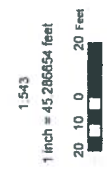




June 11, 2012
NRI-57

2008 Orthophotography

This information is for reference only.
 Santa Fe County assumes no liability for
 errors associated with the use of these data.
 User are solely responsible for
 confirming data accuracy



- Legend**
- Major
 - Minor
 - Parcels

2/9/2012

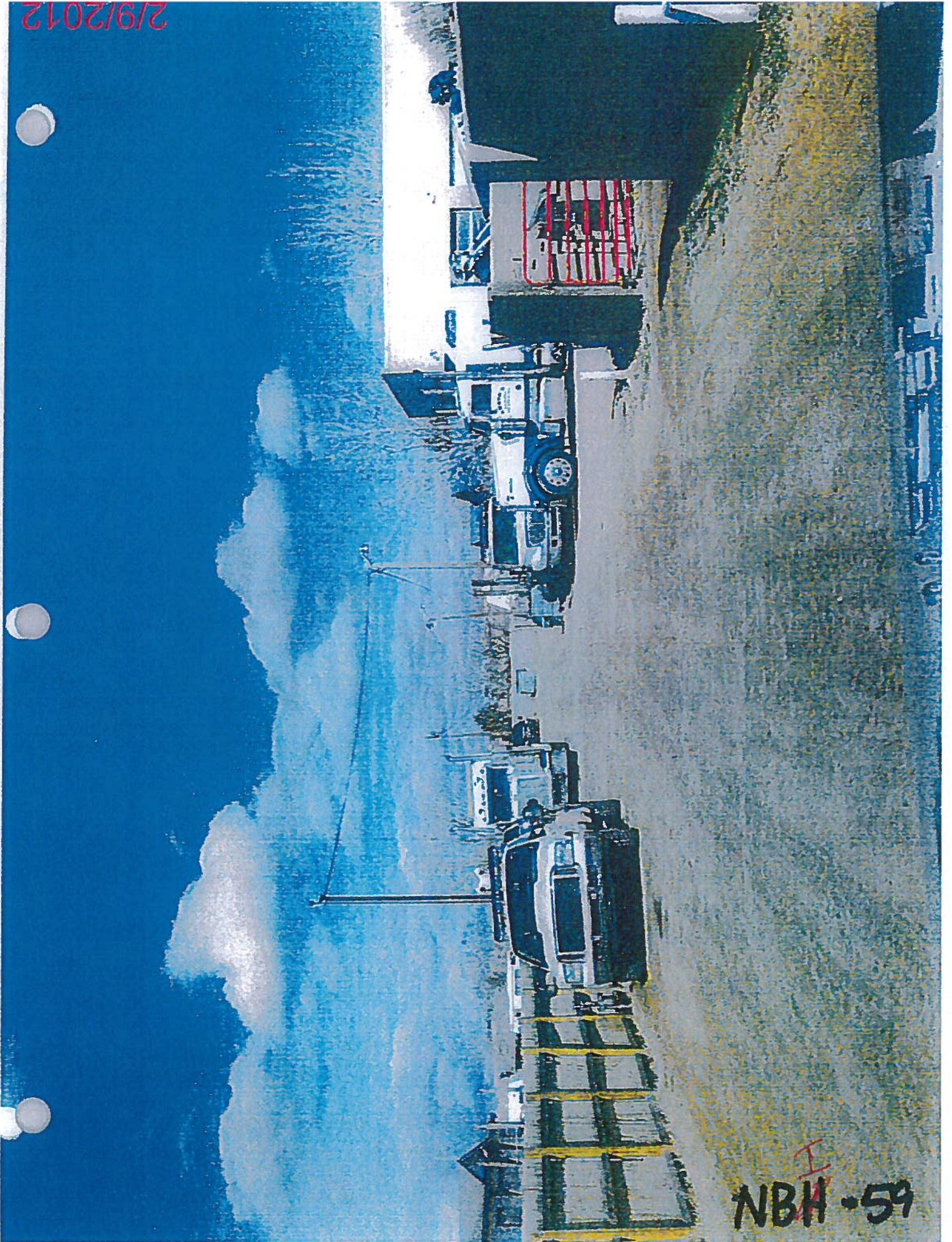


EXHIBIT

5

evidence

NBH-5



NBH-59

2/9/2012



2/9/2012

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NBA-60



2/9/2012

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NBA-01



2/19/2012

62

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

Santa Fe County Fire Department Fire Prevention Division

Official Submittal Review

Date: 05/30/2012

Project Name: Bernadette J. Anaya

Project Location: 2253 Ben Lane, Santa Fe, New Mexico 87507

Commercial Residential Sprinklers Wildland Hydrant Acceptance

Description: Variance of Ordinance # 2007-2 – Commercial Use Case Manager: Jose Larranaga

Applicant Name: Bernadette J. Anaya County Case #: 12-5200

Applicant Address: 2253 Ben Lane Santa Fe, New Mexico 87507 Fire District: Agua Fria

