



# Memo

**To:** Santa Fe Board of County Commissioners  
**Through:** Bernadette Salazar, Human Resources Director  
**From:** Gisele "Gigi" Gonzales, Employee Development  
**Date:** April 5, 2012  
**Re:** Kimberly Martinez, Employee of the Quarter (1st Quarter 2012)

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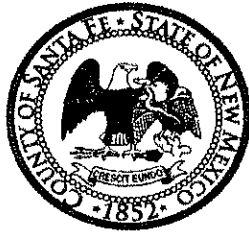
Through the selection process for Employee of the Quarter, Ms. Martinez has been selected for Employee of the Quarter for the first quarter of 2012. I am requesting your approval to recognize Kimberly Martinez for Employee of the Quarter at the BCC meeting on April 24<sup>th</sup>, 2012.

Thank you

Daniel "Danny" Mayfield  
Commissioner, District 1

Virginia Vigil  
Commissioner, District 2

Robert A. Anaya  
Commissioner, District 3




Kathy Holian  
Commissioner, District 4

Liz Stefanics  
Commissioner, District 5

Katherine Miller  
County Manager

DATE: April 17, 2012

TO: Board of County Commissioners

FROM:  Chris M. Barela, Constituent Services Liaison District 3

RE: Acknowledgement and Recognition for NMED Solid Waste Bureau and BLM

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**ACKNOWLEDGEMENT and RECOGNITION APRIL 24<sup>TH</sup> BCC AGENDA  
ITEM VIII-B PRESENTATIONS**

Santa Fe County Solid Waste Section would like to acknowledge and recognize Tim Grey with NMED Solid Waste Bureau, Herbert Chavez with BLM and BLM's Fire and Fuels Crew.

On April 3, 2009 Santa Fe County Solid Waste Section applied for the New Mexico Recycling and Illegal Dumping Grant through NMED. The grant was aimed toward an illegal dumpsite cleanup and fencing in La Cienega on CR 54a and CR 54b. On May 11, 2009 Santa Fe County was awarded \$7,000.00 for this project by NMED. SFC partnered with BLM for the cleanup and placing of the fencing on CR 54A and CR 54B. BLM provided us with the BLM Taos Fire and Fuels Crew for the cleanup and provided the employees for the placing of the fence. We hauled out 25 tons of illegal dump site waste to the Caja Del Rio Landfill with requesting free disposal. One mile of fencing was placed, along with 2 14 ft gates and entry access for the public. The SFC Roads Department provided the concrete for this project and the Santa Fe County sign shop also fabricated and erected illegal dump signs in English and in Spanish to deter illegal dumpers. To date, SFC has only had to clean up one area where there was illegal dumping.

On May 7, 2010 Santa Fe County Solid Waste Section was awarded another grant through the New Mexico Environment Department for the Recycling and Illegal Dumping Grant for \$17,225.00. This grant was for the fencing of CR 56C also known as the Camel Tracks. Santa Fe County also partnered with BLM for the fencing of this area. 38.47 tons of illegally dumped waste was hauled out of the area with help from Santa Fe County Solid Waste and Roads Section employees and equipment. We also applied for free disposal through Caja Del Rio Landfill. 2.4 miles was fenced off and 2 14 ft gates were also placed in hopes to preserve the Camel Tracks and to deter the illegal dumping.

**NO PACKET MATERIAL  
FOR THIS ITEM**

**Daniel "Danny" Mayfield**  
*Commissioner, District 1*

**Virginia Vigil**  
*Commissioner, District 2*

**Robert A. Anaya**  
*Commissioner, District 3*



**Kathy Holian**  
*Commissioner, District 4*

**Liz Stefanics**  
*Commissioner, District 5*

**Katherine Miller**  
*County Manager*

**CASE NO. CDRC V 11-5320  
FAMILY PROPER VARIANCE  
MAURICIO SOLIS, APPLICANT**

**ORDER**

**THIS MATTER** came before the Board of County Commissioners (hereinafter referred to as "the BCC") for hearing on January 10, 2012, on the Application of Mauricio Solis (hereinafter referred to as "the Applicant") for a variance of Article II, Section 4.3.2c, Family Proper, of the Land Development Code (hereinafter referred to as "Code"), to allow the transfer of land as a Small Lot Family Transfer from sibling to sibling. The BCC, having reviewed the Application and supplemental materials, staff reports and having conducted a public hearing on the request, finds that the Application is well-taken and should be granted, and makes the following findings of fact and conclusions of law:

1. The Applicant requests a variance of Article II, Section 4.3.2.c, Family Proper, of the Code, to allow the transfer of land as a Small Lot Family Transfer from sibling to sibling.
2. The project is located at 22 Rancho Sin Vaca Road, within Section 22, Township 16 North, Range 8 East, (Commission District 3).
3. Following a hearing on the Applicant's request for a variance, the County Development Review Committee, at its November 17, 2011 meeting, recommended denial of the variance request.

4. Article II, Section 3.1 of the Code states that where in the case of a 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. It further states that a Development Review Committee may recommend to the BCC and the BCC may vary, modify or waive the requirements of the Code upon adequate proof that compliance with the Code provision issue will result in an arbitrary and unreasonable taking of the property or exact hardship, and proof that the variance from the Code will not result in conditions injurious to health or safety. Section 3.1 provides that in no event shall a variance be recommended by the Development Review Committee nor granted by the BCC if by doing so the purpose of the Code will be nullified. Additionally, it states that in no case shall any variation or modification be more than a minimum easing of the requirements.
5. If the Applicant met the Family Proper requirements of the Code, a Small Lot Family Transfer land division could have been processed administratively.
6. The property has been in lawful possession of the Applicant for over five years. There are currently two residences and two conventional septic systems on site. The property is served by an on-site well. The 2.5 acre parcel is located within the Basin Hydrologic Zone and is in compliance with Article III, Section 10, Lot Size Requirements, of the Land Development Code.

7. Strict compliance with the requirements of Article II, Section 4.3.2.c may result in inhibiting the achievement of the purpose of the Code.
8. The Applicant testified in support of the variance.
9. No member of the public spoke in regards to the Application.
10. After conducting a public hearing on the request and having heard from the Applicant, the Board of County Commissioners hereby finds that a variance of Article II, Section 4.3.2.c, Family Proper, of the Land Development Code, should be approved.

**IT IS THEREFORE ORDERED** that the Application is approved, and the Applicant is allowed a variance to allow a Small Lot Family Transfer Land Division from sibling to sibling.

I certify that the Application was approved by the Board of County Commissioners on this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

The Board of County Commissioners of Santa Fe County

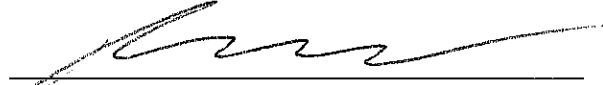
By: \_\_\_\_\_  
BCC Chairperson

ATTEST:

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Valerie Espinoza, County Clerk

Approved as to form:



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Stephen C. Ross, County Attorney

**XIII. A. 3. CDRC Case # V 11-5320 Mauricio Solis Variance of Family Proper. Mauricio Solis, Applicant, Requests a Variance, of Article II, Section 4.3.2c (Family Proper) of the Land Development Code to Allow the Transfer of Land as a Small-Lot Family Transfer From Sibling to Sibling. The Property is Located within the Traditional Historic Community of La Cienega, at 22 Rancho Sin Vaca Road, within Section 22, Township 16 North, Range 8 East (Commission District 3) Jose E. Larrañaga, Case Manager**

MR. LARRAÑAGA: On November 17, 2011 the County Development Review Committee met and acted on this case. The decision of the CDRC was to recommend denial of the applicant's request for a variance based on the findings presented by staff.

The applicant requests a variance of Article II, Section 4.3.2.C, Family Proper, of the Land Development Code. Family proper is described in Article II, Section 4.3.2c, as lineal relations up to and including the third degree, i.e. grandparent, parent, child. Step relations shall count as natural relationships so long as the step relationship is legally existent at the time of the transfer, including legal guardians who have performed the function of grandparent or parent to the person who is receiving the transferred lot.

The Applicant states both he and his brother make payment on the property. The property is under the Applicant's name and he would like to transfer one half of the property to his brother to protect his brother's interest in the property.

Article II, Section 4.3.2b, Definition of a Small Lot Family Transfer states, A lot created as a gift from a grandparent, parent or legal guardian to his or her natural or adopted child or grandchild or legal ward, which lot does not meet the density requirements of the Code Any person may receive only one lot through Small Lot Family Transfer.

