it out of the way and approve it because costs just escalate. You may want to fix it versus having it be uncertain. So I think that those would – that would better be handled later.

Now, Shelley, does this come back to the BCC?

MS. COBAU: Madam Chair, Commissioner Sullivan, this will come back to the BCC for development plan approval.

COMMISSIONER SULLIVAN: For development plan approval. Okay. So we have that opportunity then to revisit this. But in terms of the master plan conditions, Madam Chair, my recommendation would be that we approve the master plan, that we approve the variance with an additional condition which staff has agreed to, that onsite sewer, dry sewer be constructed, and that the applicant – and that pro rata participation in the offsite sewer be a requirement.

CHAIR VIGIL: Is that in the form of a motion?

COMMISSIONER SULLIVAN: I would move that.

COMMISSIONER MONTROYA: Second.

CHAIR VIGIL: Does that include the request of the applicant that item 17 be deleted?

COMMISSIONER SULLIVAN: My motion did not. I spoke to that previously. I think that 17 makes sense. I would certainly be open as the staff looks at it further in the development plan process to revisit it if there's a compelling reason for that. Perhaps the DOT comments would help on that as well.

CHAIR VIGIL: Okay. So it's left as a condition of approval.

COMMISSIONER SULLIVAN: In my motion it would be left in.

CHAIR VIGIL: Is that the same intent of the seconder? Any further

discussion or questions?

**The motion passed by unanimous [4-0] voice vote.** [Commissioner Campos was not present for this action.]

MS. TIGGES: Madam Chair, what about the variance for the mixed use?

CHAIR VIGIL: Did the maker of the motion include that variance?

COMMISSIONER SULLIVAN: I think the motion addressed all the variances and it specifically focused on the sewer variance by saying we were not approving the sewer variance. Let me rephrase that. We were approving the sewer variance but with the condition that was just described, of the dry sewer and the offsite participation.

CHAIR VIGIL: Seconder agree with that? Okay. We have some clarification on that.

**XII. A. 10. EZ Case #S 05-4841 Suerte del Sur Subdivision, Phases 1-5. Santa Fe Planning Group Inc., (Scott Hoeft), Agent for Suerte del Sur, LLC (Gerald Peters), Applicant, is Requesting an Amendment of the Previously Approved Master Plan and Preliminary Plat/Development Plan for a Residential Subdivision Consisting of 304 Lots on 660 Acres. The Property in Located Along Los Sueños Trail South of Las Campanas and North of Piñon Hills Subdivision Within Section 24, Township 17 North, Range 8 East (5-Mile EZ, District 2) [Exhibit 8: Amended Master Plan and Phasing Plan; Exhibit 9: Rubin letters, June 26 & 27]**

JOE CATANACH (Technical Director): Thank you, Madam Chair, Commissioners. On April 10, 2007 the BCC tabled this request based on a tie vote, and I included those April minutes. On May 8, 2007 the BCC tabled this request with direction to the applicant to proceed with an affordable housing plan that is in accordance with the ordinance regarding dispersal and phasing of the affordable housing within the subdivision.

The staff report goes on to describe the previous approvals, approvals that occurred in 2004 by the CDRC for master plan, for initially a 264-lot subdivision and then in July 2005 the BCC granted master plan, and then in February 2006 the EZC recommended preliminary plat/development plan. April 11, 2006 the BCC granted preliminary plat/development plan, and I included those minutes of that April 2006 BCC meeting.

After that, in February 2007 the CDRC recommended approval for an amended master plan and in March 2007 the EZC recommended approval for amended preliminary plat/development plan. I included those minutes. The current request is for an amendment of the previously approved master plan and preliminary plat/development plan in order to

include 30 percent affordable housing for the purpose of complying with the Affordable Housing Ordinance. The summary background and conditions as outlined in the staff report to the BCC on April 11, 2006 is relevant and remains as presented. I included the staff report that was presented to the BCC in April 2006.

The amended master plan and plat increases the number of lots from 264 to 304, with the following specific amendments. This is the follow-up that occurred after the May meeting, integrating affordable housing into each phase. So phase 1 includes 11 affordable housing lots, 33 market lots, an eight-acre tract for a community building with swimming pool and hard courts. Phase 2 is 15 affordable lots, 42 market lots. Phase 3, 24 affordable lots, 62 market lots. Phase 4 16 affordable lots, 38 market lots. Phase 5, 14 affordable lots, 49 market lots, and a four-acre neighborhood community park with recreational facilities. The average lot size for the affordable is .70 acre, and the market lots primarily range in size from one to 3.5 acres with nine ranch lots consisting of five acres, including 54.6 acres as common recreational open space for a public trail.

The proposal is a density transfer with a 15 percent density bonus allowed for the affordable housing. The gross density is one residential unit per 2.17 acres. Water service previously approved by the BCC does not include water service for the affordable housing. The County Water Resources Department has issued a letter confirming additional water service for the affordable housing. This additional allotment of water is subject to approval by the BCC in conjunction with approval of the amended master plan and the preliminary plat/development plan. Water use is allocated at .25 acre-foot per lot, which includes the water for the 20 percent line loss in accordance with a condition previously imposed by the BCC. Therefore water will be restricted to .245 acre-foot per lot.

The equestrian facility has been deleted from the proposal. The proposed amendment is primarily for the purpose of complying with the Affordable Housing Ordinance. The affordable housing plan has been reviewed by the affordable housing administrator and is acceptable regarding integration, phasing and design of the affordable housing within the subdivision. Staff recommends an amendment to the master plan and preliminary plat/development plan subject to the following conditions.

1. Compliance with applicable conditions previously imposed by the BCC for its preliminary plat/development plan. That was at the April 11, 2006 BCC meeting.
2. Total number of residential lots shall not exceed 304.
3. Offsite section of Los Sueños Trail that extends north of the proposed subdivision to Las Campanas Drive shall be upgraded to a minor arterial standard.
4. Submit final affordable housing agreement in conformance with the affordable housing plan as approved by the County staff. That has been submitted and there has been a review by Duncan Sill regarding the most recent affordable housing agreement.

Thank you, Madam Chair.

CHAIR VIGIL: Thank you, Mr. Catanach. Are there any questions of staff?

Seeing none, is the applicant here?

JAMES RUBIN: James Rubin, Rubin Katz law firm, representing Suerte del Sur, LLC.

CHAIR VIGIL: Okay, Mr. Hoeft, will you be testifying?

SCOTT HOEFT: Yes.

CHAIR VIGIL: Would you please state your name and we'll get you sworn in.

MR. HOEFT: Scott Hoeft, Santa Fe Planning Group.

CHAIR VIGIL: Please proceed.

MR. RUBIN: Madam Chair, Commissioners, I stand before you tonight with an affordable housing plan that I believe meets the spirit of the Affordable Housing Ordinance the intent of it, and most importantly, the letter of the law in the Affordable Housing Ordinance. I submitted to you on June 21<sup>st</sup>, to each of you a letter, which I believe is in record as well. It shows exactly how Suerte has met each and every element required under the Affordable Housing Ordinance. This process has been going on for approximately a year. It was than long ago that you approved the amended master plan and the preliminary plat subject to affordable housing.

