

MINUTES OF THE
SANTA FE COUNTY
DEVELOPMENT REVIEW COMMITTEE

Santa Fe, New Mexico

September 16, 2010

This meeting of the Santa Fe County Development Review Committee (CDRC) was called to order by Chair Jon Paul Romero, on the above-cited date at approximately 4:00 p.m. at the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Roll call preceded the Pledge of Allegiance and indicated the presence of a quorum as follows:

Members Present:

Jon Paul Romero, Chairman
Susan Martin, Vice Chair
Don Dayton
Maria DeAnda
Juan José Gonzales
Charlie Gonzales
Jim Salazar

Member(s) Excused:

None

Staff Present:

Shelley Cobau, Planning Division Director
Jack Kolkmeier, Land Use Administrator
Jose Larrañaga, Development Review Specialist
Vicki Lucero, Development Review Team Leader
Dennis Manzanares, Assistant County Attorney
Wayne Dalton, Development Review Specialist

III. APPROVAL OF THE AGENDA

Ms. Cobau noted the following tablings from the amended agenda:

- CDRC Case #V 10-5240, Ronald Crawford Variance
- CDRC Case #Z 08-5440, Tierra Bello Subdivision
- CDRC Case #APP 10-5270, Windmill Water Business License Appeal
- CDRC Case MP/PDP/DP 10-5770, Santa Fe Brewing Company

Chair Romero requested altering the order of the cases under New Business to hear item F, Santa Fe Southwest S.D.A Church directly following item A, St. Francis South Business Park.

The agenda as amended was accepted by consensus.

IV. APPROVAL OF MINUTES

- A. August 19, 2010 Meeting Minutes**
- B. August 26, 2010 Special Meeting Minutes**

Member Martin moved to approve the minutes as submitted and Member Dayton seconded. The motion passed unanimously.

V. FINAL ORDERS

- A. CDRC CASE # MIS 10-5380 Gawryk Accessory Structure: Fred Gawryk, Applicant, requests approval to construct an accessory structure, which will exceed 2,000 square feet, on 140 acres to be utilized for personal use. The property is located at 491 General Goodwin Road, within Section 31 & 6, Township 14 & 13 North, Range 9 East, Commission District 3.**
- B. CDRC CASE # MIS 10-5310 Foster Accessory Structure: Doug Foster, Applicant, requests approval to construct an accessory structure, which will exceed 2,000 square feet, on 160 acres to be utilized for personal use. The property is located At 299 Rough Road, Within Section 5, Township 11 North, Range 10 East, Commission District 3.**

Member Martin moved approval of the final orders. Member C. Gonzales seconded and the motion passed without opposition.

VI. OLD BUSINESS

- C. CDRC CASE # MIS/V10-5260 Kurt Bowker Accessory Structure/Height Variance: Kurt Bowker, Applicant, requests approval of an "After the Fact" accessory structure totaling 21,132 square feet to be utilized for personal use on 10.01 acres. This request also includes a variance of Article III, Section 2.3.6b (Height Restrictions for Dwellings and Accessory Structures) of the Land Development Code to allow the accessory structure to exceed 24' in height. The property is located at 74 Martin Lane, within Section 33, Township 10 North, Range 8 East, Commission District 3
*[Exhibit 1: Revised Staff Report – 9/16/10]***

Mr. Dalton presented the staff report as follows:

“On August 19, 2010, the CDRC met and acted on this case. The decision of the CDRC was to table this case in order for the Applicant to work with staff and discuss the possibility of a lot line adjustment, lot consolidation or agricultural exemption. On August 31, 2010, staff met with the Applicant. The decision of the Applicant was to work with the County Assessor’s Office in order to obtain an agricultural exemption on the property.”

Mr. Dalton said staff recommends denial of the requested variance to allow the height of the After the Fact accessory structure to exceed 24 feet. The height varies between 28 feet and 36 feet 7 inches. He reviewed Article III, Section 2.3.6b, Height Restrictions for Dwellings and Accessory Structures of the Land Development Code, which states that the height of any dwelling or residential accessory structure shall not exceed 24 feet.

Mr. Dalton said staff’s analysis of the variance criteria does not justify the approval of this Application; the Applicant has not justified a hardship which is contemplated by the Code; or that strict compliance with the Code would result in extraordinary hardship to the Applicant. The variance requested by the Applicant is not considered a minimal easing of the requirements of the Code.

Should the CDRC recommend approval, staff suggests the following conditions be imposed.

1. The Applicant must apply for and receive approval for an agricultural exemption, a lot line adjustment, or lot consolidation prior to development permit issuance.
2. The structure shall not be utilized for any residential or commercial use.
3. The Applicant must obtain a development permit from the Building and Development Services Department that meets all Code requirements.
4. The Applicant must obtain a building permit from the State Construction Industries Division.
5. The Applicant must comply with all Terrain Management requirements set forth in the Land Development Code.
6. The Applicant must comply with Water Harvesting requirements set forth in Ordinances 2003-6 and 2008-4.
7. The Applicant must submit scaled as built construction plans of the structure prior to development permit issuance.

Mr. Dalton clarified that condition six allows for a passive water harvesting plan to include the diversion of all roof water to swales or berms to allow the water to soak into the ground and recharge the aquifer.

Mr. Dalton confirmed that the County Assessor is the entity that has authority to grant agricultural exemptions. If the property has not been agricultural in the past, Member JJ Gonzales asked how an exemption could be obtained. Mr. Dalton said he was unsure of the process and it was possible, because as he understood the property has always been zoned residential, that the property would not qualify for the exemption.

A structure on agriculturally zoned property can have a maximum of 36 feet height, stated Mr. Dalton.

Mr. Dalton said that according to the Applicant, the Assessor will not make a determination on his request until February 2011. With the exemption the Applicant will not require a variance from County Land Use.

Member DeAnda recalled that the tabling last month was to allow the Applicant to discuss a lot line adjustment with County staff. Mr. Dalton verified that the discussion occurred and the Applicant chose the agricultural exemption. He reminded the Committee that the structure straddles two of the Applicant's three lots and a lot line adjustment will be required with or without the agricultural exemption.

Based on the testimony from the previous CDRC hearing, Member DeAnda said the Applicant was very clear that he does not use the land for either agricultural or ranching/grazing. She found it curious that an agricultural exemption could be available.