Applicant Phone: 505-470-6621

Review Type: Master Plan Preliminary Final Inspection Lot Split

Project Status: Approved Approved with Conditions Denial

The Fire Prevention Division/Code Enforcement Bureau of the Santa Fe County Fire Department has reviewed the above submittal and requires compliance with applicable Santa Fe County fire and life safety codes, ordinances and resolutions as indicated (*Note underlined items*):

Fire Department Access

Shall comply with Article 9 - Fire Department Access and Water Supply of the 1997 Uniform Fire Code inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal

• Fire Access Lanes

Section 901.4.2 Fire Apparatus Access Roads. (1997 UFC) *When required by the Chief, approved signs or other approved notices shall be provided and maintained for fire apparatus access roads to identify such roads and prohibit the obstruction thereof or both.*

▪ Roadways/Driveways

Shall comply with Article 9, Section 902 - Fire Department Access of the 1997 Uniform Fire Code inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal.

The roadway does not meet the minimum County standards for fire apparatus access roads of a minimum 20' wide all-weather driving surface within this type of proposed development.



NRA-1.3

There is not a turnaround at the end of this road to accommodate emergency equipment that meets the minimum County standards of a 50' radius cul-de-sac. This cul-de-sac would be marked as a fire lane.

▪ **Slope/Road Grade**

Section 902.2.2.6 Grade (1997 UFC) *The gradient for a fire apparatus access road shall not exceed the maximum approved.*

There are no slopes that exceed 11%.

Fire Protection Systems

Hydrants

Shall comply with Article 9, Section 903 - Water Supplies and Fire Hydrants of the 1997 Uniform Fire Code, inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal. Section 903.4.2 Required Installations. (1997 UFC) *The location, number and type of the fire hydrants connected to a water supply capable of delivering the required fire flow shall be provided on the public street or on the site of the premises or both to be protected as required and approved.*

There is not a fire hydrant that is within five hundred feet (500') as measured along the access route for a commercial use occupancy.

General Requirements/Comments

▪ **Inspections/Acceptance Tests**

Shall comply with Article 1, Section 103.3.2 - New Construction and Alterations of the 1997 Uniform Fire Code, inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal.

▪ **Permits**

As required

Final Status

Recommendation for denial of 12-5200 Variance Development review for a commercial use.

Renee Nix, Inspector

Renee Nix
Code Enforcement Official

5-30-12
Date

Through: Chief David Sperling, Fire Marshal

File: DEV/BernadetteAnaya/053012/AF

Cy: Captain Buster Patty
Land Use Office
Applicant
District Chief Agua Fria
File

Official Submittal Review
2 of 2

MIRH-104

June 11, 2012

County Development Review Committee
Santa Fe County Courthouse
Grant and Palace Avenues
Santa Fe, New Mexico 87501

RE: CDRC Case # V 12-5200 Robert and Bernadette Anaya Variance

We Henry and Georgia Romero, 5124 Avenida de Sesario, Santa Fe, New Mexico 87507 own the residential property on the north end of the Anaya property, and our asking the committee to deny the request for a variance to allow a towing company as a special use. Our home sits 40 feet from the privacy wall we built, and our deck and back yard are next to the wall that separates the properties.

In 1989 the Anaya's cut the fence in our back yard and started towing vehicles thru our personal driveway. The Santa Fe Board of County Commissioners denied a Variance to allow a towing business in this same location. Deliberately the Anaya's over looked this denial and continued their business without getting licensed to work in Santa Fe County. The Anaya's are again violating Ordinance No. 2007-2 (Village of Agua Fria Zoning District), Section 10.5 (village of Agua Fria Zoning District Use Table).

The Anaya's corporation consists of two (2) tow companies with eight (8) or more tow trucks (Anaya Roadrunners Wrecker Service (Robert M. Anaya, President/father) and Bob's Towing (Robert J. Anaya, Vice President/son) has made life miserable for us and all the surrounding residents. The lot size of .70 does not support a business of this capacity, there is already a double wide mobile home, a oversized tow truck garage and a shared driveway on this lot package. We have been putting up with **POLUTION** of every imaginable form—dust as the trucks barrel down the private driveways of 9 residents that ends at a dead end at our wall, where he wants to store and accumulate (hoard) vehicles, noise from all sizes of tow trucks, loading and unloading of vehicles, beeping, lights shining in windows at all hours of the night, yelling, screaming and disagreements, diesel and gas fumes with trucks and heavy equipment running for long extended times, weeds and other items being burned illegally, strangers trespassing trying to get into the tow area. With a dead end there is only one entrance to the requested site and if he is allowed the variance emergency vehicle would have trouble getting to business site and no place to turn adequately.

If they are approved property values will go down, this is a residential area and not zoned for commercial use. Burglary in the Agua Fria Village is already a big problem and unfenced tow lots extend an open hand for his company and the surrounding residents. Our community lacks the water or sewage needed to support family homes adequately without the burden of corporations tapping in. The rodent problems that this kind of business encourages can cause infestations and health issues to the surrounding homes, occupants and pets.