I'd like to submit to you that the current plan is a plan which you and Santa Fe County can be very proud of and use as an example in other subdivisions throughout the county and we ask that you approve it. Scott and I will present a few points very briefly and then stand for questions. I'd like to note that we have gone beyond the County Code in terms of notice to interested parties. I advised all of you of that and put that in the record as well. We actually sent out, even though we weren't required, to 50 different neighborhood associations and interested individuals, a copy of the plan, the phasing of the plan – everything else, all for full disclosure, so there would be no surprises here tonight. Because I think that all of you like the public to be informed. So we took that extra step even though we weren't required to do it.

Now, we had originally planned to include all 80 affordable lots and units in phases 1 and 2. But back in April, Commissioner Sullivan contended that that did not meet the letter of the law, that these had to be phased in. That is found in Section 4.E of the ordinance. We have phased these in on a pro rata basis, so now the County citizens will receive the affordable units in the shares that Joe mentioned in his report. So we have satisfied Section 4.E, which Commissioner Sullivan also brought up again at the May meeting and asked that the applicant do that.

It was also directed at that point that we need Section 4.D of the ordinance, that even though staff had previously believed that the plan presented in April met the spirit and intent of the terms of reasonable dispersal, there was some question among you. So we have gone from three basic affordable lot areas now to six different locations throughout the five phases, where the affordable lots will be located. So we fully satisfied in our opinion, Sections 4.D and 4.E.



I'd like to note that the ordinance states that affordable housing will be reasonable dispersed. That's what we've done here is reasonably disperse. Your ordinance does not state that it has to be randomly dispersed and polka-dotted throughout the subdivision. It doesn't state that it has to be scattered; it states reasonable dispersal. Six different locations of affordable lots we believe more than reasonably meets the letter of the law here.

We agree with staff that our plan satisfies the law and we urge you again to make Suerte an example of what it takes to meet the spirit the law and how affordable housing can be integrated into subdivisions of any type – high end, mid end, low end – it doesn't make any difference. It shows how you can do it with creativity and we ask that you approve this tonight to that we can get this project going. This has been in process essentially for four years at this point, and we've done everything that the law requires us to do. We ask for amended master plan and preliminary plat approval and Scott would now like to present a few comments.

CHAIR VIGIL: Let me just ask if the Commissioners have any questions of you. Do the Commissioners? Seeing none, Scott, please.

[Previously sworn, Scott Hoeft testified as follows:]

MR. HOEFT: I'm going to jump right to the May 8<sup>th</sup> hearing, and at that hearing we got two directions. One is further dispersement, the second is the phasing of the project and to adjust it. Tackling that question we chose of course to handle the east side of the property, and if you remember, the previous iteration of this plan had affordables in the north and on the east side of the project. To pull some of the affordables from the east side of the project made obvious sense. When this project was originally approved with 264 lots in the master plan those were large-lot residential, so to convert those back to large-lot residential was an easy transition.

If you also remember from our previous hearings there was individuals from Tierra Grande, from La Vida Trail area that were concerned about the amount of affordable in that area, the pocket of it. So it was wise in our judgment to pull some of that out and of course distribute it through the balance of the project. So that's why we chose that area on the east side of the project.

Turning to the center of the project and why we've selected the locations that we have, the perimeter of the project doesn't make sense of course. Obviously, what we went through with the Tierra Grande folks. So obviously the decision was to keep it away from the perimeter and keep the perimeter of the project as large-lot residential and to develop additional pockets of residential within the center of the project, roughly equidistant from each other. That was the logic.

If you turn to the area that is just west of the clubhouse, we've heard on several occasions that to have a pocket of affordable housing, an area close to the clubhouse made some sense. That's the first area that we turned to, was the areas that are labeled by C, there's nine lots there and that stands for a compound lot.

Before I go too much further on that I also just want to highlight that, the discussions

I had with Mr. Sill, who asked me to continue to define our product types within the affordable housing plan. Just don't earmark the lots but earmark what you're going to do with the lots. We have three product types on the project. One is compound, the second is zero lot line, and of course the last is single family.

The compounds, we thought that product type made most sense in close proximity to the clubhouse, and of course from a design standpoint the lots made sense because they weren't deep lots, and so we designed two cul-de-sacs that you would pull into and the compound homes would be surrounding that cul-de-sac. From a demographic standpoint, our logic is we feel that would best serve the senior market. So as we begin to stratify with the product types we can also begin to stratify with the demographic types. Again, if we have a project that is just all single-family homes we are not hitting every market, the affordables.

The second product that we introduced, and we've mentioned at the last hearing but we've now labeled it more carefully, is zero lot line. You'll see those scattered labeled as Z throughout the balance of the other pockets. Zero lot line product is two lots share a common wall and from a distance they look like a larger home. So you have from the appearance, you're looking at some of those images right now that we put on the map there. You can see that, again, it has a larger appearance. You have two garages on the front but it provides the appearance of a large home. And again, from a design standpoint it makes sense, but also from a demographic standpoint it begins to hit another product point, which is more of an empty-nester, somebody that's not necessarily a senior but who may not necessarily want a single-family home. Santa Feans that have been in town for quite some time but have noticed the rising cost of real estate. So you have somebody that their kids have just graduated but yet they don't have grandchildren yet. They don't necessarily want the responsibility of a single-family lot. So again, that zero product begins to hit a different demographic.

Then of course the last is the single-family. From a design standpoint, single-family makes the most sense when you have difficult topography to work with. You have the end of a cul-de-sac, you have a pie-shaped lot – those are the types of scenarios that allow you to put in a single-family lot. And again as we know, that's going to probably be the most desired. Again, from a demographic standpoint, that hits your entry-level homebuyer.

So again, we introduced or had further explained the three different housing types on this and have further clarified the pockets of affordable housing on this project. In sum, we have 43 single-family homes, 28 zero lot line, and then 9 compound.

Turning to the phasing, which was the second question that was brought forth at the May 8<sup>th</sup> hearing, we addressed the phasing plan by of course looking at Section 4, Subsection E again, and trying to tackle that head-on, with the direction of course to disperse it throughout the phases. Now, again, our intent there was to frontload the project with 80 affordable lots. That was an altruistic attempt on our part and as Steve Ross gave his interpretation of that section, which we thought it was to prevent to the backloading of affordable lots, we agreed with the BCC's decision on May 8<sup>th</sup> to go ahead and further disperse it through the five phases of the project and eliminating having the 80 affordables

upfront.

So you can see from the phasing plan that I've provided you that we have five phases, the project's always had five phases of development and that each of those phases has a component of affordable within it, pursuant to Section 4, subsection E of the ordinance.

So in sum, I would just like to conclude by saying that keep in mind the project has been going for a while so I just wanted to reiterate again that this is a rural, residential, custom home project, which is different than what you have seen before, and again, the intent is to keep it in flavor with the surrounding properties of the area, the abutting properties, and the second thing is to keep in mind that the pockets of affordable housing make sense from a construction and an economic standpoint. It's a lot easier from a builder's standpoint to take down several affordable lots at once and build them cost-effectively, than it is to have lots that are scattered around the project. So again, with that I stand for questions.

CHAIR VIGIL: Questions of the applicant?

COMMISSIONER MONTOYA: Madam Chair.

CHAIR VIGIL: Commissioner Montoya.