Member DeAnda said she had hoped the lot line adjustment would have been accomplished during the interim.

Mr. Dalton said neither the Applicant nor County Land Use has received a response from the County Assessor's Office.

Ms. Cobau said the Applicant has not applied for a home occupation business license. The 26 horse stalls are, according to the Applicant, for his personal and private use.

Clarifying the intent of condition two, Mr. Dalton said the structure cannot be used as a residential dwelling unit.

Member Dayton asked whether breeding the horses was considered commercial use. Mr. Dalton said it could be depending on how many horses were boarded at the facility.

Duly sworn, the Applicant, Kurt Bowker, said he met with Land Use staff in August and chose the option of working with the County Assessor to receive an agricultural exemption. He received Larry Valdez' business card as a contact and the phone numbers on the card were wrong. When he finally reached him he was informed the County could grant an agricultural use for the property but the tax assessment would not be effective until the end of February 2011.

Mr. Bowker said he has had horses on the property for a number of years. He understood that a previous owner ran cattle on a large section that included this property and someone had llamas on the land.

Mr. Bowker said he was informed by Mr. Valdez that a livestock tax permit ID number was a requirement to obtaining the agricultural exemption. He said he has been unable to figure out where to get one.

Mr. Bowker stated that the lot line adjustment was not pursued because it depends on the agricultural exemption. He said he has talked to a surveyor and understands it is a fairly short process when the same individual owns both lots as is his case.

Member JJ Gonzales said he was familiar with agricultural exemptions and there is a minimum lot size for every animal grazed on the property. He mentioned that the lot line adjustment is recommended by staff and could be accomplished before February.

Mr. Bowker said “I don’t want to do it if they are going to – it sounds like I’ll find out whether – if they’re going to zone it agricultural. It just doesn’t affect my tax purposes until February. But if they’re going to zone it agricultural then I need to move my lot line so the barn is not with the residence. If they aren’t going to do it then I need to move the lot line so that the residence is with the barn. I don’t want to pay for something twice.”

Member C. Gonzales asked the Applicant why he didn’t stop construction back in August 2007 when the County issued the citation. Mr. Bowker said he understood from the Code that the barn was an agricultural building. He said an engineer stamped his plans.

Regarding the agricultural exemption, Mr. Bowker said the County Assessor’s office is the only entity that can grant that exemption. Member DeAnda asked whether he completed an Application for the exemption. Mr. Bowker responded that he has an Application but has not been able to figure out the tax ID number for a livestock permit because Larry Valdez has not returned his phone call.

Member DeAnda suggested Mr. Bowker contacted the State’s Taxation and Revenue Department, the agency that typically issues tax ID numbers.

Mr. Bowker said he has the Application ready to go except for the ID number. The Application requests the number of horses on the property the previous year: that number is 15.

Member DeAnda asked whether the Applicant would need assistance in caring for 26 horses. Mr. Bowker said stalls are cleaned but the fact the barn is designed for 28 stalls does not necessitate that they will be full. Some of the stall walls are removable and he imagined some stalls would be used for tack blanket room, etc.

Ms. DeAnda said it is a rare occurrence when an Applicant proposes building something that they will not use – 28 stalls for 15 horses was curious and it was difficult for her to believe the barn was solely for personal use. Noting that the Applicant was issued a citation in 2007 and nothing has been resolved, and recognizing the Applicant has his own interpretation of the Code, Ms. DeAnda questioned whether the Applicant has made a good-faith effort work with County staff.

Mr. Dalton clarified that if the Applicant is granted an agricultural exemption, he will be allowed to locate the barn on an otherwise vacant lot.

Mr. Bowker said if the County wants to pay the \$400 he would adjust the lot line and locate the barn on the agricultural lot but if he fails to receive the exemption he asked, "who is going to pay the \$400 again to have the lot line moved?" Recognizing it would be his expense; Mr. Bowker said he was not willing to do that.

Assistant County Attorney Manzanares said the Assessor is an independent elected official and by statute that office has separate and distinct functions from other departments. He said the BCC's action on this case will stand alone as will the Assessor's action. He said the Applicant may be able to select the most advantageous decision/action.

Ms. Cobau informed the CDRC that County Code Enforcement has had no complaints regarding the Applicant's horses and she pointed out there was no one in the audience speaking against the proposal.

Ms. Cobau said if the Applicant is granted the agricultural exception, a variance for the barn's height is not necessary.

Stating she joined in the concerns raised by the CDRC regarding the building of the structure in violation of the County Code and without a permit, Member Martin moved to support the staff recommendation and deny the variance request of MIS/V 10-5260. Member DeAnda seconded and the motion passed by unanimous [6-0] voice vote.

Mr. Dalton advised the Applicant that the CDRC's recommendation will be forwarded to the BCC.

VII. NEW BUSINESS

- A. **CDRC CASE # Z 10-5360 St. Francis South Business Park (Mixed-Use Subdivision)**: J.O.E.B., LLC, Applicant, Jenkins/Gavin Design Development Inc., Agent, request Master Plan Zoning Approval for a mixed-use subdivision (commercial, residential and community service) consisting of 22 lots on 68.94 acres with approximately 760,000 square feet of structures at full build-out. The project will be completed in four phases. The property is located at the Southwest corner of I-25 and St. Francis Drive, within Section 11, Township 16 North, Range 9 East, Commission District 4

Exhibit 2: Updated review from DOT; review letter from the County Fire Department and one letter of opposition from neighbor

Ms. Lucero presented the staff report as follows:

"The Applicant requests Master Plan Zoning Approval for a mixed-use subdivision consisting of 22 lots with up to 760,000 square feet of buildings on 68.94 acres. Uses will include a combination of office, community service, retail, warehouse and residential. Lot sizes range in size from 1.04 acres to 2.90 acres.

A 14.61-acre open space area will also be included as well as a 3.05-acre area designated for a wastewater treatment system. The project will be completed in four phases.

“Article III, Section 4.2.1.d.2 of the County Code states ‘Proposed mixed-use developments are allowed to locate anywhere in the County, except that the location of any specific commercial or industrial non-residential use area designated by such proposals shall be subject to the purposes and intent of Subsections 4.2.3 and 4.1.’