Article II, Section 4.3.1b, states that the Purpose of a Small Lot Family Transfer is to permit transfers of lots which do not meet the lot size requirements of the Code from grandparents, parents or legal guardians as a onetime gift to a child or grandchild in order to provide a more affordable home site for these adult children.

The property has been in lawful possession of the Applicant for over five years. There are currently two residences and two conventional septic systems on site. The property is served by an on-site well. The 2.5-acre parcel is located within the Basin Hydrologic Zone and is in compliance with Article III, Section 10, Lot Size Requirements, of the Land Development Code.

Staff has analyzed the feasibility of this parcel of land to be subdivided as a Family Transfer per Code requirements. Staff has determined that if the Applicant met the Family Proper requirements, a Family Transfer land division could be processed administratively.

Article II Section 3 of the County Code 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 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.

Recommendation: Staff has reviewed this Application and has found the following facts presented not to support this Application: a Family Transfer from sibling to sibling does not comply with the definition of lineal relations as defined in Article II, Section 4.3.2c of the Land Development Code; the purpose of the Code may be nullified by allowing the creation of lots, which do not meet the minimum lot size requirements, by means of a variance of the Family Proper criteria; the Applicant has not justified a hardship as defined in Article II, Section 3 of the Land Development Code, therefore staff recommends denial of the Applicant's request.

If the decision of the CDRC is to recommend approval, staff recommends the following conditions be imposed. Madam Chair, may I enter these conditions into the record?

[The conditions are as follows:]

1. Water use shall be restricted to 0.25 acre feet per year per lot. A water meter shall be installed for both lots this shall be noted on the Plat. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk's Office.
2. A shared well agreement shall be recorded with the Plat.
3. A Plat of Survey meeting all County Code requirements shall be submitted to the Building and Development Services Department for review and approval.
4. No further division of either tract shall be permitted. This shall be noted on the plat.
5. The Applicant shall connect to the County Water System when it becomes available within 200 feet of the property line.

MR. LARRAÑAGA: Madam Chair, I stand for any questions.

CHAIR STEFANICS: Thank you. Is the applicant here? Would you come forward please?

MR. LARRAÑAGA: Madam Chair, if I may, I may have to interpret for the applicant.

CHAIR STEFANICS: That's great. So we would like to know if you have a statement.

[Duly sworn, Mauricio Solis testified as follows:]

MAURICIO SOLIS: Mauricio Solis.

CHAIR STEFANICS: So, Jose, do you want to go ahead. We're asking him for his statement about this.

[Mr. Solis' remarks were translated by Mr. Larrañaga.]

MR. LARRAÑAGA: Madam Chair, the applicant states that he's like for you to look at his request to protect his brother and his brother's interest as he said he pretty much mentioned at CDRC.

Madam Chair, he's like to split the property to protect his family, his wife, his interests and his brother's family and their interests and protect their total interest in the property.

CHAIR STEFANICS: Más?

MR. LARRAÑAGA: Madam Chair, what he's presenting is that Exhibit K. That exhibit shows other properties around him in proximity that have subdivided their property through the family proper family transfer and created 1.25-acre lots.

CHAIR STEFANICS: Okay, I have a question for you or the applicant. Does this property – is this property either in an arroyo or bordering an arroyo?

MR. LARRAÑAGA: Madam Chair, yes. On Exhibit K it's Lot 22, and you can see the two residences. Back on the bottom, there's I guess on the southeast side there is the road, it does run down below, where he has it looks like he has a round tent and maybe some tents for some horses. But the dwellings itself are outside of the floodplain.

CHAIR STEFANICS: So, Mr. Larrañaga, is this property – and maybe Shelley can answer this too. Is this near the other property that we considered that was in La Cienega near the arroyo? This isn't the same property?

MS. COBAU: Madam Chair, I've been to this site. I don't believe it's the same one that you've considered. You've considered family transfer divisions all around in this entire area.

CHAIR STEFANICS: But is this – the question I'm asking – is this the area where the horses are being corralled down in the arroyo?

MS. COBAU: That's correct, Madam Chair. The Floodplain Ordinance does, however, allow for horse corrals inside the regulatory floodplain, as long as it's a non-habitable structure it's permitted for our Floodplain Ordinance.

CHAIR STEFANICS: Okay. Thank you. Commissioners, questions for the staff or the applicant?

COMMISSIONER HOLIAN: Madam Chair.

CHAIR STEFANICS: Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Madam Chair. This is a question for the applicant. Couldn't you protect your family and your brother's family through a will?

MR. LARRAÑAGA: Madam Chair, Commissioner Holian, he stated no. If something happens he wants to protect the interests of his family and his kids...He's afraid that if something happens to him and this isn't done then his kids would have problems later on.

COMMISSIONER HOLIAN: Well, Madam Chair, I guess my take on it is is that it seems like he could leave he property in joint ownership.

MR. LARRAÑAGA: Madam Chair, Commissioner Holian, he has not investigated to see if he can do that or looked into a will. He's still worried about his kids, pretty much, and his brother's kids as far as having their own properties.

CHAIR STEFANICS: Okay, we're going to go to public hearings so why don't you have a seat right up front. This is a public hearing. Is there anybody here to speak either for or against this application? The public hearing is closed. Yes, Mr. Ross.

MR. ROSS: Madam Chair, one item that always comes up when we're talking about these lineal relationships with small-lot family transfers, our ordinance is not consistent with the State Subdivision Act on this point. We have granted these variances in the past because the State Subdivision Act permits people to take advantage of the family transfer when they are within three degrees of the transferor unrelated to whether it's vertical or horizontal or what have you. So I've always taken the position that that particular restriction

in the Land Development Code is probably void and we have not included it in the new code that we're working on right now. Just for your information.

CHAIR STEFANICS: Okay, so that leads me to a question for staff. Aside from the family connection, would we have any other premise to deny this on?

MR. LARRAÑAGA: Madam Chair, no. As stated in the staff report, we've looked at it as far as access, of course the buildings are already there. If he had a child that was old enough that he could transfer this property to we would be doing it administratively as a small-lot family transfer.

CHAIR STEFANICS: So just to clarify, the staff conditions – today it looks like the property already has two-plus, maybe four dwellings on it.

MR. LARRAÑAGA: Madam Chair, it's got two dwellings and a barn and stalls. But it only has two dwellings. They're allowed any amount of accessory structures, permitted accessory structures.

CHAIR STEFANICS: So if there are two dwellings, staff conditions don't really stop any further dwellings.

MR. LARRAÑAGA: Madam Chair, the density requirements do. At 1.25 acres they still should only have one dwelling for 1.25. It's not in an area where it would go down to the ¼ acre. So that would be – and these conditions would be implemented in the plat approval. If this variance would be granted he would still have to hire a surveyor and go through the process of the small-lot family transfer land division.

CHAIR STEFANICS: And is the applicant willing to abide by all of these conditions, including the water meter?

MR. LARRAÑAGA: Yes, Madam Chair. He's willing to abide by all the conditions. I'd given the applicant all the staff conditions before prior to CDRC and he was in agreement.

CHAIR STEFANICS: And has the County made the materials available in Spanish?

MR. LARRAÑAGA: Madam Chair, we are working on that, as far as the checklist and everything else we're going to be working on that very quickly.

CHAIR STEFANICS: And does our applicant read Spanish as well?

MR. LARRAÑAGA: Yes.

CHAIR STEFANICS: Well, I'm feeling that the applicant is really at a disadvantage by not having something in front of him in his own language, telling him what he would be required to do.

MR. LARRAÑAGA: Madam Chair, these requirements, if a variance is granted he is subject to doing – he would probably, maybe at that time we would have something in Spanish at the land division stage of this. These are standard conditions for any kind of land division or family transfer.

CHAIR STEFANICS: I understand that these are standard conditions but has somebody sat own and gone over each one of these conditions in Spanish with him?

MR. LARRAÑAGA: Prior to CDRC I went through the conditions with him if he got approved and he was well aware of the conditions.

CHAIR STEFANICS: ¿Y entendió todos? Okay. Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Madam Chair. I guess this is a question for the County Attorney. Could we put another condition on this that would restrict the sale of either of these lots for, let's say, five years?

MR. ROSS: Madam Chair, Commissioner Holian, at common law, restrictions on alienation are void, so probably the restrictions would be void or voidable if they were put on.

COMMISSIONER HOLIAN: Okay. Thank you.

CHAIR STEFANICS: Commissioner Mayfield, anything?

COMMISSIONER MAYFIELD: Madam Chair, question for staff. As far as the diagram, and I'm looking at the three different structures for 22, which are the two homes? And I'm on Exhibit K.