COMMISSIONER MONTOYA: On the previous approval, Joe, did we approve 264 units?

MR. CATANACH: Yes, Commissioner Montoya. That's correct.

COMMISSIONER MONTOYA: And now the applicant is wanting to increase it to 304.

MR. CATANACH: Yes.

COMMISSIONER MONTOYA: 80 units was being proposed for affordable units under the 264 and it's still 80 units under the 304?

MR. HOEFT: Commissioner Montoya, the math on that is that you take your 264, you take your 30 percent of your 264 and you get your 80 units. You use the density provision of the Code, which is 15 percent. It's 15 percent on top of the 264, is the 40 additional lots. Your affordable is still based on your original density of the 264. So to answer your question, yes.

COMMISSIONER MONTOYA: Why did you increase the number of lots that were already approved?

MR. HOEFT: To offset some of our costs. It's a provision within the ordinance to increase your density by 15 percent, the density bonus provision within the Affordable Housing Ordinance.

COMMISSIONER MONTOYA: I don't recall that that was one of the things that was discussed, that part of fixing the dispersment of the affordable units, that additional lots be placed to offset, or whatever you said was the reason that you did increase in the number of lots.

MR. HOEFT: Commissioner Montoya, when we first submitted this to staff back in January we had 304 lots and then as it has proceeded through process, it's been 304 lots all along. So we haven't done anything in addition. It's just using the simple provisions

of the Code. It's always been – the last time you saw this in April it was 304.

MR. CATANACH: I'm sorry. I may have misunderstood. I thought you meant April 2006. In April 2006 it was 264. In April 2007, recently, it was 304, which was the total number.

COMMISSIONER MONTOYA: So how many were approved? How many did we approve?

MR. CATANACH: Back in April 2006?

COMMISSIONER MONTOYA: Yes. 264?

MR. CATANACH: Yes, Commissioner.

COMMISSIONER MONTOYA: And then in April of 2007?

MR. CATANACH: Well, it was tied but it was a proposal for the 304.

COMMISSIONER MONTOYA: Oh, so we haven't acted on that increase in the number yet.

MR. CATANACH: In April there was a tie vote. In May there was some direction and it was tabled, and here we are back again.

COMMISSIONER MONTOYA: Okay. Thank you.

MR. RUBIN: May I respond?

CHAIR VIGIL: Please.

MR. RUBIN: Chair Vigil, Commissioner Montoya, after we got preliminary plat approval, where we had the 264 lots or right about – right before that, you enacted the Affordable Housing Ordinance. And at that point we were then told to come back with an amended master plan and preliminary plat that satisfied the Affordable Housing Ordinance. That was a condition of approval when the preliminary plat was approved in 2006.

The density bonus, to increase the number of lots for each and every subdivision in Santa Fe County when affordable housing is provided under the ordinance, is something that we took advantage of, just like every other subdivider in the county, bringing that type of provision before you, to take advantage of, and it's right in the Code. So we got the ability to increase our number of lots by 264 to 304 because the density bonus that the BCC enacted in the ordinance. That's how we got to the 304.

CHAIR VIGIL: Commissioner Montoya.

COMMISSIONER MONTOYA: That's all, Madam Chair.

CHAIR VIGIL: Okay. Further questions? I have some particular questions.

COMMISSIONER MONTOYA: Madam Chair, I'm sorry, I do have more. That's that this water service agreement that is currently approved by the BCC, Joe, does not include water for affordable housing?

MR. CATANACH: That's correct, Commissioner Montoya. The water service agreement approved by the BCC does not include water for affordable housing. Now, the Affordable Housing Ordinance does state that the County would provide water for affordable housing, so in this packet and as part of this request, the County water utility has submitted a letter. Let's see if I can track it for you in this packet. This letter is from the

Water Resources Department, Exhibit D, and it's a letter regarding water service for affordable housing. They've stated that they can provide water service and that this service commitment should be included in your development permit application be made clear in your hearing that additional water allocation is part of your plan revision. The service commitment is only binding upon approval by the Santa Fe County Board of County Commissioners of your development permit.

So utilities, the Water Resources Department has issued the letter and my staff report states, the last paragraph right before the recommendation, my staff report says that as a part of this request, in conjunction with this request for amended master plan, they would also be requesting that the BCC allow the water allocation for the affordable housing. So in effect, the Board taking action on this amended master plan and preliminary plat, they would also be taking action on allowing water for affordable housing.

COMMISSIONER MONTOYA: Thank you.

MR. CATANACH: And I believe it's in the amount of ten acre-feet to cover the affordable housing.

CHAIR VIGIL: All phases? I see yes and no.

MR. CATANACH: It would be half; it would be 40 units. Ten acre-feet would be able to take care of 40 units.

CHAIR VIGIL: So we need 20 acre-feet.

MR. CATANACH: We'd need 20 acre-feet to cover all 80.

CHAIR VIGIL: And would that have to go through our water allocation policy?

MR. CATANACH: Let's see. The affordable housing in the first two phases adds up to 26. There's an additional 24 in phase 3. It would look like it's only going to cover the first two phases. There would be 50 units in the first three phases of affordable housing, so the 10 acre-feet is only going to cover affordable housing for phases 1 and 2, 26 units.

CHAIR VIGIL: Okay. While they're discussing and maybe further clarifying this for us, Mr. Catanach, I have a question regarding one of the conditions of approval. It says offsite – on page 3, the offsite section of Los Sueños Trail, also known as Hager Road, that extends north of the proposed subdivision to Las Campanas Drive shall be upgraded to a minor arterial standard. Does a minor arterial standard include bike trails?

MR. CATANACH: It would include a shoulder that the bikes would be able to ride on.

CHAIR VIGIL: Okay. And how much easement is required for a minor arterial? Do we know?

MR. CATANACH: I recall that you probably need – I'm thinking 66 feet of easement.

CHAIR VIGIL: Okay.

MR. CATANACH: Minimum of 66 feet.

CHAIR VIGIL: Has the applicant worked out an agreement with the surrounding neighborhoods? I know there was some controversy with regard to building this road, when construction started. Do we have any knowledge of that? You're welcome to answer that.

MR. RUBIN: Madam Chair, we have a signed agreement with the Hager Road property owners to the south, and we are working on the agreement with the Lose Sueños Trail owners to the north. Joe Joiner represents some of those parties. The prior condition was that we have those two agreements fully executed by the time we present for final plat to you at the hearing.

CHAIR VIGIL: So you understand that as a condition?

MR. RUBIN: That was a prior condition and that condition continues. We've got one half of it down. We're working on part 2.

CHAIR VIGIL: Okay. Thank you.

MR. RUBIN: And I think there are some of the Hager Road owners here tonight who can confirm that.

CHAIR VIGIL: Thank you. Are there any other questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Joe or staff, on the water service agreement that we have with Suerte, my recollection is that didn't provide water for all of the subdivision. It only provided for some number of units. Do you recall what that number was?

MR. CATANACH: That's correct, Commissioner Sullivan, and I can only recall phases 1 and 2. I believe the number of lots within the phases have stayed consistent. When this proposal came and was granted preliminary approval in April 2006, phases 1 and 2 consisted of 92 residential lots and two community tracts.

COMMISSIONER SULLIVAN: That sounds like more lots than were in my recollection of that water service agreement.