“The property is currently vacant. It is bounded on the north by the I-25 interchange, on the east by St. Francis Drive, on the south by Rabbit Road and on the west by two 3.15+ acre residential lots. The development will have two points of access off of Rabbit Road. The two points will be connected via a loop road within the property. This Application was submitted to the State Department of Transportation and the County Public Works Department for review. The DOT states that a revised TIA must be submitted and their comments must be addressed before they can approve the subdivision. The Applicant has responded to the DOT comments and states that they have done the traffic counts, prepared the requested data, and have a meeting scheduled with DOT to discuss the results. The Applicant states that based on these efforts, they fully anticipate the DOT issuing a revised letter recommending approval of the Application prior to this case being heard by the CDRC. The County Public Works Department did not have any major issues with the concepts presented in the Master Plan, however they did submit a list of conditions that must be addressed prior to Preliminary Plat & Development Plan approval.

“The development will be served by the County Utility via a new 12-inch water main line that will extend from Campo Conejos down Old Galisteo Road and along Rabbit Road to the west property line. The County Utilities Department has issued a utility service analysis letter.”

Ms. Lucero said the proposal was reviewed for fire protection, liquid and solid waste, terrain management, archaeology, signage and lighting, parking, open space and trails.

Ms. Lucero said the Application is in accordance with Article V, Section 5.2 (Master Plan Requirements) of the County Land Development Code therefore staff recommends Master Plan Zoning approval subject to the following conditions:

1. All redlines comments must be addressed.
2. The Applicant must seek approval from the CDRC to allow the eastern driveway to exceed 500 feet.
3. The western driveway shall be constructed at phase II.
4. A TIA will be required with future phases I, II, III, and IV to ensure that offsite improvements are addressed for the development.
5. Speed change lanes and tapers are required as per the TIA.

6. Future TIA shall address St. Francis Drive/Old Galisteo Road concerns regarding the feasibility of a signal light or a roundabout.
7. The Applicant shall provide turnarounds with a driving surface of a minimum of 120' diameter at all dead ends servicing internal lots.
8. Supporting documentation for the drainage calculations consistent with the requirements of the NMDOT's Drainage Design Criteria, 4th ed. must be submitted at Preliminary Plat/Development Plan stage.
9. Drainage control infrastructure plans with sufficient detail to define construction specifics for that infrastructure having a direct impact on NMDOT facilities shall be submitted at preliminary plat/development plan stage.
10. A map showing the complete drainage basin contributing flows to and within the site shall be submitted at preliminary plat/development plan stage.

Member C. Gonzales asked whether the development's trails would connect with Oshara's trails. Ms. Lucero said at this point the only proposed trail connects with the rail trail.

Member C. Gonzales said the curb and gutter need revision and he encouraged the Applicant's engineer to make necessary changes.

Ms. Lucero confirmed that exiting I-25 at St. Francis the access would be from Sawmill to Rabbit Road.

Member DeAnda asked about the impact on the established residential areas on Rabbit Road and noted the opposition letter from an area resident [*Exhibit 2*] and whether bike lanes were proposed for Rabbit Road.

Chair Romero referred to NB A-21, which delineated the widened road sections for shoulders and bike lanes.

Member JJ Gonzales asked whether a water service area extension was necessary for the Applicant to tie into at Campos Conejos. Ms. Lucero said she understood from County Utilities Director Guerrerortiz that the subject property was within the County service boundary.

Ms. Lucero indicated that the phase 1 of the project originally proposed using a well but that has been amended (NB A-12) to use County water.

Member Salazar asked about the Applicant's plan to build an offsite wastewater treatment center while Mr. Guerrerortiz requires sewer designed for gravity flow into the Rodeo Business Park. Ms. Lucero said at this point the developer will design an offsite system; however, once the water line is extended a final determination regarding feasibility of the sewer line will be made.

Duly sworn, David Gurule, a member of the LLC developing the project, a neighbor to the project and lifelong resident of Santa Fe introduced his partner, Ernie Romero.

Duly sworn, Jennifer Jenkins, Jenkins & Gavin Design and Development, agent for the project stated the parcel is “unique, really special, really unusual and very pretty with lovely views.” She said it was unusual in that it is bordered by an interstate on two-sides, Rabbit Road/rural residential on its south and St. Francis on the east. The property provides tremendous potential as an employment center to attract large-scale employers.

Using a site map, Ms. Jenkins described the property and its boundaries. The property consists predominantly of gentle terrain; the steep terrain will be dedicated open space. Referring to visibility, Ms. Jenkins said the terrain creates a natural buffer/ridge line that will buffer the existing residents’ view of the proposed development.

Ms. Jenkins demonstrated the two access points off Rabbit Road. St. Francis Road is access-controlled by the DOT and therefore there is no access. She reviewed the designed loop road and discussed the four-phased development. The plan includes 22 lots of an average lot size of 3.25 acres. The development is proposed as a campus environment to accommodate potentially large employers and institutional uses.

Ms. Jenkins discussed the neighborhood meeting they held and said the area residents recognized the economic opportunities of the property beyond residential. The developer is sensitive to the existing residents and will provide 100 feet of open space buffering along Rabbit Road. The County’s proposed SLDP identifies this tract of land as a regional center and located within development area #1 which has the highest priority for development.

Referring to the utilities, Ms. Jenkins said they have been working closely with Mr. Guerrerortiz. The County is the entity that will need to petition the City for the sewer connection. Adequate land has been set aside for the sewer system and she was confident the connection would be accomplished.

Ms. Jenkins said they are working with the County’s open space and trails staff to design a trail that will traverse a short right-of-way to reach the rail trail and connect to the Zia station.

The project has undergone a full-scale traffic impact analysis and analyzed the intersections at Rabbit Road/St. Francis, Rabbit Road/Old Galisteo Road and the I-25 interchange at St. Francis. County Public Works and DOT have approved the development access and overall approach.

Ms. Jenkins said that Rabbit Road, while it has changed a great deal over the years, maintains a tremendous capacity for vehicles. The developers will significantly improve Rabbit Road in terms of safety.

Referring to the neighbor meeting, Ms. Jenkins said it is their intention to hold another meeting prior to BCC hearing this case.