MS. COBAU: Madam Chair, Commissioner Mayfield, closest to the road are the two homes.

COMMISSIONER MAYFIELD: So that one in the far right corner, what is that group?

MS. COBAU: Madam Chair, Commissioner Mayfield, that's a barn.

COMMISSIONER MAYFIELD: Okay, and then what's that kind of fence that's kind of protruding out from the other side?

CHAIR STEFANICS: Is that a driveway, perhaps?

MR. LARRAÑAGA: Madam Chair, the applicant just explained to me that he put this semi-wall there because the arroyo kind of drops off there so that the kids wouldn't drop off into that.

COMMISSIONER MAYFIELD: And Madam Chair, and somebody correct me if I'm out of line here, but I know we had a prior case about a month, two months ago, where they were concerned with horse operations out in the area. Is there that type of activity going on and is that going on in the arroyo there?

MR. LARRAÑAGA: Madam Chair, Commissioner Mayfield, the applicant just stated that he doesn't really have the horses down in the arroyo side. He's got it up where the barn is, on that third one that you mentioned, that third little structure.

COMMISSIONER MAYFIELD: And Madam Chair, and for the applicant, is that a commercial operation or is that just horses for their individual use?

MR. LARRAÑAGA: Madam Chair, Commissioner Mayfield, it's for his own personal use. He's got three horses on there.

CHAIR STEFANICS: Thank you, Madam Chair. I have another question for staff. The last time we had a case that was close to this area there were several people from the community that came to object, primarily because of loose horses, etc. What is different about this case?

MR. LARRAÑAGA: Madam Chair, that wasn't my case but I dealt with the people that were complaining about the horses. What's different about that one was that they were racing or exercising – basically they were racing but I assume they were exercising the horses up and down the arroyo and they built their stalls right in the arroyo which they can, and they were saying that the manure when it rained and stuff was going into their property. The stalls and stuff are not placed in the arroyo on this; it's completely different. I believe the

name was even the same but it's a completely different property. And I have not received any complaints or any letters and this was noticed properly.

CHAIR STEFANICS: Thank you. Other questions, comments? Yes, Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Madam Chair. I just would like to ask the applicant whether he continues to own his property and whether his brother does.

MR. LARRAÑAGA: Madam Chair, Commissioner Holian, he says it's under his name right now and he's going to keep it under his name unless he gets this variance and of course they'll split it.

COMMISSIONER HOLIAN: Well, Jose, I guess my question is do either of them, if the variance were to be granted, do either of them have plans to sell?

MR. LARRAÑAGA: Madam Chair, he says no, obviously.

COMMISSIONER HOLIAN: Thank you.

CHAIR STEFANICS: Okay, what is the pleasure of the Commission?

COMMISSIONER HOLIAN: Madam Chair, I move for approval of CDRC Case #V 11-5320, Mauricio Solis Variance of Family Proper, with staff conditions.

COMMISSIONER MAYFIELD: Madam Chair, I will second this but you brought up a point. Can those conditions can also be translated them into the Spanish language please?

MR. LARRAÑAGA: Madam Chair, Commissioners, yes.

CHAIR STEFANICS: Okay. Thank you. Any further discussion?

**The motion passed by unanimous [3-0] voice vote.** [Commissioners Anaya and Vigil were not present for this action.]

CHAIR STEFANICS: Thank you very much. You're approved with conditions and you'll be given a document in Spanish. Thank you. Maybe we have to hire some staff to do that for the whole County.

MS. ELLIS-GREEN: Madam Chair, we are looking at getting some vendors available to use as translators, and we'll use those also for getting our checklist translated into Spanish and for public hearings like this, when someone needs a translator we'll have an official translator come.

CHAIR STEFANICS: I'm sure we could get something going for under the \$5,000 mark with some of our older translators here in town. They'd be very happy for the work. Yes, Commissioner.

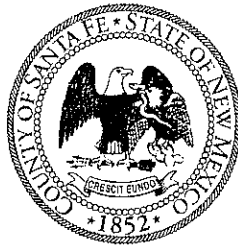
COMMISSIONER MAYFIELD: Madam Chair, on that point. Even citations that are issues to folks – I know there's some folks that get citations and they don't understand the citations that are written because they're just fluent in Spanish and they read and speak Spanish and they're saying, what's the citation about. Thank you.

CHAIR STEFANICS: Thank you.

Daniel "Danny" Mayfield  
*Commissioner, District 1*

Virginia Vigil  
*Commissioner, District 2*

Robert A. Anaya  
*Commissioner, District 3*



Kathy Holian  
*Commissioner, District 4*

Liz Stefanics  
*Commissioner, District 5*

Katherine Miller  
*County Manager*

**BCC CASE # MIS 09-5071  
SANTA FE OPERA MASTER PLAN EXTENSION  
PAUL HORPEDAHL, AGENT**

**ORDER**

**THIS MATTER** came before the Board of County Commissioners (hereinafter referred to as "the BCC") for hearing on January 10, 2012, on the Application of Santa Fe Opera, (hereinafter referred to as "the Applicant"), for an extension of an existing Master Plan. The BCC, having reviewed the Application and supplemental materials and staff report, and having conducted a public hearing on the request, finds that the Application is well-taken and should be granted, and makes the following findings of fact and conclusions of law:

1. The Applicant requests a two year time extension of an existing Master Plan.
2. The property is located at 17053 US Highway 84/285, within Sections 25 and 26, Township 18 North, Range 9 East.
3. On June 2, 2004, the Extraterritorial Zoning Authority granted approval of a Master Plan amendment for the Inn at the Opera. The project will be developed in five phases as follows:

Phase I-Overflow parking area to accommodate 139 parking spaces as well as picnic Areas;

Phase II-A rehearsal and recital hall, storage building, spa and fitness building with a Pool, wastewater treatment plant and 26 new parking spaces;

Phase III-Opera Village Center (plaza, conference area, rehearsal and recital areas, small theater, restaurant facilities, reception space, bar, lounge, storage space, pool with related facilities, and 134 parking spaces;

Phase IV-50 apartment style units, 64 co-housing units for the Opera staff and conference Participants;

Phase V-20 Casita style housing units for Opera performers, directors, benefactors, conference participants and guests.

4. The Opera property lies outside the presumptive city limits and zoning for the property was established by the Extraterritorial Zoning Authority (EZA) and the Extraterritorial Zoning Commission. With the enactment of Ordinance 2009-01 the property is now governed by the Santa Fe County Land Development Code (“Code”).

5. The Application meets the criteria set forth for Master Plan approval in Article V, Section 5.2.4 and the expiration time limit of a Master Plan set forth in Article V, Section 5.2.7 of the Code.

6. The Agent for the Applicant testified in support of the Master Plan extension.

7. Two members from the public spoke on the Application.

8. The Commission recommends and the Applicant agrees to the following special conditions of approval:

a. The Applicant shall comply with the conditions of the approved Master Plan;

b. The Applicant shall comply with all requirements of the County Land Development Code;

c. The Applicant shall comply with any applicable ordinance(s) adopted by the County prior to the submittal of preliminary and final development plan.

9. After conducting a public hearing on the request and having heard from the Applicant, the Board of County Commissioners hereby approve the request for a two year time extension of an existing Master Plan subject to the Applicant's compliance with the special conditions as stated above.

**IT IS THEREFORE ORDERED** that the Application is approved, and the Applicant is allowed a two year time extension of an existing Master Plan subject to the conditions set forth herein.

I certify that the Application was approved by the Board of County Commissioners on this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

The Board of County Commissioners of Santa Fe County

By: \_\_\_\_\_  
BCC Chairperson

ATTEST:



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Valerie Espinoza, County Clerk

Approved as to form:



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Stephen C. Ross, County Attorney

**XIII. A. 4. BCC Case # MIS 09-5071 Santa Fe Opera Master Plan Extension, Santa Fe Opera, Applicant, Paul Horpedahl, Agent, Request a Two-Year Time Extension of the Amended Master Plan Approval for the Santa Fe Opera Village. The Property is Located at 17053 US Highway 84/285, within Sections 25 & 26, Township 18 North, Range 9 East (Commission District 2 1) Jose E. Larrañaga, Case Manager**

MR. LARRAÑAGA: Thank you, Madam Chair. On January 12, 2010 the Board of County Commissioners granted a request by the Santa Fe Opera for a two-year time extension of an existing master plan. On June 2, 2004 the Extraterritorial Zoning Authority granted a master plan amendment to the previously approved Inn at the Opera to allow a rehearsal and recital facility, meeting spaces, conference facilities and amenities, storage for the opera and housing for the opera performers and staff, directors, benefactors, conference participants and guests, consisting of 135,600 square feet on 44.10 acres to be developed in five phases.