MR. CATANACH: I've included the staff report from April 11, 2006 and it breaks down the phasing that was included as part of that water service agreement. We're adding up the numbers and phase 1 was 52 residential lots and two community tracts for recreational and equestrian facilities, and phase 2 was 40 residential lots. That was back in April 2006. For 92. Now they've deleted the equestrian.

COMMISSIONER SULLIVAN: I understand. But what was the water service agreement? What did it say? It granted a certain number of acre-feet, as I recall.

MR. CATANACH: Forty-five acre-feet.

COMMISSIONER SULLIVAN: Forty-five total. So that would get them a total of 180 lots, ultimately.

MR. CATANACH: At a .25 allocation.

COMMISSIONER SULLIVAN: Yes. That's what's stated here. Okay. So they only have a water service agreement for 180 units.

MR. CATANACH: Forty-five acre-feet.

COMMISSIONER SULLIVAN: Right. And they don't have water service for the 40 extra units that they recently came in for last year as a result of the density bonus.

MR. CATANACH: Regarding the affordable housing units?

COMMISSIONER SULLIVAN: No, regarding the market units. When they came in under the density bonus, the affordable housing units of course stayed the same at eighty.

MR. CATANACH: Right.

COMMISSIONER SULLIVAN: But they came in and requested 40 more market homes, but there's not a water service agreement for those additional homes, either, is there?

MR. CATANACH: Commissioner Sullivan, the water service agreement is for 45 acre-feet and they'll have that much water to allocate to the number of lots that they're going to be able to do that with.

COMMISSIONER SULLIVAN: Okay. Thank you.

CHAIR VIGIL: Okay. Any further questions? Seeing, hearing none, this is a public hearing. Let me ask anyone out there if they would like to address the Commission. Please come forward and state your name and address, be sworn in for testimony.

[Duly sworn, K. Paul Jones testified as follows:]

K. PAUL JONES: My name is K. Paul Jones, 6 Desert Rain, Santa Fe, New Mexico, representing the Los Sueños Subdivision. With regard to, Madam Chair's inquiry regarding to the conditions, particularly #3, offsite section of Los Sueños Trail, which extends north, and its upgrading of that to a minor arterial standard. Mr. Catanach might correct me if I'm mistaken, but as I understand it, that is an obligation of the developer. A separate condition that's referred to here is a road maintenance agreement with the Los Sueños Trail Associations, and that would be then the maintenance of Los Sueños Trail once it is upgraded and the portion of Los Sueños Trail that runs through the Suerte del Sur, all the way through Hager Road.

Those are two separate issues that I wanted to make sure that I had a correct understanding of that.

CHAIR VIGIL: Thank you, Mr. Jones. Does the applicant understand that a maintenance agreement would be entered into with the Los Sueños Association?

MR. RUBIN: Yes, Madam Chair. As I mentioned, Joe Joiner represents one or more of those associations.

CHAIR VIGIL: And he's represented that to you?

MR. RUBIN: We've actually been working on it. We have title work, significant title work to determine through whose lands Los Sueños Trail runs, and we're in conversations through Mr. Joiner, so we are moving forward on that. We have concentrated on trying to get the affordable housing plan done. Since we got the one done to the south we're now concentrating on the one to the north.

CHAIR VIGIL: Okay. Thank you. Anyone else?

[Duly sworn, Rick Driscoll testified as follows:]

RICK DRISCOLL: My name is Rick Driscoll, 1011 Monte Serena, Santa Fe. I'm here tonight representing – I actually am a co-owner of parcel #4 of the Hager Road properties south of this property here, the Suerte del Sur property, but I'm here tonight – actually my partner is here to represent our parcel. I'm representing parcel 1, 3, 6 and 7, which are the lands of the Catholic Foundation and Judy Ross and Ted Wegner.

I would just like to say that we have worked out – when I say we, I mean the owners of the parcels south of Suerte del Sur – have in fact come to an agreement. We've signed an agreement on the construction of Hager Road. We have reached an agreement there. I just wanted you all to know that, and also we've sent some e-mails to all of the Commissioners prior to the last meeting which I wasn't able to attend, but I would just like to reiterate that we have reviewed their affordable housing amendment, the current one, and we are in total support of it. We feel like they've done an admirable job really trying to integrate it into their subdivision and I think that these are going to be actually some of the nicest affordable homes in the county. And I'd just like to applaud them for that. Thank you.

CHAIR VIGIL: Thank you, Mr. Driscoll. Next.

[Duly sworn, Danny Marmion testified as follows:]

DANNY MARMION: My name is Danny Marmion. I live at 19-A Las Estrellas in La Cienega. I'm here tonight because I also represent two tracts of the Hager property. Each tract is 43 acres and represents about 17 lots. We have entered into a cost-sharing agreement with the applicant. I'm glad that the Commission and County staff had enough foresight on master plan approval to make it a requirement.

We've worked with for quite a while as well as we've worked with the different associations. This thing has been going on for probably three or four years and when you look back in memory and think about all the people that have attended these meetings, different homeowners associations, David Gold's group – those people didn't just give up and not show up tonight. We've been working on this for a long, long time, and Madam Chair, Commissioner Montoya, I think you remember a while back where Pandorada Subdivision was up and we had groups from the various homeowners associations to come forward to support our initiatives and to support this project.

We've come a long, long way. You do have a walking, hiking trail system through the Hager property, through Penny Lane to Pinon Hills, through Mr. Peters' project. When they say that this is a project to be proud of, they may not have been willing and easy to get here but they are here. They're using the ordinances that you folks set out and staff set out to get the density bonuses. They've got to spread the cost over somebody, some place. They're business people like anybody else.

But at this point, I ask on behalf of the Hager Trust is that we move forward. The applicant has done everything that I can think of by the letter of the law or ordinance. You've got an applicant that has deep pockets. He's here. He's able to actually build these affordable units. It's time to stop debating and roll up our sleeves and let these people go to work. We



need that Hager Road for our projects. It's an arterial road. It will mean that the people on the Pinon Hills Subdivisions will no longer have to depend on the low riverbed crossing. They'll have 24-hour emergency access in and out of these subdivisions. I just hope that the Commission will rule in their favor. It's time to go to work. It's time to get this thing done.

CHAIR VIGIL: Thank you, Mr. Marmion. Anyone else?

[Duly sworn, Joe de Bella testified as follows:]

JOE DE BELLA: My name's Joe de Bella, 23 West Old Agua Fria Road. I'm Rick Driscoll's partner. We own Terra Bella. We basically have worked with all the different subdivisions around and again, I really feel that what Scott and Jim have worked on has really been what you've asked for. I agree with Danny as far as we're able to get some high-water crossings. I've been out in that area and haven't been able to cross with my pickup. I think that emergency crossing, that's going to be the most important thing as far as access. That's it.

CHAIR VIGIL: Thank you, Mr. de Bella. Is there anyone else out there that would like to address the Commission? Let me just ask now, because we do have another case after this. Is there anyone else that would like to address the Commission on this item? If so, please raise your hands right now. It's only this gentleman?