Responding to Member DeAnda, Ms. Jenkins said the trail will not encroach on private property, will stay within the right-of-way and will probably have an all-weather surface. DOT will be required to approve the right-of-way use for the trail. Typically, bike and pedestrian trails are not an issue with DOT right-of-way.

Referring to the Vereda Serena resident in opposition to the development [*Exhibit 2*], Member DeAnda asked whether the Applicant has made an effort to meet with them. Ms. Jenkins responded that residents of Vereda Serena were present at the community meeting. She said her contact information was made available to all the residents and was surprised this individual had not contacted her.

Ms. Jenkins said it was her understanding that the recently completed I-25 corridor study recommends an interchange at I-25/Richards Avenue. An interchange will require considerable improvements to Richards Avenue.

Member DeAnda said her concern about the project is the traffic generated on Rabbit Road. She appreciates that the developer will improve that road but the developer's traffic study does not show much traffic yet the focus is on a "large-scale employer."

Ms. Jenkins said the use list is based on assumptions and along with large-scale employers there will probably be warehouses and light industrial which are typically large spaces with few people, senior housing which typically generates moderate traffic and churches which are off-peak traffic.

Member C. Gonzales requested a summary of County-required offsite improvements over the full five phases. Ms. Lucero responded that the traffic study will be updated at each phase of the development and as traffic counts rise improvements may be required to Rabbit Road.

Ms. Cobau said DOT would be the lead agency on the interchange on Richards Avenue with the MPO's involvement. She said funding was clearly an issue.

Regarding this development, Ms. Cobau said according to Code a minor arterial is adequate to convey 2,000 to 4,999 trips per day – making this development substantially under the volume for a major arterial.

Member DeAnda asked whether the Richards interchange would be built within the proposed phasing of this project through to 2018. Ms. Cobau said it would take a couple of years to design the plan, right-of-way acquisitions, detouring of I-25, expanding Richards, and three+ years to construct. The widening of the bridge and the Rail Runner contribute to the complexity of the interchange. She expected that the majority of traffic relief would be at Richards/Rodeo if the interchange were constructed.

Member JJ Gonzales asked what uses were excluded from the project and Ms. Jenkins the proposal did not include automotive uses although a gasoline/convenience store was contemplated because of proximity to I-25. She suggested the project would be similar to the Rodeo Road projects. She said they will accommodate the market needs.

Member Dayton asked whether a noise generating business was anticipated and Ms. Jenkins said no they were not proposing heavy industrial. She said they will comply with the County's night sky ordinance.

Duly sworn, Leon Romero, identified himself as the project’s closest neighbor and said he had no objection to the development. He said he received notification of the community meeting.

Member CC Gonzales moved to approve #Z 10-5360 with staff-imposed conditions. Member Martin seconded and the motion passed by unanimous [6-0] voice vote.

- F. **CDRC CASE # MP/ PDP 10-5170 Santa Fe Southwest S.D.A.** Adventist Church. Texico Conference Association of Seventh-Day Adventists, Applicant, Jenkins/Gavin, Agent, Request Master Plan Zoning and Preliminary Development Approval to allow a 6,524 square foot church facility on five (5) acres. The property is located at 62 A-Van-Nu-Po, within the Community College District, Sections 29 & 30, Township 16 North, Range 9 East, Commission District 5

Mr. Larrañaga provided the staff report as follows:

“The Applicant requests Master Plan and Preliminary Development Plan approval for a new church facility at 62 A-Van-Nu-Po Road within the Rancho Viejo Subdivision. The Applicant also requests the Final Development Plan be processed administratively. The church facility will consist of a 6,524 square foot structure and is sited within the Institutional Campus Zone of the Community College District.

“Article III, Section 7 (Community Service Facilities) states: ‘Community service facilities are facilities which provide service to a local community organization. These may include governmental services such as police and fire stations, elementary and secondary daycare centers, schools and community centers, and churches.’ Section 7.1 of Article III (Standards) states: ‘Community service facilities are allowed anywhere in the County, provided all requirements of the Code are met, if it is determined that: the proposed facilities are necessary in order that community services may be provided for in the County; the use is compatible with existing development in the area and is compatible with development permitted under the Code.’

“Ordinance No. 2000-12 (Community College District Land Use and Zoning Regulations), Land Use Table identifies churches/religious institutions as an eligible use within the Institutional Campus Zone.”

Mr. Larrañaga reviewed the associated Code regulations regarding this development and stated that staff reviewed existing conditions, adjacent properties, parking, access, signage, architectural standards, water, fire protection, liquid waste, landscaping, and archaeology. Regarding terrain management the following conditions shall apply:

1. Approved silt control measures shall be in place prior to the start of construction.

2. Areas disturbed by construction shall be re-vegetated within one year of completion of construction.
3. Temporary silt control measures erected during construction shall remain until landscaping and re-vegetation is in place.

Mr. Larrañaga said staff has reviewed this Application and has found that the facts presented support this request: community service facilities are allowed anywhere in the county; the Community College District Land Use Table identifies churches/religious institutions as an eligible use within the Institutional Campus Zone; the Code recognizes a church as a community service facility; the use is compatible with existing development; the Application is comprehensive in establishing the scope of the project; the Application satisfies the submittal requirements set forth in Article V, Section 5.2.2; the preliminary development plan substantially conforms to the approved master plan; the Application satisfies the submittal requirements set forth in Article V, Section 7.

The review comments from State Agencies and Building and Development Review Services has established findings that this Application is in compliance with Article V, Section 5, Master Plan Procedures and Article 5, Section 7 Development Plan Requirements of the Land Development Code. Staff recommends Master Plan Zoning and Preliminary Development Plan approval, with Final Development Plan to be processed administratively, for the Santa Fe Southwest S.D.A. Adventist Church, to allow a 6,524 square foot church facility on five acres located at 62 A-Van-Nu-Po Road within Rancho Viejo, subject to the following conditions:

1. All Staff redlines shall be addressed, \; original redlines will be returned with final plans for Master Plan.
2. The Applicant shall comply with all requirements of the County Fire Marshal, Public Works and County Utilities Department.
3. Master Plan and Preliminary Development Plan, with appropriate signatures, shall be recorded with the County Clerk.