The master plan amendment allowed the project to directly serve the needs and interests of the opera rather than being open to the public as allowed in the previous approval. The site and building layout are the same as the prior approval. The project will be developed in five phases as follows: Phase 1, overflow parking area to accommodate 139 parking spaces as well as picnic areas; Phase 2, a rehearsal and recital hall, storage buildings, spa and fitness building with pool, wastewater treatment plant and 26 new parking spaces; Phase 3 is the Opera Village Center; Phase 4, 50 apartment style units, 64 co-housing units for the opera staff and conference participants; Phase 5, 20 casita style housing units for opera performers, director and benefactors, conference participants and guests.

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

The applicant is requesting a two-year time extension and renewal of the master plan under the Land Development Code. Article V, Section 5.2.1b 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 without the necessity of spending large sums of money for the submittals required for preliminary and final plat approval.

Article V, Section 5.2.7b states, Master plan approvals may be reviewed and extended for additional two-year periods by the Board at the request of the developer.

Recommendation: Staff has reviewed this application and has found the following facts presented to support this submittal. The master plan was approved and zoning was established by the Extraterritorial Zoning Authority prior to the enactment of Ordinance 2009-01. The property lies outside the presumptive city limits and is governed by the Santa Fe County Land Development Code. The approved master plan meets the criteria set forth in the Land Development Code.

Staff's review of the applicant's request has established findings that this application is

in compliance with Ordinance No. 2009-01 and meets the criteria set forth in Article V, Section 5.2.1b, Article V, Section 5.2.4 and Article V, Section 5.2.7b of the Land Development Code. Staff recommends approval of a two-year time extension of the amended master plan for the Santa Fe Opera Village, subject to the following conditions. Madam Chair, may I enter these conditions into the record?

CHAIR STEFANICS: Yes. Thank you.

[The conditions are as follows:]

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

MR. LARRAÑAGA: Madam Chair, I stand for any questions.

CHAIR STEFANICS: Thank you. Is the applicant here? If you could please come forward, state your name and be sworn in.

[Duly sworn, Paul Horpedahl testified as follows:]

PAUL HORPEDAHL: My name is Paul Horpedahl. My address is 101 Mateo Circle North here in Santa Fe.

CHAIR STEFANICS: Thank you. Do you have anything to add to the presentation?

MR. HORPEDAHL: Only that this is still a very conceptual master plan at this point and we are hoping on a time extension so that we can work more on what we really would like to do with this property to help for the mission of the Santa Fe Opera.

CHAIR STEFANICS: Thank you. Are there questions for the applicant or for staff before we go to the public hearing?

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR STEFANICS: Yes, Commissioner.

COMMISSIONER MAYFIELD: Madam Chair, and Shelley, this also now is in District 1, just on the redistricting, so you all know that. And then, Madam Chair, and a question for staff. Under condition number 3 that you are putting in: The applicant shall comply with any applicable ordinances adopted by the County prior to the submittal of preliminary and final development plan. And Steve may have already answered this question. But now that we're going through the code rewrite and the new plan, so we have something on the books before they go to construction phase they comply with the new ordinances that are on the books, not the old ones when they submitted applications? Thank you, Madam Chair.

CHAIR STEFANICS: Thank you. Commissioner Holian, anything for this? Okay, we are now at a public hearing. Anybody who would like to speak in favor of or in opposition to this please come forward. We'll have you all sworn in at the same time. Only one person? Anybody else, for or against? Everybody come up who's –

RICHARD EHRENBURG: I'm partially against.

CHAIR STEFANICS: Everybody who's going to testify, if you'd all raise your hands.

[Those wishing to speak were placed under oath.]

CHAIR STEFANICS: Thank you. We'll take you one at a time, your name, address and your statement.

[Duly sworn, Richard Ehrenburg testified as follows:]

MR. EHRENBURG: My name is Richard Ehrenburg. I'm a property owner at 12 and 12-A Calle de Luz, which is in back of the opera, kind of up from the second arroyo, so we have about 15, 14 acres there. And although I really personally like Paul, I think the plan is generally very good, there are certain issues in the plan that I really take questions about and one is the overflow parking.

Now, in the amended master plan it says that everything is going to be paved. Now, I don't know how many of you folks have been up to the opera but the whole thing is pretty much blacktop which means there's no percolation, there's no water getting into the soil in that area where the parking is. I would suggest that the parking areas could be done with a product called turf block, which is a concrete block that's set into the ground and dirt is put over it but the concrete is still there. Grass can still grow over it and in fact fire trucks – we've used it in projects where fire trucks actually go in there and park. So this is one item.

My second item is the traffic flow. And I'm not convinced – I use this road two or three times a day and there are 51 or 58 residential structures that use that road and although they don't use it in the wintertime it's still used in the summertime including the opera-goers. I don't know if any of you folks have driven this road but it is pitched and it's curved. So even though they have some concrete islands here to try to direct the traffic, somebody coming down that hill and somebody else making – even if they make a right turn to go further down the hill at the north entry, at some point there's going to be an accident.

They may want to man that with somebody there any time it's in use. That is something that I think needs to be discussed.

And the third item are the pools. None of us who have tried to put pools in have been allowed to put pools in by the County unless they're indoor pools, even though we have doctors' letters saying that we need to swim. So I swim at Ft. Marcy. I couldn't put a pool in; I wasn't allowed to. There is a pool that the opera has at the other side in back of the opera building. It is a kidney-shaped pool that was put in when that was allowed. I don't frankly see that – there's a spa building here with a pool. I don't really see the necessity for a pool when there is one on the property already.

And I guess my last issue is that the grade lines coming down off of the houses on the top of the hill is very, very steep and there's going to be a tremendous amount of runoff. I don't know exactly how the opera is going to handle that. I haven't seen any details about it. I know this is a general plan, but the reality is if one of the large, wealthy donors leaves something to the opera in their will, and this has happened in the past, they can get \$6 million really fast to start this project. So I just wanted to go on record with several of my neighbors who weren't able to be here tonight – they were here and then they had to leave – that we certainly don't want to put a blanket – say that we don't like the plan at all but there are certain areas of this which we feel are not really in the best interest of the land or the people that use the road on an annual basis.

And my last comment is that I would like to know whether this is going to be a year-round use or it's just going to be summer use while the opera is in session, and if it is going to

be can there be anything in writing by the opera that will state that. And thank you. That's all I have to say.

CHAIR STEFANICS: Thank you. We'll go on to the next speaker.

[Previously sworn, Buck Smith testified as follows:]

BUCK SMITH: Madam Chair, Commissioners, my name is Buck Smith. I'm a member of the board of directors of the homeowners association out in Casas de San Juan, a neighbor to the opera. We have a master association, and a condominium association. Just for the record. I was here before you recessed; I didn't see any of my neighbors here. I came here immediately after you reconvened. I didn't see any of my neighbors here.

The associations are not here to support or oppose the opera's plans. Due to our governing structure we're not able to take a vote on this on short notice. Most of our residents, many of them, I can't say an exact percentage, are non-residents. The Ehrenburgs are here 100 percent of the time. For us to take a vote on this is a big problem because we have non-resident members who are owners who sometimes don't even respond to mail, so that you know the facts here, and we never conduct off-cycle votes, just in case anyone wonders what the neighbors are doing out there, we just don't act like that; we can't.

Now, that said, the associations are here and I'm here to speak for myself, not as – not for all of our owners. We are proud of our association with the opera. They're very good neighbors. They've always been good neighbors to us. We try to be good neighbors to them and other than that we just want to be sure you understand that whatever you might hear from other owners they're not authorized to speak for our associations here because they have not been. And we gave Mr. Horpedahl a letter saying no one's authorized to speak on our behalf as an association.

CHAIR STEFANICS: Thank you. Is Commissioner Anaya on the phone?

COMMISSIONER ANAYA: Yes, Madam Chair.

CHAIR STEFANICS: Great. Thank you very much for joining us. Was there another comment from the audience? Wait. If you're going to make a comment you need to come up to the microphone so you're on the record please. We have public listening and watching.

MR. EHRENBURG: Thank you, Madam Chair. Madam Chair, I just wanted to mention that I am not a member of the association. We have a separate area, although we use the gates for Casas de San Juan. There are five or six homes that are not part of the association and I am, as I said, I am not representing them. A couple of them were here tonight. One of them lived in Casas but the other ones were not able to be here. And I also want to just go on record as saying that I enjoy the opera, I enjoy the opera people. John – I like Charles McKay and also Paul Horpedahl. I consider him – he helped me on several occasions and the general plan is something that I absolutely agree with and these were some four items that I had questions about. Thank you.