[Duly sworn, Tom Segelsky testified as follows:]

TOM SEGELSKY: My name is Tom Segelsky and it's 2 Dreamcatcher, Santa Fe. Madam Chair, Commissioners, I believe it's accurate to represent that the homeowners associated with properties along Los Sueños Trail have been, as this project has been developing, informed about the need to upgrade it and ultimately some agreement with the developer to maintain it. However, I think one of the newer developments, at least that I recognize tonight, is that when we speak to upgrading and maintaining this road, but primarily upgrading it, there's an implication that it's going to be widened and it appears that it's going to be widened substantially.

I don't believe, and this is just for the record, I'm not espousing any opinion at this time, but for the record I don't believe that members of the community who will be affected by that expansion have been given an opportunity to properly deliberate that issue and for the record, I would suggest that may be something that has to be addressed in the future.

CHAIR VIGIL: Okay. Thank you, Mr. Segelsky. I would just ask staff to comment. Mr. Segelsky expressed concern on further widening of this road from its original proposal?

MR. CATANACH: Madam Chair, the road in question I guess is Los Sueños Trail. It has always been presented consistent with the road plan that has been adopted by the County Commission for many years. It has always been presented that this road will be upgraded to a minor arterial.

MR. SEGELSKY: I don't dispute that. It's just that the implications of what that means from an actual number of feet either side of the road, that has not really, I don't believe been considered by the property owners along that road. So it may be fair to say that

the definition inherent in that prescribes some number of feet but that deliberation I think is still something that the homeowners are going to want to give some consideration to.

CHAIR VIGIL: And my understanding is that the applicant will be meeting with the Los Sueños neighborhood to address those concerns, from the testimony I heard tonight. You also may be hearing my sort of – and I haven't made this recommendation. That the applicant include discussions with the homeowners regarding bike trails in that area. We do have another – I think it's a minor arterial road. It's Caja del Rio that goes to Las Campanas on the western part of this that you might recognize is often used by bikers. One of the things that we get criticized for is that we're not really looking at developments and being inclusive of what might be done to create safer trails for bikers.

And I know this isn't something that the applicant or any of the other adjacent property owners have had discussions about, but I'm going to recommend that those discussions continue before we look at this project again. That may not be something that Los Sueños Trail is concerned about, but it is something that I'm concerned about for the better of the entire communities there. And I think to address your concern, and maybe I'm not fully crystallizing for you but my understanding is that there is a specific definition of a minor arterial road, that that in fact is 66 feet. Is that correct? Sixty-six feet, that that is being recommended as a condition of approval, but also as a condition of approval, but also as a condition of approval, we have asked the applicant to enter into agreements, both for the actual construction and for the maintenance of that road and they have testified tonight that they have not had an opportunity to do that with Los Sueños.

So I think that condition remains clear for them and without that condition being met I'm not sure they can go to a next step.

MR. SEGELSKY: So we will in the future have an opportunity to compare 66 feet to what we have and then if there's an encroachment further on our properties, what that encroachment will be.

CHAIR VIGIL: You will have every opportunity to discuss that. Is that everybody's understanding?

MR. CATANACH: Madam Chair, yes, that's the understanding. That 66-foot easement is already a platted easement of record. So there would not – certainly there would be a change in the actual roadway structure within that easement, but that easement is already a platted easement of record. It would not take any more private property.

MR. SEGELSKY: So does that mean that physically, there won't be any encroachment on the property that exists right now? There's sufficient property space there now to accommodate the 66 feet?

MR. CATANACH: There is a 66-foot right-of-way that has been platted that is sufficient to accommodate the minor arterial.

MR. SEGELSKY: Okay. So we can pursue that more in the future, but I just wanted to bring that to the record and I appreciate everybody's consideration and yours, Madam Chair.

CHAIR VIGIL: Thank you. Still a public hearing. Danny, you can have – if you want to make a few statements, because I need to close this public hearing.

MR. MARMION: I'm here pushing for Hager Road and it is an arterial road which the easement's been granted and won't take up any more easement. It should be a 24-foot road surface. Because it is an arterial road there's different standards than collectors or small roads. They have to design the road so that lights don't hit your front windows and stuff. There's a whole bunch of criteria that our engineers had to follow for that arterial road that are much different than what they've had in the past. In theory, they should have a much better road and the paved road surface of 24 feet.

CHAIR VIGIL: Thank you. Okay, I'm going to go ahead and close this public hearing, seeing that nobody else will testify. Questions, comments from the Commission? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Madam Chair, a question for the applicant. One of the last individuals that just testified said that we should move forward and let Mr. Peters build the affordable units. Will Mr. Peters be building the affordable units?

MR. RUBIN: Madam Chair, Commissioner Sullivan, I don't think that's been determined yet. We are still months away even from final plat if we get through this tonight. So it hasn't been determined whether that LLC is going to be building those units or the lots will be sold to contractors who are going to build those units. I can't answer that question tonight.

COMMISSIONER SULLIVAN: Okay. Will Mr. Peters be building the market units?

MR. RUBIN: I don't believe so, Madam Chair, Commissioner Sullivan. I don't believe so. I believe the lots are going to be for sale for custom homes as Mr. Hoeft testified.

COMMISSIONER SULLIVAN: Okay. So we have some pictures here of what these units would look like. How do we know that that's what they will look like, the compounds and the zero lot lines and so forth? What assurance do we have that that's what the affordable homes look like?

MR. HOEFT: Commissioner Sullivan, it was an example to demonstrate what a compound lot looks like, a zero lot line looks like, and what a single-family house looks like. It was just for illustration purposes only, at the request of Mr. Sill, because there's been some confusion over what these product types look like. So we put some images on that plan just to help clarify the housing types.

COMMISSIONER SULLIVAN: But there's no requirement that once Mr. Peters sells the lots that that's in fact what they'll look like.

MR. HOEFT: They'll look like a compound lot, they'll look like a zero lot line and they'll look like a single-family lot, but we haven't gotten that far, Commissioner Sullivan, in terms of what the final product is going to look like.

COMMISSIONER SULLIVAN: So the applicant is selling lots. Whatever the

builder builds is whatever the builder wants to build, provided it's a compound lot.

MR. HOEFT: Commissioner Sullivan, we have design guidelines that are going to be put in place on the project. It's going to be heavily governed. Did you have a comment, Jim?

MR. RUBIN: Yes. Madam Chair, Commissioner Sullivan, your ordinance does not require that the exact footprints of the house, the exact design of the house be defined at this point or at any point. That is the Affordable Housing Ordinance. All that is required is housing types. The design is left up to the developer or the contractor or the homeowner, all to avoid, I think, micromanaging what goes on to each individual lot within any subdivision in this county. That is your ordinance and we are following the letter of the law in showing by just this representation the type of unit as to what might be built. But we are following the law in trying to avoid any confusion.

As for requirements, as Mr. Hoeft just mentioned, we have to have covenants. Those covenants have to be presented to staff with the final plat, and we will do that. And it will be required that these housing types be built. Thank you.

CHAIR VIGIL: Thank you.

COMMISSIONER SULLIVAN: Thank you, Madam Chair. I don't believe my testimony if Mr. Rubin listened to it stated anything about what the ordinance did or didn't require. I believe what I was clarifying was one of the proponents who spoke here testified under oath to the Commission that the project – he suggested the project move forward so that Mr. Peters could build these homes. And I believe your response is that we don't know whether Mr. Peters is going to build the homes or not. Is that an accurate representation?