Tow companies run 365 days a year, 24 hours a day and 7 days a week. The most important issue is that tow truck drivers have a day off, the immediate neighbors will never be entitled to the quiet enjoyment of their premises. The Anaya's currently create a nuisance by annoying, disturbing, inconveniencing, or interfering with the quiet enjoyment of peace for residents and the entire village.

There are also, issues with this trucks accessing Ben Lane from two (2) lanes Agua Fria—the huge tow trucks stop the traffic in both lanes, blocking the lane to start to turn and then backup into the traffic before maneuvering the truck. This poses a danger to everyone driving on Agua



NRA-105

Fria since people constantly run the four (4) way stop signs on Lopez Lane and Agua Fria Street. Emergency vehicles- fire trucks , ambulances and law enforcement are impacted performing their duties in a life or death situation when the street is blocked by tow trucks trying to make a turn into their business lot every day of the year. Currently there is a Agua Fria Street Traffic Study being conducted.

On Friday, January 13, 2012 Robert Anaya of Anaya's Roadrunner Wrecker Service hit and knocked down our privacy wall with a company tow truck that has not been registered or licensed since 2006. The company kept backing up and tapping our wall as a stopping point. The impact made a 23 foot wide gap, blocks and debris were thrown 40 ft. all the way to our home. Anaya agreed to repair the wall and other items that were damaged. Quickly we realized that the Anaya's are not honorable business people since they had a different plan and excuse every time we contacted them about the repairs. We had to file a claim on our home policy, pay the deductible, call in law enforcement twice and get an attorney for a restraining order hearing, and get bids to hire a licensed contractor to repair the wall. The Anaya's failed to take any actions to correct the situation. It took until April 15, 2012 to get the wall repaired to have complete privacy and safety again.

To sum the situation Anaya's does not run a corporation legally, and avoids their business and personal financial obligation in the same manner. It all comes down to the mighty dollars that go into their pocket, and not having licenses , permits or paying taxes for the privilege to have a business in New Mexico and Santa Fe County should be grounds for denial of this variance. We as tax payers expect and demand that the County of Santa Fe do its job to make honorable business owners abide by the law and rules since day one not decades down the road.

Anaya currently also has four (4) storage sites:

1. 2253 Ben Lane in the Agua Fria Village-citation issued- applied for variance.
2. 28 A Prairie Dog Loop- hoarding-issued a citation-needs to apply for variance.
3. Airport Acres on Airport Road-most current after issued a violation on Ben Lane.
4. 2878 Industrial Road off f Siler Rd where vehicles have not moved in months.

How many tow sites are needed to conduct a salvage business?

Thank for your time, any consideration given to this request and assistance with this matter will be greatly appreciated.

Sincerely ,

Henry and Georgia Romero

NRH-106

Pictures 1-3: Damage to our privacy wall after Anaya tapped and backed into it creating a 23 foot gap, plus other property damage.



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NBH-67

Picture 4, 5, 6, 7, 8, 9, 10, 11: (3 Pages) Anaya yard from January 14, 2012 to March 27, 2012 showing yard condition and trucks backed into wall, fence, gas meters and temporary privacy pellets.



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NBH-68

Continued:



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NBA-69

Continued



I
NBH-70

Picture 10, 11: Anaya refused to move his trucks while wall was being repaired or allow workers to go on his property though there was a Mutual Restraining Order in place.



NBH-71

PICTURE 12: DAY THE REPAIR ON THE WALL WAS COMPLETED



June 7, 2012

County Land Use Administrator

P.O. Box 276

Santa Fe, NM 87504-0276

Attn: Jose Larranaga

Re: CDRC Case #V 12-5200, Request for a Variance of Ordinance No. 2007-2
(Village of Agua Fria Zoning District)

This letter is in response to the Notice to Property Owners regarding a public hearing for a variance of Ordinance No. 2007-2 (Village of Agua Fria Zoning District) etc. to allow a Towing Business as a Special Use under the Zoning use Table. We are writing to formally record our opposition to the request for a variance.

Our concerns are many, but for now I can think of at least Nine important ones.