CHAIR STEFANICS: Thank you very much. Is there any other comment from the public before we close the public hearing? Okay. The public hearing is now closed. Commissioner Anaya, we're on the extension of the Opera Village master plan extension. So let's go back to questions of the staff and the applicant. Commissioners, Commissioner Mayfield.

COMMISSIONER MAYFIELD: Thank you, Madam Chair. Madam Chair and

staff, just going through some of the exhibits, I'm looking at Exhibit C. Exhibit C was EZ Case #Z 04-4050, the Opera Village. Does the City not have involvement in this anymore? Because that's how I'm looking at this document from 2004, that they did have some involvement in this.

MR. LARRAÑAGA: Madam Chair, Commissioner Mayfield, at that time the issue was the EZA, but Ordinance 2009-01 deleted the EZA. We do not have the EZA anymore; it's under County jurisdiction.

COMMISSIONER MAYFIELD: Okay. Thank you. But also looking at these documents, two questions. One, they were asked to consulting with the neighboring pueblo on this or at least give them an opportunity. Is that still the case? Is that not the case?

MR. LARRAÑAGA: Madam Chair, Commissioner Mayfield, any conditions that were imposed on the approval are still imposed.

COMMISSIONER MAYFIELD: Okay. And then I know that at least Tesuque Village is trying to come together with a community plan. Is there a community plan on the books or in the making that would include this opera area?

MS. ELLIS-GREEN: Madam Chair, Commissioners, I believe the Tesuque Village Plan is the other side of 285. It doesn't go to this side of 285.

COMMISSIONER MAYFIELD: Okay. Thank you, Madam Chair, Ms. Ellis-Green, and there's not – I'm not familiar with any other community plan in that area, minus maybe some local covenants from home associations.

MS. ELLIS-GREEN: Madam Chair, Commissioners, no, I don't believed this is covered by another community plan.

COMMISSIONER MAYFIELD: Okay. Thank you. And Madam Chair, Mr. Larrañaga, these folks are just coming asking for an extension, right? So when they get together what they actually want to do, when they finally come together with pen on paper, the community still will have an opportunity to say yea or nay.

MR. LARRAÑAGA: Madam Chair, Commissioner Mayfield, that's correct. As the code stands right now they would have to come in with preliminary and final development plan for each phase, and some of the items that this gentleman spoke of – parking, traffic, pools and grade, that's all going to go into preliminary and final. That's when we really look at the final plan before construction. And yes, the preliminary and final would go to CDRC for approval.

COMMISSIONER MAYFIELD: Thank you. Madam Chair, Jose, help me with understanding, what's the benefit for having a master plan already on file with the County and asking for an extension? Or what's the benefit of just letting it lapse and coming in for a whole new master plan again?

MR. LARRAÑAGA: Madam Chair, Commissioner Mayfield, the master plan is the zoning, so it gives them the concept approval and the zoning for this type of use. It doesn't give them any development rights, but it gives them the zoning where they can go forward with the development plan. If you let it lapse, well, just the fees involved in coming in to resubmit the engineering and the traffic impact analysis and the hydrology reports and everything else would be pretty high.

COMMISSIONER MAYFIELD: Okay. And Madam Chair, Mr. Larrañaga, with the new code that's going to come, and as this Commission approves it, would there be

anything that would put more restrictions? They would have to be in compliance with that, but I don't know what you all are going to bring to us, and knowing that this may be a moot point if the new code says, hey, you can develop this type of structure out there or you can't develop this structure out there. Am I off base on that question?

MR. ROSS: Madam Chair, Commissioner Mayfield, no, you're not, but you've got two members or three members of the code draft team right here and I don't think there's anything major contemplated with this type of development.

COMMISSIONER MAYFIELD: Okay. Thank you. Thank you, Madam Chair.

CHAIR STEFANICS: Thank you. Commissioner Holian.

COMMISSIONER HOLIAN: I would like to request Mr. Horpedahl to comment on the suggestions that were made by the neighbor.

MR. HORPEDAHL: Yes, thank you. We have listened to many comments from our neighbors in the past, ever since we first started with this development master plan and I have been taking excessive notes on all of these things. In fact I spoke with Mr. Ehrenburg two years ago about his concern about the road access and have told him that we would be taking all of these things under concern as we approach actually putting pen to paper, but at this time it really is just a concept. We've not changed anything in this whatsoever since 2004. So we really are just trying to figure out what would work best for us and for our neighbors at this point.

COMMISSIONER HOLIAN: Thank you. And so when you went forward for preliminary plat and final plat you would actually meet with the neighbors and try to update them on what your final plan was?

MR. HORPEDAHL: Certainly.

COMMISSIONER HOLIAN: Okay. Thank you, Mr. Horpedahl.

MR. HORPEDAHL: Thank you.

CHAIR STEFANICS: Commissioner Anaya, do you have any questions for staff or the applicant?

COMMISSIONER ANAYA: Not at this time, Madam Chair.

CHAIR STEFANICS: Thank you very much for joining us. What is the pleasure of the Commission?

COMMISSIONER MAYFIELD: Madam Chair, I'll move for approval to grant the extension of BCC Case #MIS 09-5071, Opera Village.

COMMISSIONER ANAYA: Second, Madam Chair.

COMMISSIONER HOLIAN: With staff conditions?

COMMISSIONER MAYFIELD: Yes, with staff conditions. Thank you, Commissioner Holian.

CHAIR STEFANICS: So there's a motion and a second with staff conditions. Any further discussion or questions?

COMMISSIONER HOLIAN: Madam Chair.

CHAIR STEFANICS: Yes.

COMMISSIONER HOLIAN: Well, I think that the suggestions that were made by the neighbor sound very reasonable to me and I would just really want to urge Mr. Horpedahl and the developer to take some of those into consideration.

CHAIR STEFANICS: Yes, Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, on that point though, they'll

still have their say on that when it comes in front of the CDRC and this Commission.

COMMISSIONER HOLIAN: Yes.

COMMISSIONER MAYFIELD: Thank you.

CHAIR STEFANICS: Any further questions of comments?

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

CHAIR STEFANICS: Thank you very much, you're approved.

**XV ADJOURNMENT**

Having completed the agenda and with no further business to come before this body, Chairwoman Stefanics declared this meeting adjourned at 8:15 p.m.

Approved by:

\_\_\_\_\_  
Board of County Commissioners  
Liz Stefanics, Chairwoman

ATTEST TO:

VALERIE ESPINOZA  
SANTA FE COUNTY CLERK

Respectfully submitted:

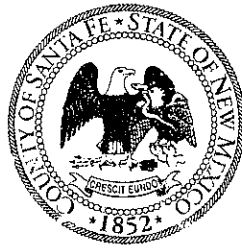
Karen Farrell, Wordswork  
453 Cerrillos Road  
Santa Fe, NM 87501



Daniel "Danny" Mayfield  
Commissioner, District 1

Virginia Vigil  
Commissioner, District 2

Robert A. Anaya  
Commissioner, District 3



Kathy Holian  
Commissioner, District 4

Liz Stefanics  
Commissioner, District 5

Katherine Miller  
County Manager

**CASE NO. CDRC MP/PDP 11-5350 PARKER COSTRUCTION CUYAMUNGUE  
MASTER PLAN AND PRELIMINARY DEVELOPMENT PLAN  
PAUL PARKER, APPLICANT**

**ORDER**

**THIS MATTER** came before the Board of County Commissioners (hereinafter referred to as "the BCC") for hearing on February 14, 2012, on the Application of Parker Construction Cuyamungue (hereinafter referred to as "the Applicant") for Master Plan and Preliminary Development Plan approval for Phase I, Phase II and Phase III on 5.63 acres to be utilized for storage of equipment and construction material. The Application also requests that the Final Development Plan be approved administratively. The BCC, having reviewed the Application and supplemental materials, staff reports and having conducted a public hearing on the request, finds that the Application is well-taken and should be granted, and makes the following findings of fact and conclusions of law:

1. The Applicant requests Master Plan approval for commercial zoning on the 5.63 acre property. The commercial use on the site will consist of storage of materials and equipment as well as equipment maintenance. The zoning would also allow for three metal structures and a caretaker's residence. The proposed use is consistent with conditions imposed on the site as a component of the variance approval. The Applicant also seeks approval for Phase I, Phase II and Phase III Preliminary Development Plan approval. Phase I will consist

of a 1,920 square foot modular structure to be utilized as a caretaker residence and a 4,000 square foot metal building to be utilized for maintenance and storage of equipment. Phase II will consist of a second 4,000 square foot metal building to be utilized for maintenance and storage of equipment. Phase III will consist of a third 4,000 square foot metal building to be utilized for maintenance and storage of equipment. The Applicant also requests that Phase I, Phase II, and Phase III Final Development Plans be approved administratively

2. The property is located east of the US 84-285 frontage road between exit 176 and Buffalo Thunder Road, within Section 28, Township 19 North, Range 9 East (Commission District 1).
3. On April 8, 2008, the Board of County Commissioners approved a variance of Article III, Section 4 (Commercial and Non-Residential Districts) to allow the 5.63 acre site to be eligible for commercial zoning.
4. On December 15, 2011, the County Development Review Committee (CDRC) recommended approval, with staff conditions, of the Master Plan and, Preliminary Development Plan for Phases I, II and III. The CDRC also recommended that the Final Development Plan be approved administratively, for Parker Construction Cuyamungue, case number MP/PDP 11-5350.
5. The proposed use is consistent with conditions imposed on the site as a component of the 2008 variance approval.
6. The proposed Master Plan is comprehensive in establishing the scope of the project.