Member DeAnda asked about the traffic impact analysis and Mr. Larrañaga said the report was submitted and reviewed by County Public Works and DOT.

Member DeAnda asked whether parking was permitted along A-Van-Nu-Po Road and Mr. Larrañaga said that was not contemplated because the Applicant has provided sufficient parking for the facility. He noted the services are held during non-peak traffic periods.

Previously sworn, Jennifer Jenkins agent for the Applicant, said the church accommodates 200 parishioners and 67 parking spaces were based on three people per car. The parking requirements per the Community College District is actually one space per 250 square feet for non-residential uses resulting in 26 parking spaces.

Member DeAnda noted the facility is designed for an occupancy of 305 people. Ms. Jenkins said that was a typo and the church currently has 90 members and the capacity of the sanctuary is 200.

Ms. Jenkins said an actual on the ground count was done at the church's current facility and the traffic count was based on that information.

Member JJ Gonzales said in the past the CDRC has acted on variances for churches requiring additional height for religious symbols. He asked whether they would be coming back for such a variance and Ms. Jenkins said no, it is a very low profile structure.

Member JJ Gonzales said he drove by the SDA church on St. Francis and they do have a prominent cross. Ms. Jenkins said the Applicant has never discussed this with her and she did not anticipate it would be an issue.

Ms. Jenkins introduced Francis Philips with ABQ Engineering. She said they were in agreement with staff-imposed conditions except one made by Public Works that requires the project include two 5-foot bike lanes on either side of A-Van-Nu-Po along the property frontage. She said she has serious concerns about this requirement. This improvement would cost her clients over \$30,000 to create bike lanes to "nowhere and connect to nothing." She said she spoke to County Planner Griego and he indicated that the bike lane may not be necessary at this point.

Jack Kolkmeier, Land Use Administrator, indicated that the he discussed the issue with Mr. Griego and the timing of connections to Route 14 is in the future and at this point there is no funding. He suggested that the conditions regarding bike lanes and trails be deleted.

There was no one wishing to speak in regard to this case.

Member Salazar moved to approve CDRC Case #MP/PDP 1-5170 with staff-imposed conditions and the deletion of the requirement for two 5-foot bike lanes along A-Van-Nu-Po Road. His motion was seconded by Member Dayton and passed by unanimous voice vote.

[The CDRC recessed for 10 minutes]

Returning from recess, Members JJ Gonzales and Member Martin recused themselves from the next case.

- C. **CDRC CASE # V10-5410 Archie Perea Variance.** Archie Perea, Applicant, requests a variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to allow a second dwelling unit on 1.08 acres. The property is located within the Traditional Community of La Cienega, at 130 Camino San Jose, within Section 5, Township 15 North, Range 8 East, Commission District 3

Mr. Larrañaga presented the staff report as follows:

“The Applicant requests a variance of Article III, Section 10, Lot Size Requirements, of the Land Development Code to allow a second dwelling unit to be placed on a 1.08-acre parcel. The Applicant states that his wife suffers from chronic obstructive pulmonary disease (COPD) and requires assistance daily. The Applicant is requesting the placement of a 28 x 48 doublewide mobile home that his daughter and son in-law will occupy and help care for his wife.

“The Applicant acquired a portion of the 1.08-acre or .30 acres property from Santa Fe County. A septic system was installed on the property which was acquired from the County. The existing residence is served by a separate septic system and domestic water is being supplied by the La Cienega Mutual Domestic Water Association. The Applicant has submitted a letter from the Water Association stating that domestic water will be made available to Mr. Perea for this site.

“The residential property, which borders the 1.08-acre parcel, averages .50 acres with one dwelling unit per lot. The minimum lot size required for a conventional septic system is 0.75 acres for a three-bedroom home, the lot size minimum increases with each additional bedroom. The New Mexico Environment Department specific regulation regarding maximum design flow based on parcel size; NMED staff has indicated that the maximum number of bedrooms that could be allowed on a 1.08-acre parcel is four. More than four bedrooms might not be permitted by the NMED, and the Applicant is herein advised that an advanced liquid waste treatment system might be required, dependent on the number of bedrooms present, and the number proposed. Permitting of the liquid waste disposal systems is through the NMED, and must be addressed prior to Application for a County Development Permit.

“Article III, Section 10.3.3 states the minimum lot size within the Traditional Communities shall be .75 acres and can be reduced to .33 acres where Community Water and Sewer Service systems are utilized. Ordinance No. 2002-9, La Cienega Traditional Community Zoning District, Section 6.4, Traditional Community Zoning District, states the maximum density is three quarters of an acre per one dwelling unit.

“Article II Section 3, Variances, 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 that in no event shall a variance be granted that would nullify the purpose of the Code.”

Mr. Larrañaga said staff has reviewed this Application and has found the facts presented do not support this request: the Applicants’ interpretation of the variance

criteria does not justify the approval of this Application; strict compliance with the requirements of the Code would not result in extraordinary hardship to the Applicant as contemplated by the Code; to reduce the density requirements allowed by the code by allowing a second dwelling on 1.08 acres, the purpose of the Code would be nullified; the Applicant has not justified a hardship which is contemplated by Article II, Section 3 of the Code; the maximum density of three quarters of an acre per one dwelling unit is established in Ordinance No. 2002-9 and in Article III, Section 10.3.3 of the Code. The variance requested by the Applicant is not considered a minimal easing of the requirements of the Code, therefore staff recommends denial of the Applicant's request.

Duly sworn, Archie Perea, Applicant, thanked the CDRC for hearing his case and submitted additional documentation (copies were not made available for this record). He said staff provided an accurate description of his Application.

Mr. Perea said the County had a mobile home parked on the property before he acquired the land. The County installed a state-of-the-art septic system which NMED inspected and certified. According to NMED the system was sufficient for a commercial building.

Mr. Perea referred to a letter from his wife's doctors attesting to her COPD and other conditions.

Member C. Gonzales asked whether there had ever been a swimming pool on the property and Mr. Perea said only a mobile home. He said he acquired the property as a result of a lawsuit wherein the County destroyed the property and his home. He said it took five years from the time of the damage to ending the lawsuit. Rather than paying \$150,000 to fix the property, the property was given to him.

Mr. Perea said a deputy was living in the County's mobile home.