Please, seriously consider the following:

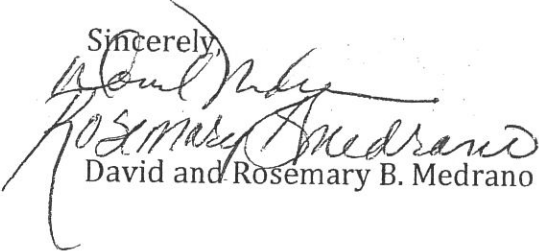
- Increased Traffic Congestion - Granting a variance will result in more in-out traffic flow to the Business from the narrow Agua Fria Street by both business operation vehicles and personal vehicle inquiries.
- Safety and Life Saving Events - Increased traffic flow to the Business will cause increased interruption and delay of the already congested Agua Fria traffic causing safety issues for Law Enforcement and life saving Emergency Vehicle Response Teams.
- Current and Future Property Values - Granting a variance will no doubt negatively impact property values now and in the future.
- Area is Designated as Residential - Homes for families, children and the elderly. Allowing this variance will result in degrading its intended purpose.
- Increased Noise and Light Pollution - Granting this variance will create noise, light pollution, undesirable disruption to living standards and unrest to the immediate neighborhood. Generally, a towing business is a 24 hr. operation. As such, allowing the variance will increase activity and create undesirable loud noises, wondering vehicle night lights, and Tow Truck flashing lights at all times during the night and the daytime. Not to mention the disruption it creates to neighborhood animals and dogs at night.
- Granting Variance is Contrary to Traditional Community of Agua Fria Neighborhood Goals - The purpose of the Traditional Community of

NBI-73

Agua Fria is to maintain and nurture a comfortable and peaceful family neighborhood environment.

- Dangerous and Unhealthy Environment - Granting this variance will create an unhealthy and dangerous environment for curious neighborhood children and adults.
- Junk Metal - Storage of vehicles brings safety and metal junk concerns. Storage of vehicles and Junk Metal is an ideal place to breed rodents, snakes, diseases and hazards normally not controlled by easy means.
- Storage of Junk Vehicles - Vehicles that are not claimed and/or abandoned become an eyesore and/or become ignored. These vehicles become orphans and are likely never removed from the area for years because of various reasons.

Sincerely,



David and Rosemary B. Medrano

6/13/2012

In the case #V12-58200 regarding Robert, Bernadette, and Bob Anaya the wrecker service known as The Roadrunner, Anaya's Towing, and Bobs Towing have been good neighbors of ours for several years and in the towing business for a number of years. However, the towing business has affected us by the noise, honking of the horns, the unloading of the cars and the lights flashing at night. This is all year round. The Anaya's leave the trucks on in the winter because they are diesel and have to keep them warm is what I was told by OSHA, but when it gets warmer, leaving them running 2 to 3 hours? I have to close the windows, screen doors, and turn off the air conditioner due to the fumes. I have Asthma, Bronchitis, Emphysema, and have a toddler in my house. My concern is not only for my grandchild and myself, but for the surrounding neighbors as well.

Thank You

The Roybals

NBI-75

June 18, 2012

County Land Use Administrator
P. O. Box 276
Santa Fe, N.M. 87504-0276
June 18, 2012

Re: CDRC Case # V 12-5200 Robert and Bernadette Anaya Variance

Reference above case allowing a towing business, Anaya's Roadrunner Wrecker Service Inc. & Bob's Towing be allowed at named address located in the Agua Fria is hereby objected.

There are too many homes near and around that location with small children. The tow trucks are oversized and much too dangerous to be near residents, make too much noise during all hours of the night and morning, the fumes from the trucks enter homes through air conditioners in the summer and heating system in the winter which is also hazardous to everyone, children and adults living in the area.

For reasons stated above I hereby request the towing business **NOT** be approved.

Thank you,



Elaine Roybal Saavedra
2256 Floral Dr.
Santa Fe, NM

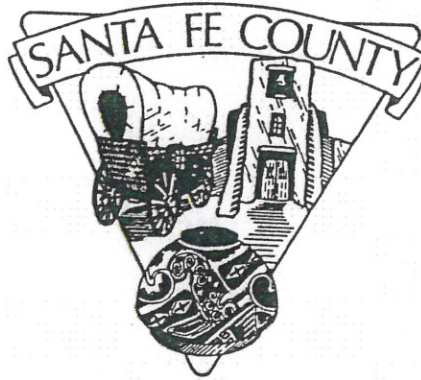
NBI-76

BOARD OF COUNTY COMMISSIONERS

Raymond M. Chavez
District No. 1

Nancy Rodriguez
District No. 2

Linda Grill
District No. 3



GIL D. TERCERO
COUNTY MANAGER

September 26, 1989

Mr. Robert Anaya
Rt. 6 Box 17
Santa Fe, NM 87501

Re: A request for a special exception of the EZO to operate a small scale commercial vehicle impound yard on .41 of an acre.

Dear Mr. Anaya:

Corrected letter of September 21, 1989.

The Extraterritorial Zoning Authority at its regularly scheduled meeting of August 28, 1989, met and acted upon the above referenced case.

The decision of the Authority was to deny your request. You have 45 days to discontinue all commercial activity starting August 29, 1989 and ending October 14, 1989.

If you have any questions regarding this matter, please do not hesitate to contact this office.

Sincerely,

TOM WILSON
Land Use Administrator

TW:mlj



Ms. Johnson said local people in the industry advised them to operate under the radar, she said they have wanted to do it above board since the beginning.

Responding to the Chair, Ms. Johnson said they have been operating as Ravens Ridge since March of 2011.