7. The Preliminary Development Plans substantially conform to the proposed Master Plan.
8. The Agent for the Applicant testified in support of the Application.
9. No member of the public spoke in regards to the Application.
10. Staff recommended and the Applicant consented to the following conditions for approval of the Application:
  - a. All Fire Marshal, Public Works and Staff redlines shall be addressed prior to recordation of Master Plan and Preliminary Development Plan for Phase I, Phase II, and Phase III;
  - b. Automatic fire protection sprinkler systems shall be required as per 1997 Uniform Fire Code for all proposed structures;
  - c. Applicant must provide Santa Fe County with an approved access permit from NMDOT for the proposed development;
  - d. Applicant shall provide a minimum of thirty (30') feet departure sight triangles at entry of development;
  - e. Applicant shall install a R1-1, 30x30 diamond grade stop sign at the exit of the development;
  - f. Applicant shall install a Thermo Plastic STOP BAR at the exit of the development.
11. After conducting a public hearing on the request and having heard from the Applicant, the Board of County Commissioners hereby finds that the Application for Master Plan and Preliminary Development Plan and the request for Final Development Plan to be approved administratively,

should be approved conditioned on the Applicant complying with Staff conditions as stated above.

**IT IS THEREFORE ORDERED** that the Application is approved, and the Applicant is allowed Master Plan Zoning and Preliminary Development Plan approval for Phases I, II and III, subject to the conditions set forth herein. It is further ordered that Phase I, Phase II and Phase III Final Development Plan approval shall be processed administratively.

I certify that the Application was approved by the Board of County Commissioners on this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

The Board of County Commissioners of Santa Fe County

By: \_\_\_\_\_  
BCC Chairperson

ATTEST:

\_\_\_\_\_  
Valerie Espinoza, County Clerk

Approved as to form:

  
\_\_\_\_\_  
Stephen C. Ross, County Attorney

- XVII. A. 3. **CDRC Case # MP/PDP 11-5350 Parker Construction Cuyamungue. Paul Parker Applicant, Jim Siebert, Agent, Request Master Plan and Preliminary Development Plan Approval for Phase I, Phase II and Phase III on 5.63 Acres to Be Utilized for Storage of Equipment and Construction Material. The Request Also Includes Final Development Plan to be Approved Administratively. The Property is Located at 17690 US 84-285, on the Frontage Road Between Exit 176 and Buffalo Thunder Road, within Section 28, Township 19 North, Range 9 East (Commission District 1) Jose E. Larrañaga, Case Manager**

MR. LARRAÑAGA: On April 8, 2008, the Board of County Commissioners approved a variance of Article III, Section 4 to allow the 5.63-acre site to be eligible for commercial zoning. On December 15, 2011 the County Development Review Committee recommended approval, with staff conditions, of master plan, preliminary development plan for phase 1, 2 and 3, and final development to be approved administratively for Parker Construction Cuyamungue, case number MP/PDP 11-5350.

The applicant is requesting master plan for commercial zoning on the 5.63-acre property. The commercial use on the property will consist of storage of material, equipment and equipment maintenance. The zoning would also allow for three metal structures and a caretaker's residence. The proposed use is consistent with conditions imposed on the site as a component of variance approval.

The applicant also requests Phase 1, Phase 2 and Phase 3 preliminary development plan approval. Phase 1 will consist of a 1,920-square foot module structure to be utilized as a caretaker residence, and a 4,000 square foot metal building to be utilized for maintenance and storage of equipment. Phase 2 will consist of a second 4,000 square foot metal building to be utilized for maintenance and storage of equipment. And Phase 3 will consist of a third 4,000 square foot metal building to be utilized for maintenance and storage of equipment.

The request also includes Phase 1, Phase 2 and Phase 3 final development plan to be approved administratively.

Article III, Section 4.4.1a) states: "To zone or re-zone any parcel for a commercial or industrial non-residential district a master plan shall be submitted.

Article V, Section 5.2.1b 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 7.1.4 states, that criteria for development plan phase development approval shall conform to the approved master plan.

Article V, Section 7.1.3a states: "A preliminary development plan may be only a phase or portion of the area covered by an approved master plan, so long as the preliminary development plan substantially conforms to the approved master plan."

The application was reviewed for the following: approved variance, parking, signage, lighting, existing development, adjacent property, access, terrain management, water, liquid and solid waste, fire protection, landscaping and rainwater harvesting, and archeological.

Recommendation: Staff has reviewed this Application and has found the following facts presented to support this submittal: a variance was granted, by the BCC, to allow this site to be eligible for commercial zoning; the proposed use is consistent with conditions imposed on the site as a component of the variance approval; the proposed Master Plan is comprehensive in establishing the scope of the project; the submittal for Preliminary Development Plan phase development conforms to the proposed Master Plan; the Preliminary Development plan substantially conforms to the proposed Master Plan.

The review comments from State Agencies and Building & Development Services has established findings that this Application is in compliance with Article V, Section 5.2.2 Master Plan Submittals, Article V, Section 7 Development Plan Standards and Article III Section 4.4 Design Standards and Review Criteria of the Land Development Code. Staff recommends approval of Master Plan Zoning for the proposed development, Phase I, Phase II and Phase III Preliminary Development Plan approval and approval of Phase I, Phase II and Phase III Final Development Plan to be processed administratively for Parker Construction Cuyamungue, subject to the following conditions. Madam Chair, may I enter the conditions into the record?

CHAIR STEFANICS: Yes, you may.

[The conditions are as follows:]

1. All Fire Marshal, Public Works and Staff redlines shall be addressed prior to recordation of Master Plan and Preliminary Development Plan for Phase I, Phase II, and Phase III.
2. Automatic fire protection sprinkler systems shall be required as per 1997 Uniform Fire Code for all proposed structures.
3. Applicant must provide Santa Fe County with an approved access permit from NMDOT for the proposed development.
4. Applicant shall provide a minimum of thirty (30') feet departure sight triangles at entry of development.
5. Applicant shall install a R1-1, 30x30 diamond grade stop sign at the exit of the development.
6. Applicant shall install a Thermo Plastic STOP BAR at the exit of the development.

Madam Chair, I stand for any questions.

CHAIR STEFANICS: Thank you. Is the applicant here? Do you have anything further you'd like to add, Mr. Siebert? And we need to swear you in.

[Duly sworn, Jim Siebert testified as follows:]

JIM SIEBERT: My name's Jim Siebert. My address is 915 Mercer, Santa Fe. Just to be very brief, when we came before the Commission for the variance, there were some understandings with the neighbors about how we'd develop the site and what we've done is prepared the master plan, preliminary development plan in accordance with those understandings.

For those of you who might not be aware of the site, it's just north of Gabriel's on the frontage road and you really can't see it because the highway had material they had to waste

and they built a berm about 10 to 12 feet tall. It's really right along the front of the property. We did have one meeting – we've had three meetings with neighbors, one in the Pojoaque Fire Station and two actually on site. We think we're in agreement with their issues and we are in agreement with the conditions as stated by staff.

CHAIR STEFANICS: Thank you very much. Are there any questions for staff or the applicant?

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR STEFANICS: Yes, Commissioner Mayfield.

COMMISSIONER MAYFIELD: Thank you, Madam Chair. I have a few questions. I'm going to start off with one question. When did you submit for this master plan approval?

MR. SIEBERT: The actual application?

COMMISSIONER MAYFIELD: Yes.

MR. SIEBERT: I don't know. I'll have to look it up. October 7<sup>th</sup>.