MR. RUBIN: Yes, sir.

COMMISSIONER SULLIVAN: Yes or no will do.

MR. RUBIN: Yes, sir.

COMMISSIONER SULLIVAN: Thank you. Madam Chair, really what has been holding up this project for the better part of a year is the applicant's non-compliance with the Affordable Housing Ordinance. And we're getting closer and that's good to see. I don't see in my personal opinion that we've yet met or even come close to a reasonable dispersement. An area that bothers me, if you'll look at the map that the applicant has provided, the large blob of affordable units up at the north end of the subdivision hasn't changed. Basically what they've done is they've split the phases, they've drawn the phase line in between them and put half of those lots in one phase and approximately half of those lots in another phase, more specifically 11 in phase 1 and 15 in phase 2.

We still have a large blob of affordable housing units all located in that one location. That's 26 affordable housing units. That's 33 percent of all the affordable housing units in the whole subdivision. That's one-third of all the units are right there in that blob or whatever you want to call it. I don't think that that would meet anyone's definition of reasonable dispersement when you put a third of all the units in one area of a 680-acre tract. This tract is

more than a square mile, so we're going to put a third of the affordable housing units all in one bunch.

So I think in my personal opinion that these six blobs, as opposed to the three blobs that we had before still does not meet the requirement of the ordinance. I do recognize that some clustering of affordable units is wise. We can put compounds or duplexes together. I'm not personally a proponent of scattering every other lot as a market lot and then every third lot is an affordable housing lot and every sixth lot is a market lot. I recognize you want to have some economies of construction. But I don't see that a third of all the affordable housing units being in one piece of the development meets that criterion. Thank you.

CHAIR VIGIL: Okay. Further comments, questions?

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I've seen this proposal I think probably four or five times. Ever since we've passed our Affordable Housing Ordinance I was hoping we'd start constructing affordable housing for our community, for the people in our community. I've heard this Commission and the members, our staff members, talk about affordable housing onsite, clustered, offsite of the development, not phased in, phased in. And I believe that every time they've come back I think they've – the applicant has done what we have asked.

They've worked with the neighbors. There's not that many neighbors here today complaining. Actually, there's not any I don't believe. They've worked with the local developers. I think they've pretty much jumped through all of our hoops and jumped through hoops that shouldn't have been jumped through. When does it stop? I think it's time that we stopped today and approved this and start building affordable houses for people that need it. And with that I move for approval with the conditions.

COMMISSIONER MONTOYA: Second.

CHAIR VIGIL: Would you include a condition on that motion for the applicant to put in bike trails on Los Sueños Trail and meet with all the developers to see what the most appropriate design for that would be? That wasn't a part of the requests and conditions; it's something that I'm requesting. Would you include that in your motion?

COMMISSIONER ANAYA: To put bike trails on Los Sueños Trail?

CHAIR VIGIL: Yes.

COMMISSIONER ANAYA: Yes.

CHAIR VIGIL: Does the seconder agree with that inclusion?

COMMISSIONER MONTOYA: Is that agreeable to the applicant? Yes.

MR. RUBIN: May I ask one question? If a paved shoulder is required as part of the minor arterial, when you're talking about the bike trail on Caja del Rio. Really, I ride out there. We're actually riding outside the white stripe. If that is part of a minor arterial, we would ask that that satisfy what you are asking for.

CHAIR VIGIL: I am asking that you as an applicant meet with the

neighborhoods, in terms of what their recommendation would be. I would also ask that you meet with the bike trail coalitions. There's a lot of work that's been done in what's appropriate, because there are safety issues. So I think my recommendation would be that you come forth with a design that there has been some consensus building with both the bike advocates and the neighborhoods there. Bike trail advocates. Is that appropriate? And that may be a paved shoulder. I don't know what it will be, because you're going to get sort of diverse recommendations on this.

MR. RUBIN: We will do that. I have a partner who's on the biking committees for the City so we have some in-house expertise on that.

CHAIR VIGIL: Okay. So we're not focused on that as future developments, I think, when we start looking at our Land Development Code we need to incorporate more information about bike trails and hopefully we won't catch you by surprise as you come before us. Thank you for the motion. We have a second. I just want to comment on the word reasonable. I actually, for the first time since this development came before us received e-mails that commended this process. It has been a long and drawn out process. There were many stages throughout the approval process that I just wasn't sure what was going to happen here.

And part of the problem is we were dealing with a new Affordable Housing Ordinance. I think that when you deal with something new you are going through your own learning curve. I think we've had a good learning curve through this process and I actually think that the proposal we have tonight is reasonable. And I think somebody can make a subjective opinion that says it's not reasonable, but in my mind it is reasonable and I'm not too sure that it's appropriate as I heard somebody's testimony, polka-dotting or interspersing, because I'm not too sure that would work for this particular development. I have reservations about that, and I do know that affordable housing has to be designed in a way that it itself works. I think we'll see. For all we know this could be a benchmark for our future developments and I'm hoping it is because we're strong advocates for affordable housing and I'm hoping that our community benefits from that and from our decision tonight. With that, if there are no other comments.

**The motion passed by 3-1 voice vote with Commissioner Sullivan voting against.**  
[Commissioner Campos was not present for this action.]

**XII. A. 11. EZ Case #S 02-4325 La Pradera Subdivision, Phases 4-6. Design  
Engenuity (Oralynn Guerrerortiz) Agent for Gardener Associates,  
LLC (John McCarthy), Applicant, is Requesting Final  
Plat/Development Plan Approval for 60 Residential Lots on 29  
Acres. The Property is Located Along Dinosaur Trail Within  
Sections 17, 18, Township 16 North, Range 9, East (2-Mile EZ,**

**District 5)**

CHAIR VIGIL: Can we get a sense of how long everyone's testimony is going to take, just so that I can assure my Commissioners and keep a quorum? How long is your presentation going to be, Joe?

MR. CATANACH: Madam Chair, I can get through the staff report in five minutes.

CHAIR VIGIL: Thank you. Please proceed.

MR. CATANACH: Thank you. The summary, just to outline some of the previous approvals. March 2004, BCC granted approval for a mixed-use development which was 80 residential units, 16,335 square feet of commercial space on 69 acres. That was phase 1. Then June 2005 EZA granted a master plan amendment for expansion of the subdivision to allow an additional 158 lots on 94 acres as phases 2 through 6. So in January 2006 the BCC granted preliminary plat/development plan approval for phases 2 through 6 and final approval for phases 2 and 3. I included the minutes of that January 2006 meeting and that consisted of 97 lots.

On May 10, 2007 the EZC recommended final approval of phases 4 through 6, which is the current request, final approval for phases 4 through 6. The applicant is requesting final approval for phases 4 through 6 consisting of 60 lots on 28.4 acres, which includes nine lots for affordable housing within a village zone neighborhood. I broke down the phasing. Phase 4 is 27 lots. Phase 5, 22 lots, Phase 6 is 11 lots. Lots range in size from 5,426 square feet to 12,809 square feet, with 15.2 acres of common open space with public trails.