There was no one from the public wishing to speak on this case.

Chair DeAnda assured Ms. Johnson that the letters of support were included in the Committee's packet material.

Mr. Larrañaga said that bed and breakfasts are permitted in the County; however, the applicant is required to meet the requirements of master plan zoning, preliminary and final development plan approval.

Captain Buster Patty said the roadway and driveway meet Code requirements. The gate is 14 feet, which meets the minimum requirement. The driveway is 16 feet.

Chair DeAnda moved to approve MP/PDP/FDP 12-5210, Ravens Ridge Bed and Breakfast with the staff-imposed conditions. Member Anaya seconded and the motion passed by unanimous [6-0] voice vote.

- I. **CDRC CASE # V 12-5200 Robert and Bernadette Anaya Variance**
Robert and Bernadette Anaya, Applicant's, Talia Kosh (The Bennett Firm), Agent, request a variance of Ordinance No. 2007-2 (Village of Agua Fria Zoning District), § 10.5 (Village of Agua Fria Zoning District Use Table), to allow a Towing Business as a Special Use under the Zoning Use Table on 0.70 acres. The property is located at 2253 Ben Lane, within the Traditional Community of Agua Fria, within Section 31, Township 17 North, Range 9 East, Commission District 2 [Exhibits 3, 4 and 5: Neighbor letters in opposition to the request]

Mr. Larrañaga read the case caption and provided the staff report as follows:

"The Applicants request a variance to allow a towing business as a Special Use under Ordinance No. 2007-2, § 10.5, Village of Agua Fria Zoning District Use Table. The use as a towing company falls under the category of "Vehicle service not listed" and is not allowed as a use as outlined in the commercial use category within the Traditional Community Zoning District. A Special Use is an allowed use which is subject to Master Plan and Development Plan approval by the Board of County Commissioners.

The Applicants state that 'the towing business has been in operation since 1989 at the current location and the property has been in the family for generations. The



ability to operate the business with eight towing vehicles on the site provides a community service in response time to emergencies.’

The Applicants were issued a notice of violation of Ordinance No. 1992-3, Business Registration and Licensing Ordinance, on February 9, 2012, for operating a business without a County Business Registration. It was determined by staff that this type of business activity was not allowed within the Agua Fria Traditional Community under Ordinance No. 2007-2.

Article II, § 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.’ The variance criterion does not consider financial or medical reasons as extraordinary hardships. Article II, § 3.2 states: ‘In no case shall any variation or modification be more than a minimum easing of the requirements.’”

Mr. Larrañaga said Growth Management staff reviewed the Application for compliance with pertinent Code requirements and found the Application is not in compliance with County criteria for this type of development. Staff has conceptually reviewed the site for zoning requirements as a Special Use and has determined that further variances may be required for this site to meet Master Plan/Development Plan criteria. Staff recommends denial of this variance from Ordinance 2007-2, Village of Agua Fria Zoning District, Section 10.5 Village of Agua Fria Zoning District Use Table, to allow a Towing Business as a Special Use under the Zoning Use Table.

Member Gonzales asked how this case came before the CDRC without a recommendation from the Agua Fria Village local review committee. Mr. Larrañaga said that committee was disbanded with the other local review committees with the CDRC providing the overall review. If the variance is approved, the Agua Fria Village Association will have an opportunity to review the master plan.

Member Gonzales noted that the towing company has used the subject site since 1989. He asked what circumstances have changed requiring this variance application to come forward. Mr. Larrañaga said the ordinance was established in 1981 and the 1989 business cannot be grandfathered or receive non-conforming status. A notice of violation was issued to the applicant and further the applicant has never had a County business license at this location.

Member Gonzales was surprised the business was able to operate for over 20 years in the location without any complaints and under the radar. Mr. Larrañaga said it is

the applicant's assertion that the business has been operated at the site since 1989. He noted that the County has three code enforcement officers and basically work from a complaint-driven perspective.

Responding to Member Valdez's question regarding prior actions on this business, Mr. Larrañaga said the EZC heard and denied the applicant's previous request to store vehicles on the property. The vehicles were removed from the property.

[Exhibit 6: Applicant prepared notebook in support of the application]

Merit Bennett, counsel for the applicant, confirmed that the case is before the CDRC as a result of a complaint from the Anaya's cousin, Henry Romero. Mr. Bennett said one of Anaya's trucks knocked down a portion of Romero's wall resulting in \$500 of damage and Romero demanded \$7,000, Anaya refused and this case is now before the CDRC.

Mr. Bennett said he has known the Anaya family for 25 years and said "you cannot find anybody more honest and hardworking than these people." He said the business has been in operation since 1989 at this location out of their home. He explained that the business has the capacity to tow, pull and lift vehicles which according to Mr. Bennett makes them unique. The business is used by DOT, State and City police to respond to emergency situations. There are eight vehicles, each with unique abilities. The vehicles are parked on the back end of the applicant's property on Ben Lane.