COMMISSIONER MAYFIELD: Of 2008?

MR. SIEBERT: 2011. The actual variance or this application?

COMMISSIONER MAYFIELD: I think I read through the file and I think I'm understanding the variances. I'm just – I'm going to ask staff a follow-up question too of how timely a master plan gets approved. October 8<sup>th</sup> and here we are February of 2012. But that's not my question yet for staff. Based on what I see here, and Mr. Larrañaga, on your initial memo to us, and I went through some of the minutes and I want to point out some comments from Commissioner Vigil and also Commissioner Sullivan at the time. In 2004 there was an application to have this property rezoned? Or was there already construction being done on this property?

MR. LARRAÑAGA: Madam Chair, Commissioner Mayfield, I believe it was not for zoning. It was to be eligible for commercial use. A variance to be outside of a commercial zone. The variance came in because it was outside of that, so they could be eligible for commercial zoning. The master plan that they're applying for now would actually give the zoning for the property, for commercial.

COMMISSIONER MAYFIELD: Thank you, Mr. Larrañaga. But I read in 2008, when they came in for the variance and the variance was approved, there were staff conditions that were put on on that 2008 variance. Were those conditions of 2008 met?

MR. LARRAÑAGA: Madam Chair, Commissioner Mayfield, they were to be met when they came in for zoning. The variance did not give them development rights or zoning.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Larrañaga, I think in 2008, if I read through this packet, there was a specific condition as far as any materials, any storage, anything on that equipment was going to be out of sight. Not out of sight from a berm on a highway that was being developed, but actually with buildings out of sight. I personally drive by that property often. There's a lot of equipment on that property. So why is it from 2008 to 2011 that that property was being used without being in compliance with the variance request that you all requested, the conditions?

MR. LARRAÑAGA: Madam Chair, Commissioner Mayfield, actually the property in all honesty shouldn't have been used until they got approved for the master plan and preliminary development plan. The applicant did get, I believe a notice of violation. They

came in and that brought it to our attention that they hadn't come through for the master plan. So now they're trying to comply with the master plan. As part of the master plan the material and equipment in those 4,000 square foot structures that they're building in Phase 1, Phase 2 and Phase 3, that equipment and maintenance of equipment and material will be store in those structures and be out of sight.

COMMISSIONER MAYFIELD: So, Madam Chair, let me ask you a question. If staff puts conditions, and we've just approved one before this case, and if an applicant feels fit not comply with those conditions, and then a notice of violation goes to the applicant, they say, oh, wait, let's get our master plan and now be amenable to even more conditions, what assurances do we have that they're going to even comply with the second set of conditions if they haven't complied with the first set of conditions?

MR. LARRAÑAGA: Madam Chair, Commissioner Mayfield, the conditions were put on there as part of the variance to be applied in the master plan process.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Larrañaga, they went arguably two or three years without even a master plan. What I believe I heard from Mr. Siebert and then from you is that it took a notice of a violation to get somebody in the door to file a master plan.

MR. LARRAÑAGA: Madam Chair, Commissioner Mayfield, that's correct.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Larrañaga, typically how fast – and I'm grateful that it moves fast at the master plan, but is that the norm for a master plan to get to your office within a few months?

MR. LARRAÑAGA: Madam Chair, Commissioner Mayfield, yes. When the applicant applies it does go out to reviewing agencies. They have 30 days to review it. Then they have to notice 21 days prior to going to CDRC, and then approximately 30 days after they go to CDRC it comes to the Board. Given that we don't get any negative comments from reviewing agencies and we have to figure out what we need to fix on the master plan.

COMMISSIONER MAYFIELD: Thank you, Madam Chair and staff, and I guess just a general question, Steve. I want to work with applicants, but if an applicant, again, is in violation for many, many years on an issue, and they get the violation for whatever reason, the County puts these requirements or the County doesn't put these requirements, what are we to do? Just kind of turn a blind eye to it? Just say come into compliance today? Do we have any other type of enforcement?

MS. COBAU: Madam Chair, Commissioner Mayfield, if I may I'll take that question and then if the County Attorney would like to add anything. Typically, with a case such as this when we have someone with a notice of violation, they come in and they're going forward for a CDRC board action, we grant them some additional time. If they hadn't come in with this type of submittal we would have given them 30 days to clear the property and then cited them into court.

COMMISSIONER MAYFIELD: Thank you, Madam Chair and Shelley. I'm just having a hard time understanding though. Again, they can come for a master plan whenever they want to come for a master plan I guess. There's not a date certain on that, once they approve the zoning approval, correct? Back in 2008?

MS. COBAU: That's correct. Were there any time restrictions on that?

MR. LARRAÑAGA: Madam Chair, Commissioner Mayfield, there wasn't any time restrictions on the variance. In reality they should have come in prior to using the



property for storage of construction and material. They should have come in for the master plan. The variance just gave them the right to be eligible for commercial zoning. Then the master plan would come in and that would give them the zoning, and then the preliminary development plan would come in. The final development plan is when they construct a building and place the caretaker's office is when they should have been using the site itself.

COMMISSIONER MAYFIELD: Right.

MR. LARRAÑAGA: Unfortunately, people used – maybe they got the variance – I don't know why the reason. Maybe the applicant can answer that, why they started using it right after the variance or I don't know how long they've been using it. But they should have come in for the master plan as soon as that, and they still didn't get the right to use the property for storage of equipment or anything. It's the final development plan, a recording of that, building permits for the structures on there, and then they could use the site itself. Unfortunately, we didn't catch it until just recently, back in – before October anyway, that this was a violation. They didn't have the proper zoning to use the property and they were using the site already.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Larrañaga, maybe this is a question for the applicant. Is there any mining going on on this property? Are they extracting any minerals, any aggregate from this property right now? If anybody can answer that. And if they are, that's great if they're permitted for that, but if they're not permitted for that, do you know if that's happening on this property?

MR. SIEBERT: Madam Chair, Commissioner Mayfield, there is no mining going on on the property. They have brought in – if you notice it on the bank in front of the property is kind of crushed gravel, a kind of golden-colored crushed gravel. They have brought that in to place it on the banks, so there's no mining going on on the property. In terms of what's happened in the past is this property has not been used since 2008 for commercial. It has been used in the last year or so for storing material. And the issue there was the applicant thought that by getting the variance that the variance granted him commercial use. He didn't understand that it did not.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Siebert, it did grant it, but it granted it with conditions, as far as those buildings being built, and none of that construction material would be seen. You may not be able to see it from the highway but you definitely can see it from the community residents that reside behind that property.

MR. SIEBERT: And that's the intent of what we're doing now is to clear all that up and get it into the buildings.

COMMISSIONER MAYFIELD: Mr. Siebert, how long will it take for Phase 1, 2 and 3 with the amount of construction material that is on that property? There's a significant amount of construction material on that property.

MR. SIEBERT: Well, some of that material actually is going to be used to build the buildings, so that's the reason for it being there.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Siebert, and maybe it's right to have so, but they have a lot of semis parked there, semi-trailers parked, or at least ocean containers parked on that building also.

MR. SIEBERT: Yes, let me tell you what happened there is that within about the last three, four months he had been storing a lot of that material up in Los Alamos. Los Alamos told him to remove it and get it off site. He moved it down there temporarily. What

he's doing is a lot of that that's there now is going down to Albuquerque for auction but it's not auction time yet.

COMMISSIONER MAYFIELD: And Madam Chair and staff, it's his property but can he store that type of material on his property at this time?

MR. LARRAÑAGA: Madam Chair, Commissioner Mayfield, right now he is not permitted to store that equipment there. So until he gets the master plan and preliminary and final development plan approved and recorded and building permits, that's when he can store of course inside the buildings. Right now we have not issued a permit to even temporarily store that material there. As Shelley said earlier, usually on a notice of violation, we have a lot of them out there, we try to work with the applicants as long as they come in and submit for what they're doing, whether it's a home occupation, whether it's a business like this, we work with them until they get all the stuff done. Obviously, you can see in the photos that are in your exhibits that there is a lot of equipment out there that's stored outside, which wasn't part of the conditions that were implemented in the variance to be implemented in the master plan.

COMMISSIONER MAYFIELD: Sure. And Madam Chair and staff, it's not so much I have a problem with this project; I want that to be clear. I just want consistency applied. If there's other folks out there who are in notice of violation for two or three years, that we don't come in and put the hammer down on them, because there has been a notice of a violation. Or, respectfully, we enforce notices of violations that we issue. That's something that I guess we're going to have to develop within this county, but it's just not equitable or at least a balancing act in my mind of what we're seeing.