Madam Chair, traffic impact analysis was submitted. This has been reviewed regarding Dinosaur Trail and the intersections. As part of phase 1 development plan offsite road improvements have been completed for Dinosaur Trail regarding asphalt pavement and the connecting intersection at Richards Avenue and Rancho Viejo Boulevard. Traffic lights are in place at the State Road 14-Rancho Viejo Boulevard intersection and the Richards Avenue-Dinosaur Trail intersection. The onsite section of Dinosaur Trail will be realigned and will extend parallel with Interstate 25 within the required setback.

That realignment of Dinosaur Trail is part of the phases 2 and 3 development plan, which has been recorded and they are building that out at this time. Dinosaur Trail is subject to a conditional dedication to the County for future ownership and maintenance at such time the County accepts the dedication. The internal subdivision roads will be paved with curb and gutter and sidewalks and will provide for on-street parking.

Water service will be provided from the Santa Fe County water utility based on a water service agreement previously approved by the BCC. Water rights have been transferred to the County. The water utility will provide .19 acre-foot for each lot which includes 20 percent line loss and .126 acre-foot water restriction will be imposed on each lot. The .19 acre-foot water rights allocation will be required until such time it can be demonstrated that the subdivision will not exceed the .126 acre-foot water restriction. Existing wastewater

treatment facility will be expanded and utilized.

The staff report addresses terrain management, open space, landscaping, archeology. There's an existing homeowners association with covenants.

Recommendation: The proposed subdivision is in accordance with the Community College District Ordinance and the Extraterritorial Subdivision Regulations. The BCC granted preliminary approval subject to conditions. The EZC has now recommended final approval. The applicant has addressed the conditions. Staff recommends final approval of phases 4 through 6 and staff would enter the conditions into the record, Madam Chair.

[The conditions are as follows:]

1. Submit final affordable housing agreement subject to approval by staff.
2. Submit solid waste fees as required by the extraterritorial subdivision regulations.
2. Cost estimate and financial surety for completion of required subdivision Improvements as approved by staff.
3. Compliance with applicable review comments from the following:
  - A) State Engineer
  - B) State Environment Department
  - C) Soil & Water District
  - D) State Department of Transportation
  - E) County Water Resources Department
  - F) County Fire Marshal
  - G) County Public Works
  - H) County Technical Review
  - I) State Historic Div.
  - J) Santa Fe Public School District
  - K) County Open Space, Parks & Trails Division
4. Final development plan submittals shall include the following:
  - A) No more than two project signs for the entire subdivision (including phase 1) with a maximum sign area of 20 square feet and a height of 5 feet.
5. Bus stop shall include a pull-out lane.

CHAIR VIGIL: Thank you. Those conditions will be entered. Are there any questions of staff? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Joe, where is the affordable housing plan?

MR. CATANACH: The affordable housing plan, in this packet – okay, I have the review memo from Duncan Sill regarding the affordable housing agreement and let's see if I can –

COMMISSIONER SULLIVAN: Where's the plan?

MR. CATANACH: It's going to be in the section – the first part of the packet is the applicant's letters and report, and that goes all the way – you can go through the packet



and that would be the applicant's development report. That development report has a page 12. The applicant's development report is paged up to page 12, and after page 12 there's a letter that was submitted notifying the public school district of the proposed development. After that is a letter from the Environment Department regarding discharge permit, and right after the letter from the Environment Department regarding discharge permit is the affordable housing material.

COMMISSIONER SULLIVAN: I still haven't found it. Maybe you could show me what it – show me where it is.

MR. CATANACH: I can do that.

COMMISSIONER SULLIVAN: I see a little thing, Section 12 in the applicant's thing. Is that what you're talking about? Okay, but let me just clarify. Mr. Sill's review says he's reviewed the draft agreement about the affordable housing, which is the boilerplate agreement. I believe that our ordinance requires at final approval that we review the affordable housing plan and that that plan show the dispersion of the homes, just like we reviewed here for the Suerte Development.

MR. CATANACH: Commissioner Sullivan, I can only refer you to the documents in the packet. Any explanation of the affordable housing review I would have to refer you to Duncan.

COMMISSIONER SULLIVAN: Okay. Well, we have Duncan's letter here. It says he's reviewed the draft agreement and finds the contents consistent and acceptable with the plan, but just as we've done with all developments at this stage, just as we finished doing here ten minutes ago, we have a document in front of us that shows the designation of the lots for affordable housing. We've done it on every approval for Rancho Viejo. We've spent at least three hearings doing it for Suerte and that's the document I'm looking for here. All we have – and I see on page 11 of the applicant's report regarding affordable housing – it says that they'll have four income range 1 and two income range 2 and two income range 3 for a total of eight type A's and so forth and so on.

MR. CATANACH: If you look at the last page of the agreement it breaks down the number of lots within phase 4, phase 5, phase 6, and the level 1, level 2, level 3 categories.

COMMISSIONER SULLIVAN: I know, but that's not what I'm looking for; I'm looking for the plan. Where are those lots? That's what's required by the ordinance, a plan.

MR. CATANACH: This applicant – the site plan that's in your packet is reduced and it's hard to read but I believe that site plan identifies where the affordable lots are within those phases.

COMMISSIONER SULLIVAN: Could you point out where that site plan is? Is that Exhibit C?

MR. CATANACH: It is Exhibit C, yes.

COMMISSIONER SULLIVAN: And which are – what is the identification of

the affordable lots?

MR. CATANACH: There's a legend there that identifies the affordable lots and again, this applicant should be able to provide you with a full-sized copy of that but there's a legend that identifies the affordable lots with an A.

CHAIR VIGIL: Perhaps your question will be clarified when we get a chance to speak with the applicant.

MR. CATANACH: That reduced copy, you'll never read that copy.

COMMISSIONER SULLIVAN: Let me make a recommendation that we be provided with copies that we can read.

CHAIR VIGIL: I think what staff is saying is that we were provided, it's just they're unreadable.

COMMISSIONER SULLIVAN: We can't read it. Okay. We have an affordable housing plan but we can't read it. Okay. Thank you, Madam Chair. That's all the questions I have.

CHAIR VIGIL: Are there any further questions for staff? Seeing, hearing none, is the applicant here?

ROSANNA VAZQUEZ: We are. Good evening. My name's Rosanna Vazquez and I'm here with some of the owners of La Pradera and Orallynn Guerrerortiz, our engineer. We are in agreement with all the conditions of approval, Madam Chair, and I stand for questions if you have any.

CHAIR VIGIL: Okay. Do you want to explain the affordable housing allocation. Which particular lots will be affordable housing lots?

MS. VAZQUEZ: A couple things I want to put into the record, when we recorded the affordable housing plan for phases 2 and 3 we listed all of the affordable units for the entire development. It is a recorded document now. The affordable units that are in these phases – this is phase 4 here, and this is 5 and 6 up here. They are denoted with an A as affordable. So there are four in a row here. There's one here. There's three in a row here. One here. Two at Lot 72 and 71, Lot 146 is an affordable unit, Lots 90 and 99 are affordable units. 198.

COMMISSIONER SULLIVAN: Okay. So they're designated on a map that somebody in Santa Fe County can read, although not the County Commission. So we have somewhere a document that describes what –

MR. CATANACH: Duncan Sill looked at a map when he put his memo together. Yes, sir.