Referring to the booklet *[Exhibit 6]*, Mr. Bennett said it contains a variance request as well as a special use request. It is his belief that the variance is not necessary and instead the business should be issued a special use permit. The packet includes an overhead map of the vicinity, a listing of 10 other vehicle-related businesses in the vicinity with a site map, and letters of appreciation to the Anayas. He said there were actually 29 businesses with ¼ miles of the Anaya property and that information was also outlined in the report.

The presence of 29 businesses in the area verifies the business patterns in the Agua Fria community of which the Anaya's have been members of for over 23 years.

Mr. Bennett said there is no increased traffic or signage of the business on Agua Fria. Mrs. Anaya works the dispatch from within their home on the property and the vehicles need to be on the property because they serve as emergency responders. Vehicles are not stored on the Anaya property.

Mr. Bennett isolated the Larrañaga property in the booklet, which is a stable/rodeo facility and at an event this past weekend, he testified there were 200 attendees. He said the Anaya operation is of a lesser impact to the area. As an aside he identified that case manager Larrañaga was related to this facility.

Mr. Bennett said the only reason this case is before the CDRC is because cousin Romero did not receive the compensation he deemed he deserved.

Mr. Bennett referred to the second tab 7 which contained 119 signatures “from their neighbors” who support and understand the service that the Anayas provide to their own neighborhood. Mr. Bennett asked those present in support of the application to stand. [Approximately six individuals stood.] Mr. Bennett added it was difficult for people to attend.

With respect to the issue of fire emergency response, Mr. Bennett said there is a fire hydrant within 500 feet of the property. He also pointed out that this is not a commercial development. The only activity is parked vehicles. Mr. Bennett said the applicant is not bothering anybody, “certainly the complainant has not been bothered for 23 years.”

Mr. Bennett said this was an appropriate case to be granted a variance. He said the applicant has licenses from the City and DOT and applied for a license with the County but was told to wait until this variance process was over.

Member Valdez said there appear to be vehicles parked beyond the Anaya’s property line in a photograph provided within the County-prepared packet. Mr. Larrañaga said those photos were supplied by the applicant as part of their submittal and they date back to 2008.

Staff and the applicant’s counsel clarified the property lines for Member Valdez.

Duly sworn, applicant Robert Anaya, appeared before the Committee and answered a series of questions posed by the Chair. He indicated that he bought his business in 1989 with five trucks that were considered Class A-B tow trucks. Over the years the business has expanded to a Class A-B, C-D which includes semis and tractor trailers, etc. The impound lot is located 2.3 miles from his home off Siler on Industrial Road within the City limits. There are approximately 100 vehicles in the lot and he estimated its size as 1.5 to 2 acres. When he bought the business the license was transferred to him. He likened the license to that of a liquor license having a limited number available within the state. There is no expiration date on the license/permit.

Mr. Anaya discussed the different classifications of towing services.

Chair DeAnda asked what options the applicant had for storing his tow trucks. Mr. Anaya said being on the emergency call list there are no options. He said he always carries a pager and responds automatically to incidents.

Chair DeAnda asked whether the immediate vicinity has changed much since Mr. Anaya has had his business. He said it has, noting on the east there is a body shop. She asked whether any nearby businesses operate 24/7. Mr. Anaya mentioned a few wrecker services within a few blocks of his home, stating “you’ve got wrecker services all over the place.”

Chair De Anda said it seems at some point a business grows too big to be in a residential area. Mr. Anaya responded that they didn’t want that. In fact, the business

has all the tow trucks it needs and there is no reason to expand. He discussed the cost of the trucks and the sacrifices his family has made to pay for them.

Mr. Anaya said including himself, the business employees three people – his son and another person. During the winter he hires contract labor because the calls increase.

Member Drobnis asked what made Agua Fria an attractive location for towing companies. Mr. Anaya's response implied Agua Fria provides a good central location for a fast response time. He mentioned access to 599 and went on to say that his personnel are highly trained.

Mr. Bennett clarified that the off-site impound lot is not a possibility to park the trucks and access them to respond to a call. He said the lot cannot be adequately locked and the trucks would be vandalized. The location of the trucks at the Anaya residence is best because it is down at the end of a lane, out of sight and provides immediate access to the driver.

Chair DeAnda informed the applicant that letters of opposition were provided to the Committee [*Exhibits 3-6*] and she asked Mr. Bennett when he thought a business becomes a nuisance in a residential neighborhood particularly a 24/7 business.

Mr. Bennett responded that all of the tow truck companies would have to be cleaned out of the neighborhood. Further, Mr. Anaya stated he has not expanded and has attained the capacity that serves the community to his maximum ability. Mr. Bennett said the use is consistent with the character of the neighborhood by virtue of the 29 businesses within a quarter mile of the Anaya's driveway.