In response to a series of questions asked by Member DeAnda, Mr. Perea said his home was a four-bedroom, approximately 2,000 square feet that he and wife occupy. The request is for an additional home to be placed on the property that his daughter and son-in-law will live in. At this point, his wife does not have special nursing care and they depend greatly on his daughter.

Mr. Perea confirmed that he understood why the County was recommending denial. He pointed out that he was a member of the first five-member CDRC in 1981 and was familiar with the regulations.

Chair Romero observed that one of the exhibits identified other lots in the area under .75 acres. Mr. Larrañaga confirmed the Chair's observation noting one of the adjoining parcels was .2 acres and contained a dwelling unit.

Mr. Larrañaga said the property has been graded and there is access for placement of the doublewide home.

Mr. Perea said a precedent has been set with small lots in La Cienega and mentioned homes on .2-acre lots. He said the mobile home will have landscaping conducive to the best aesthetics of La Cienega.

Duly sworn, JJ Gonzales a resident of La Cienega, said he was a member of the partnership that owns property adjacent to Archie Perea's property. He said within that area there are 10 to 12 lots with residents created prior to the La Cienega/La Cieneguilla Community Plan and prior to the 1980 Code that are .25 acres. These residents are served by the La Cienega Mutual Domestic Water System and do not have private wells. He supported the variance.

Mr. JJ Gonzales recalled that the septic system was constructed by the County about 15 years ago.

Pauline Sandoval, duly sworn, indicated she is the daughter that hopes to move in on the land to be near her mother. She said her mother's health problem is very serious.

Ms. Sandoval said the doublewide has three very small bedrooms.

Member DeAnda asked whether the doublewide would be installed on a permanent foundation. Ms. Sandoval said the mobile home has not yet been purchased and as far as permanency that was up to her father.

Mr. Perea said he planned on placing the home on a permanent foundation and that the home could be two to three bedrooms.

Duly sworn, Loren Dale, a neighbor to the Applicant, said she was very sympathetic to the Applicant's needs and appreciates the situation. She said with due respect she opposed the placement of an additional trailer close to the road with direct visibility into her living room. Ms. Dale said her property is walled but because the area is densely populated she was concerned about her privacy.

Ms. Dale said she appreciates the improvements the Applicant has made on his property but she could not support the request. She mentioned that Mr. Perea's home is quite large and perhaps there was a solution in that dwelling.

Returning to the podium, Mr. Perea said as a grandparent he wants to provide room for his grandchildren and great-grandchildren to visit. He assured the CDRC that the doublewide will not face Ms. Dale's living room window. A coyote fence will be erected. He said there was blight in the area and he hoped the well-landscaped, coyote fenced doublewide would serve to counteract that. He said how others live was not his business. He requested that the CDRC grant him the variance.

Member C. Gonzales moved to approve CDRC Case #V 10-5410. His motion was seconded by Member Salazar and passed by majority [3-1] voice vote with Member DeAnda voting against. [Members JJ Gonzales and Martin recused themselves from this case.]

- D. **CDRC CASE # V 10-5430 Ray Armenta Variance.** Ray Armenta, Applicant, requests a variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to allow for five, 5-acre tracts and one ten-acre tract, to be divided below the maximum allowable lot size, as a family transfer. The property is located on Hidden Valley Road, within Sections 4&5, Township 16 North, Range 10 East, Commission District 4

Mr. Larrañaga provided the staff report as follows:

“The Applicant requests a variance of Article III, Section 10 of the Land Development Code to allow five 5-acre lots to be reduced to ten 2.5-acre lots and for a 10-acre parcel to be reduced to two 5 acre lots. The Applicant is proposing to deed the 2.5-acre lots to his daughters and grandchildren and one of the 5-acre lots to his sister. The Applicant states the property is of great sentimental value to his family due to the history of their ancestors occupying the land. The Applicant also states that his wish is to transfer this family treasure to his loved ones.

“The property is located within the Mountain Hydrologic Zone where the minimum allowable lot size is 20 acres with .25 acre-foot water restrictions. All six lots are below the minimum allowable lot size depicted by the Land Development Code. The lots were created pre-code, therefore are considered non-conforming legal lots of record.

“The property is located in a mountainous area where the terrain is very steep and may be difficult to access. Staff has analyzed a 2008 Orthophoto at contour intervals of two feet and has determined that these lots may not have a suitable buildable area which would comply with the Code and that the grade of the access roads may not meet Code criteria. The existing lots may require variances to establish buildable sites and to exceed the grade allowed for access roads to the sites.

“For the creation of new lots the Code requires the following: the Applicant demonstrate existence of a buildable area on each lot for structures and support facilities - water supply, liquid waste disposal, access and utilities; development on a lot shall only occur within an approved development site; no development shall occur on natural slope of 30 percent or greater; each lot shall have a designated buildable area which shall meet the criteria set forth in Article VII, Section 3.4 Terrain Management Performance Standards.

“Article VII, Section 3.4, Performance Standards, states: ‘new lots shall contain an area suitable for building, including areas suitable for access corridor and utility sites and corridors which can be developed in accordance with these terrain management regulations and other requirements of the Code. Article II Section 3, Variances, 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 that in no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board that it so doing would nullify the purpose of the Code.”

Mr. Larrañaga said staff has reviewed this Application and has found the facts presented not to support this Application: a lot that is created, which has not established compliance with Code requirements, may not be eligible for Application for a variance to the buildable area standards per Article III, Section 2.3.2d; the Applicant has not demonstrated the existence of a buildable area on each lot for structures and support facilities; the existing lots may require variances to establish buildable sites and to exceed the grade allowed for access roads to the sites; the property is located within the Mountain Hydrologic Zone where the maximum allowable lot size is 20 acres; staff’s analysis of the Applicant’s interpretation of the variance criteria does not justify the approval of this Application; strict compliance with the requirements of the Code would not result in extraordinary hardship to the Applicant; to allow these lots to be reduced further below the density requirements allowed by the Code, the purpose of the Code would be nullified; the Applicant has not justified a hardship which is contemplated by the Code.

Mr. Larrañaga said the variance requested by the Applicant is not considered a minimal easing of the requirements of the Code, therefore staff recommends denial of the Applicant’s request.