COMMISSIONER SULLIVAN: I appreciate that but I'd like to look at one too. On this map that Shelley x-ed out for us I see eight affordable housing units. Is that all the affordable housing units in 4, 5 and 6?

MR. CATANACH: Nine.

MS. VAZQUEZ: There should be nine.

COMMISSIONER SULLIVAN: You're right. I can't count this late. There is

nine. There are nine. And that's at the 15 percent. This is under the old ordinance, correct?

MS. VAZQUEZ: Madam Chair, Commissioners, that's correct.

COMMISSIONER SULLIVAN: Then I guess one other question for the applicant then, Madam Chair, would be are you still building your road in the highway corridor where no building is allowed.

MS. VAZQUEZ: Yes, we're building the road in accordance with the approval that we received.

COMMISSIONER SULLIVAN: Okay, but just to remind the Commission that this is in the highway corridor that no construction is permitted.

CHAIR VIGIL: Okay. Any further questions? This is a public hearing. Is there anyone out there who would like to address the Commission on this item? Please come forward. Seeing none, I'll close the public hearing and ask the Commission what is their pleasure.

COMMISSIONER MONTOYA: Madam Chair.

CHAIR VIGIL: Commissioner Montoya.

COMMISSIONER MONTOYA: Move for approval with staff conditions.

CHAIR VIGIL: There's a motion. Is there a second?

COMMISSIONER ANAYA: Motion and second for approval with all staff conditions. The applicant has testified that they agree with them. Does this include a bike trail?

MS. VAZQUEZ: Madam Chair, there is a trail.

CHAIR VIGIL: Okay, will that trail be inclusive for bikes or walkers or what is the intent?

MS. VAZQUEZ: Madam Chair, it would suffice for both. It's a ten-foot village trail.

CHAIR VIGIL: Okay. And will you be providing connectivity and/or access to other developments?

MS. VAZQUEZ: Madam Chair, we're trying to do that on the side by Rancho Viejo. The trail that goes down towards Richards Avenue hits the intersection of Dinosaur Trail and Richards. That will be connected eventually when Oshara and the rest of the development is done.

CHAIR VIGIL: Okay. So Rosanna, is it your understanding that based on the fact that this affordable housing component was under the old ordinance, the 15 percent ordinance, that the appropriate review has been applied to this?

MS. VAZQUEZ: Madam Chair, Commissioners, I do. Duncan and I have met when we submitted for preliminary and the entire plan for phases 2 through 6. He saw where they were going to be located. He has seen the type of housing that is being constructed currently. He reviewed the plan that was submitted in the preliminary development plan approval as well as this one. We've worked on the last contract that was recorded for phases 2 and 3, and we're on the last step now for phases 4, 5 and 6. I feel very comfortable that if

there was an issue the County would come to us and let us know what it was and we would be able to work that out. We have met the requirements and further I think that if there's anything that happens that we need to deal with in the future I think we can deal with it because we have a very long-standing working relationship on this project.

CHAIR VIGIL: Okay. Thank you.

COMMISSIONER SULLIVAN: Madam Chair.

CHAIR VIGIL: Commissioner Sullivan.

COMMISSIONER SULLIVAN: In the discussion, I just want to be sure that we have it in the record that the Santa Fe County Highway Corridor Ordinance, 2000-01, says there will be no development in the highway corridor, period. That's what it says. It doesn't show pictures of houses. It doesn't show little drawings that some other ordinances do that don't apply to the Community College District. That's the only Highway Corridor Ordinance that applies to the Community College District. This development does not comply with the Santa Fe County Highway Corridor Ordinance. So I can't support it for that reason, and I want to be sure that it's clear in the record that there is an ordinance and that we are looking at a development that is building its onsite roads within the highway corridor, thus giving it more developable land in the balance of the subdivision, and that's not at all the intention of the Highway Corridor, because the Highway Corridor was based on the noise zones and the intent was to move everything back to a given noise contour. If you put a road in that open space in the highway corridor you're adding more noise so obviously you can't meet the noise contour requirements.

I want to be very clear that if the Commission decides to move forward on this, to approve this application that it's doing so in contravention of the Highway Corridor Ordinance and if you feel that that's appropriate then I think the best way to do it is to change the ordinance, go through that process. Thank you.

CHAIR VIGIL: Could I ask staff to just give us a history of that for the record. We obviously have approved this previously. Based on Commissioner Sullivan's statements, I'm concerned about the posturing of those statements because they're actually challenging us to go against an ordinance and I think we've already been at a place where we've reviewed this development and it's up to us for final development review. I don't want to the record to be finalized with this statement of challenge that we as a Commission will be approving something against the Highway Corridor Ordinance. We have previously approved this, correct?

MR. CATANACH: Yes, Madam Chair. There's been a master plan – that issue was discussed substantially when the master plan was approved, the master plan amendment to allow expansion of the subdivision for additional lots and additional acreage. That issue was discussed as part of that master plan amendment. It may have come up again when final approval was granted for phases 2 and 3 and I could let you know what some of the discussion was that we talked about.

CHAIR VIGIL: But it's all part of the record, Mr. Catanach. Is this the

development that worked with many of the neighbors in the Highway 14 area and the recommendation for that road came from those neighborhood hearings. Is that correct? If I'm recalling this project.

MR. CATANACH: This applicant, this developer worked with a neighborhood association. There's an existing subdivision there. I think it's called Vista Ocaso. This applicant worked on that issue. I'm not exactly sure how the issue of realigning the road came up. It may have come up through both working with the neighbors and the applicant but this applicant did work with those neighbors and as I understand, that was part of the consensus with those neighbors was realignment of the road.

CHAIR VIGIL: And I think part of the reason, if I'm correct, Mr. Catanach, is they wanted that road there because it provided the buffering for the neighborhoods around there and I'm not sure I'm recalling this correctly but is that your understanding?

MR. CATANACH: The consensus with the neighborhood came about obviously where the neighborhood felt that they had an opportunity so they wouldn't have so much traffic going in front of their houses to realign that road.

CHAIR VIGIL: Okay, so it was more for traffic purposes than buffering. Okay. Thank you for clarifying that. Any further comments?

COMMISSIONER SULLIVAN: Madam Chair.

CHAIR VIGIL: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Yes, what the neighbors requested was that they didn't want the main access road to be next to their houses, just as Mr. Catanach has stated. They didn't request that the road be put into the highway corridor. They just didn't want it running next to their houses. The applicant could have put the road outside the highway corridor and achieved the same purpose, but that would have given them less developable lots. So that's what happened. There was no, I think from my recollection and dealing with the neighborhood, insistence that the road be put in the highway corridor they just didn't want it in their backyard and so the developer moved it. And I stand by my research of the ordinance, which I have researched in detail, and that is the ordinance. That is the requirement. Thank you.

CHAIR VIGIL: I do believe we have a motion and a second.

**The motion passed by 3-1 voice vote with Commissioner Sullivan voting against.**  
[Commissioner Campos was not present for this action.]

**XIII. ADJOURNMENT**

Chair Vigil declared this meeting adjourned at 10:55.

Approved by:

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Board of County Commissioners  
Virginia Vigil, Chair

ATTEST TO:

VALERIE ESPINOZA  
SANTA FE COUNTY CLERK

Respectfully submitted:

Karen Farrell, Wordswork  
227 E. Palace Avenue  
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