Member Gonzales asked whether the other towing companies the applicant has cited are properly licensed. Mr. Larrañaga said some are non-conforming with licenses, others have licenses, and others the County is checking on. The County has required business licenses since 1981. Mr. Larrañaga confirmed that had Mr. Anaya been operating out of the property prior to 1981 the use could be grandfathered. Reviewing an aerial photo Mr. Larrañaga said trucks are not shown in the Anaya property.

Referring to the photo, Mr. Bennett said there are vehicles that belong to Mr. Anaya apparent and a photo is one moment in time. Mr. Anaya has testified under oath that his business has been ongoing for 23 years.

Duly sworn, Robert Anaya, the applicant's son, said the trucks are diesel and plugged in during cold nights; the trucks are not running throughout the night. Having lived on the property since he was 5, Mr. Anaya said he is well aware of children in the area. He explained that for many years they parked their trucks on an adjacent property owned by his mother's aunt. When the aunt died the property was subdivided and his mother inherited the piece they now live on. Technically, the trucks have been parked on the property since the beginning because it originally was one lot.

The applicant, Mr. Anaya, said they have been paying taxes to Santa Fe County for parking the trucks on the property. Chair DeAnda asked when they started paying taxes and Mr. Anaya was unable to answer that question.

Duly sworn, Bernadette J. Anaya, said she submitted to their attorneys her tax information and it was under Anaya's Roadrunner Wrecker and was only \$3 or \$4. The last time she received a tax bill was 2009 and that was the last time she paid. She recalled paying taxes from 1989 or 1990 to 2009. Applicant Robert Anaya said that proves the County acknowledged via the tax bill that trucks were parked on the property.

Applicant Anaya said he was confused by the fact the County sent a tax bill yet now, 23 years later, the County contends he needs a business license.

Speaking in opposition to the variance and duly sworn were Felipe and Georgia Romero. Ms. Romero identified themselves as the Romeros Mr. Bennett referred to. She said they live on the northern side of the property and they built the privacy wall to control the weeds, contamination and rodents. She said in 1989 they appeared before the County because one day the Anayas cut their fence and towed in 20 cars onto the Anaya yard through their property. She said at that time Mr. Anaya was aware of the fact they were in violation of County law because the County denied him "right here in this same room."

Ms. Romero said she worked for Taxation and Revenue Division for 25 years, eight of those years as an auditor in property tax and there was no way the Anayas paid \$3 or \$4 yearly to Santa Fe County for that many trucks. Their office, backhoe, trucks and other equipment are all taxable.

Ms. Romero said they are living with the pollution that is generated from the applicant's property. "It never, ever stops," she stated. If they do have block heaters for their trucks as stated by the applicant's son, Ms. Romero said they don't use them because the trucks run for hours.

Ms. Romero said Anaya is being investigated by DOT because it's dangerous for those big trucks to turn off of Lopez Lane onto Agua Fria. She said there are school buses and children on Lopez Lane. She said Anaya is registered to do business with the PRC in the City not Santa Fe County. She said he also parks trucks off of Perry Lane near the Nancy Rodriguez Community Center and another site on Airport Road. Ms. Romero said the company is more a salvage company than a tow company.

Ms. Romero said people looking for Mr. Anaya come to her gate in the middle of the night.

Ms. Romero said one of Anaya's tow trucks that was last registered in 2006 and was not insured knocked down her wall in January 2012. She said Ben's Lane is a narrow dirt road and not safe for the tow truck traffic. Because Anaya is family the norm on Agua Fria is to "keep your mouth shut and not do anything" but it's got to stop. Returning to her damaged wall, Ms. Anaya said her insurance company gave the estimate of over \$7,000. She said they did not extort money from the Anayas, they have insurance and the proper abstract and can fix it. She said other businesses in the area stop working at 5, are respectful of the neighbors with the appropriate fencing and lighting. Returning to the wall, Ms. Romero said they had to get a restraining order to keep Anaya off her property, in fact, she said she checked with DMV and the registration number of the vehicle that hit the wall is not the same vehicle that hit the wall.

Ms. Romero questioned Mr. Anaya's business ethics and was concerned that he has not been paying taxes while he contributes to the deterioration of Agua Fria and is a

hazard to other traffic. She said she was tired of it and while many of her neighbors will not speak up because Mr. Anaya intimidates them, she will not be intimidated by him.

Chair DeAnda asked why after the applicant was denied a permit in 1989 has Ms. Romero waited to come forward about this violation. Ms. Romero said their 6'4" wall affords them tremendous privacy. She had reservations about the assertion Anaya has been running his business there for 23 years. According to PRC documents he was working in the City.

Mr. Romero said he was unsure how many trucks were parked on Anaya's property. He said he and his wife don't bother anybody.

Ms. Romero said it wasn't until the wall came down that they were made aware of the number of trucks on the property. She repeated that if he has been doing business at the subject property for 23 years it was appalling that he has not paid appropriate taxes. And as far as other towing services on Agua Fria, Ms. Romero said her immediate concern was what was happening in her backyard and not the other businesses. She mentioned that on the internet it states Anaya's business does mechanical work.