Chair Romero asked whether a plat of the proposed land division was submitted. Mr. Larrañaga said the Applicant met with staff to discuss his request and it was not typical to require a survey at this point in the variance process.

Using a site map, Mr. Larrañaga located the property within the former Mountain Special Review District and identified the proposed lot splits.

Member C. Gonzales observed that the Application lacked a slope analysis and Mr. Larrañaga said when the Applicant was made aware of staff’s recommendation to deny the variance, he chose to come forward with the Application as submitted.

Member DeAnda asked for staff confirmation that the request was for the creation of ten 2.5-acre lots and two 5-acre lots. Mr. Larrañaga confirmed that was correct; the Applicant was creating 12 lots.

Mr. Larrañaga noted that the Applicant will be required to petition for an exemption of the family transfer rule to deed a lot to his sister.

Duly sworn, Ray and Loretta Armenta, Applicants appeared before the CDRC.

Alluding to the fresco behind the CDRC, Mr. Armenta said it illustrates what his request is about. He provided a historical background of how his family was connected to the land beginning 1540 when Coronado explored New Mexico accompanied by one of his ancestors, a soldier by the name of Armenta. In 1682 a 5,000-acre land grant was given to two brothers named Armenta. Other Armenta brothers were land granted 5,000 in Valles Caldera Grande.

Mr. Armenta said he worked for BLM as a real estate specialist and worked to resolve over 500 land ownership issues in northern New Mexico. He mentioned the atrocities committed by the Santa Fe Ring in the 19th century and an 1891 congressional act that refused to recognize the land grants given to his and other families from the King of Spain as well as the failure to honor the Treaty of Guadalupe Hidalgo. He discussed the Homestead Act and that his father's great-grandfather got a patent for 160 acres. The subject property before the CDRC for consideration is what is left of that property.

Mr. Armenta displayed the original Homestead Act deed for the 160 acres signed by Grover Cleveland. That property was parceled and deeded to family. Mr. Armenta's father, who ran a wood yard business on Canyon Road, never failed to pay the taxes on that land.

Mr. Armenta said in the early 1990s he and his wife sued for access to their land and unfortunately lost that case and must go six miles via Double Arrow Road to access this land that has been in the family for generations. He said it seems that individuals with "unlimited financial resources and political leverage" get their way with development and exceptions with reference to land laws in Santa Fe.

Mr. Armenta appealed to the CDRC to allow him and his wife want to deed some of their land to their children, grandchildren and other family members. Concluding his comments he said they were not newcomers to the area, they were here before it was this country, "because we didn't move fast enough in the 70s when the land was being developed we were shut out by the developers and consequently we lost access." He said, "what is fair is fair and what is right is right" and he asked the CDRC to do the right thing.

Chair Romero asked whether the Applicant was aware of staff's analysis that there may not be buildable areas on the lots. Mr. Armenta said he has been visiting the property since he was a child and if Wilderness Gate was able to develop in what he described as "much worse slopes" than he could too. He said it was not right to prohibit him from building.

Mr. Armenta stated that the ordinances make it very difficult for the native New Mexicans to develop on their family land. He asked how it was fair that a developer with a lawyer can be granted permission to build when he isn't allowed the same consideration.

Apologizing for being emotional, Mr. Armenta said it just wasn't right "we have been there for too many hundreds of years to be told you can't subdivide...it's just not right."

In response to Chair Romero's question of why the Applicant was trying to accomplish the number of land divisions, Mr. Armenta said he and his wife were in their late 60s and they want to make sure that their family gets the property.

Member JJ Gonzales asked the Applicant when they lost access to their property through Wilderness Gate. When Wilderness Gate was developed, responded Mr. Armenta, in particular the last house in the development put up an electric gate. He said he took them to court for access and lost with the court citing abandonment of an easement. Mr. Armenta located his property within the center of a valley and noted a house was recently built adjacent to his property.

Member JJ Gonzales advised the Applicant that according to the County Code all newly created lots must have a buildable area. He said staff concludes the lots lack that building site.

Mr. Armenta was doubtful that staff had conducted a site visit because had they, they would see many homes on far steeper terrain than his property.

In terms of water availability, Mr. Armenta said the property has water rights and there is a nearby community well. In fact, he said there was a spring that his family obtained water from. Water is not an issue, stated Mr. Armenta.

Responding to a member's question, Mr. Manzanares there were avenues in which the Applicant could through a family transfer deed property to a sister or a minor.

Mr. C. Gonzales said he could not support a variance based on ancestry. He said additional information was needed and he mentioned a slope analysis, water availability and sewer. He recommended that the Applicant meet with County GIS to review a slope map.

Ms. DeAnda shared Member C. Gonzales' concerns regarding an absence of information to support the variance.

Mr. Armenta verified that there are neither dwellings nor a well on the property. Three of the lots can be accessed from Hidden Valley Road and another road would need to be developed for access to the other lots. She said she was also concerned that the lots were below the minimum lot size and there may not be any buildable sites.

Mr. Armenta advised the CDRC that as far as submittals, he furnished what the County requested. He said he was willing to provide whatever documents necessary.

Ms. Cobau said approaching Mr. Armenta's property via Double Arrow Road is through what she described as a jeep trail. The County Fire Marshal said the property was not all-weather accessible.

Ms. Cobau said it is possible that the Applicant's legal lots of record on the property do not have buildable area. She said driveway plans and profiles were certainly necessary.

Ms. Cobau said per the Code, a family transfer does not require offsite improvements.

Chair Romero said it was apparent the CDRC needs more information and he asked the Applicant to work with the County's GIS division and accept a tabling. Mr. Armenta responded positively.

Loretta Armenta spoke about the lawsuit to maintain access to her husband's ancestor's property that cost them over \$100,000 and caused an emotional and financial hardship on her family. She assured the CDRC that she knows hardship and they should not be penalized for not having had the resources to develop the land earlier. She said she and her husband will fight for their children and grandchildren to have that property and then thanked the CDRC for letting her express her frustration.

Chair Romero moved to table CDRC Case #V 10-5430. Member Martin seconded and the motion passed by unanimous voice vote.