A couple questions to the master plan that was submitted to us. I believe it was a master plan. Did there need to be an archeological study done on this property and if it was waived, why was it waived? This is adjacent to the pueblo land, correct?

MR. LARRAÑAGA: Yes. Madam Chair, Commissioner Mayfield, I'm looking for my exhibits of reviewing it.

COMMISSIONER MAYFIELD: I think it was Exhibit 5; I might be wrong but I think it was Exhibit 5.

MS. COBAU: Jose, it's Exhibit F

COMMISSIONER MAYFIELD: Thank you, Shelley.

MR. LARRAÑAGA: Actually it is Exhibit F, NB-D 47, the review from SHPO. What it states is they just have my original letter to them requesting a review and sending in the set of plans and so on, and it was stamped 11/15/11 that no historic property is affected. So that was the survey required.

COMMISSIONER MAYFIELD: Okay. So it is a non-issue. Thank you. And then, Madam Chair, Mr. Larrañaga, as far as the liquid waste disposal on that property, what's currently going on? The property is arguably being used, right? Are they on a septic system out there?

MR. LARRAÑAGA: Madam Chair, Commissioner Mayfield, I don't believe they have the caretaker there so there's no occupancy on the site as is. As part of the master plan they would have to get a septic permit and get permitted through the ED Department.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Siebert, there are no office buildings on this property right now?

MR. LARRAÑAGA: Madam Chair, Commissioner Mayfield, not at this time,

no.

COMMISSIONER MAYFIELD: Okay. And then Madam Chair, Mr. Larranga, as far as the conditions of the new request, with commercial trash, household trash disposal, do we – and maybe I should get Mr. Guerrerortiz out there; this will help me just with a different question. Can they take this to our transfer station? Do they have to truck this into Santa Fe? The SWMA? What are they doing with the trash that they are generating on this construction site?

MR. SIEBERT: Madam Chair, Commissioner, they're really not generating trash. What they are doing is there is salvage material that they're taking down for recycling. The trash that would be generated in the future, because Mr. Parker is from Los Alamos, would be taken to the Los Alamos landfill.

COMMISSIONER MAYFIELD: Thank you. As far as again, Madam Chair, thank you for all the questions you're indulging me with. I just have more and more after reading this. What about the property owners behind. Were the initial conditions in 2008 met where they were going to have those fences built, where retaining walls were going to be built, so they were out of obstruction from those folks behind them?

MR. SIEBERT: As part of the master plan there will have to be a fence that's erected on the properties to the east.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Siebert, that was part of the conditions from the 2008 variance before any of that material was even stored on that property. Was that not also a condition back then?

MR. SIEBERT: Well, as Mr. Larrañaga pointed out, the conditions were something that would go on to the master plan, so that condition is really part of the master plan. It will be implemented with the master plan, development plan.

COMMISSIONER MAYFIELD: Thank you. And then my last question I guess would be as far as coming into that facility, are they going to come in off the frontage road off of 284/85? I know I've seen that there. Or are they going to go and what is it? Barquenos Road that loops around the back side. Is there access through that back side. I know there was something at least for fire protection. Are they going to afford that?

MR. SIEBERT: Madam Chair, Commissioner Mayfield, the only vehicular access would be off the frontage road. There was a concern about whether the roads that were kind of to the east of this property were sufficient for fire access and the determination was – because there was an agreement that they would provide for fire access through this property, but after meeting with the fire department and the neighbors they felt that they would be better off to come in through the existing roads to the east, and the reason for that is there would be a gate. We'd probably have to gate both sides and that would actually slow down the fire trucks going to the fire.

COMMISSIONER MAYFIELD: Madam Chair, thank you. Again, I'm just going to say it is a little disappointing that if we do go and make a variance change to allow something to happen back in 2004, and then there's additional variances that are requested in 2008 with staff conditions put on something, and then arguably an applicant just ignores those for lack of knowledge, respectfully they're employing professional help and that professional help needs to at least relay that message to them. And then because they get issued a citation, which wasn't disclosed to us, now they're saying, okay, well we want to play by the rules. And again, that's fine. But you have to make that consistent across the

board with everybody who's doing business within Santa Fe County. That's all I ask for.

With that, Madam Chair, I'm done with my questions. And if this does move for approval, I just would ask that there is some definite timelines put on this approval, and also that there are routine inspections to see if they are in compliance or not, and if they could somehow address all this material they have on this property, which they initially agreed to have it within these buildings. Thank you, Madam Chair.

CHAIR STEFANICS: Thank you. Before we move to public hearing, could you comment on the timeline, the required timelines? Is it indefinite? Two years? He'd have to come back for reapproval?

MR. LARRAÑAGA: Madam Chair, commenting on the variance, the variance runs with the property, so if they take years and years to come in for the master plan the variance was already there. The master plan of course, if it gets approved, once it gets approved and recorded they have five years before it expires. This particular case I believe the applicant is willing to move on forward because they are asking for preliminary for Phase 1, Phase 2 and Phase 3 and as soon as we record, meeting all the requirements, the screening and everything else, requirements of the variance and they record, then they will come in for final development plan for Phase 1 and building permits for Phase 1, which would be the caretaker's structure and the first 4,000 square foot structure. And from there then we could start weeding out the storing of the equipment and everything else in the structures.

CHAIR STEFANICS: So did that answer your questions, Commissioner Mayfield?

COMMISSIONER MAYFIELD: Madam Chair, yes, it did. Thank you.

CHAIR STEFANICS: Five years. Okay. We are now at that point of a public hearing. Is there anyone here to speak for or against this proposal? Hearing and seeing no hands, the public hearing is closed. Okay, we're back to questions, comments, pleasure of the Commission?

COMMISSIONER MAYFIELD: Madam Chair, I know I'm the one that had all the comments and I do appreciate the applicant coming forward and trying to address this situation. Again, I'll ask staff, and this is more for staff. Just – and I'm not saying you are not consistent, just if we're going to go out there and issue a citation, either we follow up with those citations. If we're going to go out there and issue a citation we follow up on those variances and that way we can work with the applicant, saying, look, guys. You have some time lines of what you've agreed to do, because you are affecting other people's households. I do appreciate the project that I believe the applicant is trying. It does promote some economic development in the area. It will provide jobs, and with that, Madam Chair, thank you for indulging me and hearing me out and I would move for approval, with the condition that they get this project moving and that they do some site cleanup on that property please.

CHAIR STEFANICS: Thank you. There is a motion.

COMMISSIONER HOLIAN: Madam Chair, I'll second it. And do you mean with other staff conditions as well?

COMMISSIONER MAYFIELD: Oh, Madam Chair, thank you, Commissioner Holian. Definitely with other staff conditions. And the original conditions that were put in in 2008.

CHAIR STEFANICS: Okay. Any further discussion, comments?

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

**XIV. Matters From the County Attorney**

**A. Executive Session**

**1. Discussion of Pending or Threatened Litigation**

CHAIR STEFANICS: We are at that point in the meeting to ask our County Attorney what we have to discuss in executive session.

MR. ROSS: Madam Chair, we need a brief executive session to discuss pending or threatened litigation.

CHAIR STEFANICS: Okay. Thank you.

COMMISSIONER HOLIAN: Madam Chair, I move that we go into executive session where we will discuss pending or threatened litigation.

CHAIR STEFANICS: Is there a second?

COMMISSIONER VIGIL: Second.

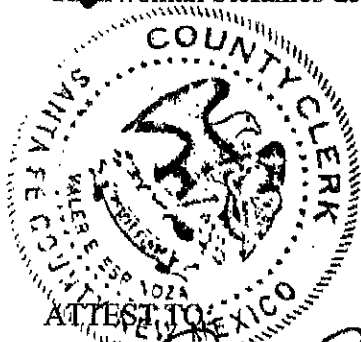
The motion passed by unanimous [4-0] roll call vote with Commissioners Holian, Mayfield, Vigil and Stefanics all voting in the affirmative. [Commissioner Anaya was not present for this action.]

[The Commission met in closed session from 7:05 to 7:45.]

Upon motion by Commissioner Mayfield and second by Commissioner Stefanics, the Commission voted unanimously [3-0] to return to open session. [Commissioners Anaya and Vigil were not present for this action.]

**XVIII. Adjournment**

Having completed the agenda and with no further business to come before this body, Chairwoman Stefanics declared this meeting adjourned at 7:45 p.m.



*Valerie Espinoza*  
VALERIE ESPINOZA  
SANTA FE COUNTY CLERK

Approved by:

*Liz Stefanics*  
\_\_\_\_\_  
Board of County Commissioners  
Liz Stefanics, Chairwoman