- G. CDRC CASE # MP 10-5351 Rio Santa Fe Business Park.** Peña Blanca Partnership, Applicant, Jim Seibert Agent, request Master Plan Zoning approval for a 31.44-acre parcel as a Commercial/Industrial Use. The property is located at 54 Colony Drive, North West of N.M. 599, North of Paseo de River, Within Section 10, Township 16 North, Range 8 East, Commission District 2

Mr. Larrañaga presented the staff report as follows:

“On August 10, 2010, the Applicant was granted Master Plat Authorization approval, by the Board of County Commissioners, on a 31.44-acre parcel. Approval of the Master Plat delegates authority to the Land Use Administrator to administratively approve a specific lot layout plan when it determines that due to the size, scale or marketing requirements that approval of a plat with a specific lot layout is in the best interest of the county and developer.

“After such a delegation is made, the County Development Review Committee and Board shall establish development standards Applicable to the subdivision as authorized by the Code and other Applicable ordinances and laws, establish the maximum number of lots to be permitted, intensity of use, and required improvements, and may then approve both the Preliminary and Final Plat which will be known and designated as a Master Plat.

“The Applicant requests Master Plan Zoning, in conformance with the requirements of Article V, Section 5 of the Land Development Code, to allow for commercial/industrial use on 31.44 acres. The property has been used as a mine

site for excavation of sand and gravel which is located in a predominately commercial developed area of the county.

“Article V, Section 5.2.1.b states: a master plan is comprehensive in establishing the scope of a project, yet is less detailed than a development plan. It provides a means for the County Development Review Committee and the Board to review projects and the subdivider to obtain concept approval for proposed development without the necessity of expending large sums of money for the submittals required for a preliminary and final plat approval”.

“Article V, Section 5.2.1.c states: ‘the master plan submittal will consist of both plans and written reports which include the information required in Article V, Section 5.2.2. A typical submittal would include a vicinity map, a plan showing existing site data, a conceptual environmental plan with written documentation, a master plan map, a master plan report, a schematic utilities plan and the phasing schedule. Maps and reports may be combined or expanded upon at the discretion of the Applicant to fit the particular development proposal as long as the relevant information is included.’”

Mr. Larrañaga said the Application was reviewed for existing conditions, adjacent properties, parking, access, outdoor lighting, signage, architectural standards, water, fire protection, liquid waste, terrain management, landscaping and archaeology.

Mr. Larrañaga said staff has reviewed this Application and has found the facts presented to support this request: the Application satisfies the submittal requirements set forth in Article V, Section 5.2.2; the Application is comprehensive in establishing the scope of the project; the proposed site is located in a predominately commercial developed area of the county; the proposed Master Plan meets the criteria set forth in the Land Development Code.

The review comments from State Agencies and Building and Development Review Services has established findings that this Application is in compliance with Article V, Section 5, Master Plan Procedures of the Land Development Code. Staff recommends Master Plan Zoning approval, of the Rio Santa Fe Business Park, to allow commercial/industrial use on 31.44 acres, subject to the following conditions:

1. All Staff redlines shall be addressed; original redlines will be returned with final plans for Master Plan.
2. The Applicant shall comply with all requirements of the County Fire Marshal, County Public Works and County Utilities Department.
3. Master Plan with appropriate signatures shall be recorded with the County Clerk.

Member JJ Gonzales asked about water access and Mr. Larrañaga said the Applicant proposes to use County water via the Buckman Direct Diversion and is within the service boundary area.

Duly sworn, Jim Siebert, agent for the Applicant, using an aerial map, he sited the property near the County Public Works facility, 599, the Frontage Road, an

asphalt/concrete batch plant, and a gravel and sand mining operations. He identified a flight-path over the property.

Mr. Siebert said the water is being brought off-site from Caja del Rio via an already granted easement. A 12-inch line and a pressure reducing station will be necessary. He said there are two options for sewer: a lift-station to a manhole on the LaFarge property and a gravity flow to another location. Mr. Siebert said he has been in discussion with the County Utilities to develop a joint Application with several land owners in the area for sewer service from the City.

Regarding bank stabilization, Mr. Siebert said the vegetation down along the north side of the Santa Fe River serves as good stabilization. The County has requested a trail along the north bank and he said they were working with the Open Space and Trail Division. The development partnership is prepared to reserve land for a trail.

Mr. Siebert said the County needs to be the principal applicant to the City in requesting sewer extension.

Mentioning the industrial types uses proposed, Member Salazar encouraged the Applicant to hookup to City sewer. He supported the heavier industrial uses as something Santa Fe needs.

Member DeAnda expressed concern that there was no exterior lighting proposed at the development and she encouraged the Applicant to consider lighting for personal safety. She also requested that the Applicant consider roof reflectivity especially for the surrounding residences.

Mr. Seibert said when they return for preliminary plat and plan they will provide covenants for the CDRC's review.

Duly sworn, Louis Gonzales thanked the CDRC and commended staff for their hard work.

There were no other speakers on this case.

Member C. Gonzales moved to approve CDRC Case #MP 10-5351 with all staff conditions. Member Dayton seconded and the motion passed by unanimous [6-0] voice vote.

VIII. PETITIONS FROM THE FLOOR

None were presented.

IX. COMMUNICATIONS FROM THE COMMITTEE

Member C. Gonzales asked whether staff had an opportunity to investigate a house on CR 54 in Cieneguilla that appears to be built in a flood plain. Ms. Cobau said

Code Enforcement did a site inspection and at this point staff is investigating information from archives.

X. COMMUNICATIONS FROM THE ATTORNEY

None were presented.

XI. COMMUNICATIONS FROM STAFF

Ms. Cobau reminded the CDRC that October's meeting will start at 6.

XII. ADJOURNMENT

Having completed the agenda and with no further business to come before this Committee, Chair Gonzales declared this meeting adjourned at approximately 7:55 p.m.

Approved by:

Jon Paul Romero, Chair
CDRC

ATTEST TO:

COUNTY CLERK



Before me, this ____ day of _____, 2010.

My Commission Expires:

Notary Public

Submitted by:

Karen Farrell, Wordswork



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss CDRC MINUTES
PAGES: 24

I Hereby Certify That This Instrument Was Filed for Record On The 22ND Day Of October, 2010 at 03:05:55 PM And Was Duly Recorded as Instrument # 1614718 Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Deputy Valerie Espinoza
County Clerk, Santa Fe, NM