Duly sworn, Robert and Diane Roybal testified before the Committee. Ms. Roybal said she neighbored the Anaya property and her kitchen window looks out to their trucks. She respected Mr. Anaya's right to have a business but also wanted her rights to live in safety and have a home respected. She said there is a fence that divides their property but the fence is down now.

Ms. Roybal said "we all need to get along" and shouldn't be in fear of speaking out.

Mr. Roybal said they have known the Anayas for many years and understands they have to make a living. He said his son got in trouble when Anaya had salvaged cars on the property and that was a difficult situation. The lanes in the Agua Fria area are all very narrow and safety needs to be considered. The applicant has a crane and other equipment on his property.

Ms. Roybal said she did not know what plans were being made to improve access onto Agua Fria but she clearly stated that she and her husband were not willing to give up any of her land for access. She asked for a copy of the petition the applicant referenced that was supposedly signed by 100 supporting neighbors.

Ms. Roybal said the neighbors provided a petition in 1989 to the County and the Board at that time sided with the neighbors.

Staff presented the CDRD with a letter [*Exhibit 7: County Land Use Administrator letter dated 9/16/1989*] and Mr. Larrañaga said this letter is the County's formal response following the EZA action advising Mr. Anaya that his request to operate a small scale commercial vehicle impound yard was denied and to discontinue all commercial activity in 45 days.

Mr. Dalton said the EZA's decision was made at a public hearing where the applicant was present.

Fire Captain Patty explained his recommendation for denial having to do with the 1997 Uniform Fire Code required access and turnaround size required. The road and turnaround do not meet UFC requirements. Measuring distance to a hydrant is done by roadway as a hose would be laid not by a bird's flight. He offered to recheck the distance from the hydrant to the commercial operation which per the applicant's request included a shop.

Mr. Anaya said he measured with a County employee the driveway entrance at Ben Lane and Agua Fria to the end of the property and it is 30 feet which exceeds the requirements. He said there is a hydrant installed by the water association at the end of Ben Lane. The heaviest truck is probably 38,000 pounds and the lightest 8,000 pounds. The bigger trucks were purchased in 1997. He explained how the licensing for the industry has changed.

In regards to where he has parked his trucks over the years, Mr. Anaya said all of the property had belonged to his wife's aunt and he parked in front of his home. Following the aunt's death the property was subdivided and where they had been parking belonged to another relative. He said they have no trouble turning camper trailers on the property.

Ms. Anaya stated they have paid taxes and she has record proving everything is up to date.

Duly sworn, Patrick C de Baca, a resident of Ben Lane stated he would not give up any of his property to improve the cul-de-sac.

Chief Patty said there is a requirement for a turnaround on any roadway of 150 feet.

Mr. C de Baca said the Anaya trucks are not always parked on the Anaya's property. He repeated that he would not give any of his property to address the turnaround issue.

Returning to the podium, Mr. Bennett said in 23 years there has not been one accident or complaint regarding the safety issues. He repeated a statement made by Ms. Romero that, "we didn't realize he was parking all those trucks there until they hit our wall" which evidenced Mr. Anaya's business is not a nuisance.

Member Gonzales asked why there wasn't follow-up on the commercial activities following the 1989 letter from the County. Having not been with the County in 1989, Mr. Dalton apologized that he was unable to answer the question.

The applicant said he complied with the County and removed the vehicles to the impound lot and rented a location in the City. The variance before the Committee is to allow him to park his tow trucks on his property for fast, easy access to address emergencies.

Mr. Anaya said parking his trucks on his property is not commercial activity. Member Anaya said the 1989 letter [*Exhibit 7*] states very clearly that all commercial activity is to cease.

Member Valdez asked why the wall became an issue: Why wasn't it just fixed? Mr. Anaya responded that there had been some deaths in his family, it got complicated with the contractor who owed him favors and now wasn't available, and the Romeros were unreasonable with restraining orders and all.

Chair DeAnda said the problem is the business has outgrown its location.

Prefacing his motion that he is not related to the applicant, Member Anaya said he felt strongly that emergency response was important and moved to approve the variance request. His motion failed without a second.

Stating he too valued emergency response but that was not the question before the Committee, Member Katz moved to deny the variance. Member Gonzales seconded and the motion passed by majority [4-1] voice vote with Member Anaya voting against and Member Valdez abstaining.

The case will be forwarded to the BCC.

~~VIII. PETITIONS FROM THE FLOOR~~

~~None were offered.~~

~~IX. COMMUNICATIONS FROM THE COMMITTEE~~

~~None were offered.~~

~~X. COMMUNICATIONS FROM THE ATTORNEY~~

~~None were presented.~~

~~XI. COMMUNICATIONS FROM STAFF~~

~~None were presented.~~

XV. A. 5. **CDRC Case # V 12-5200 Robert & Bernadette Anaya**
Variance. Robert & Bernadette Anaya, Applicants, Talia Kosh
(the Bennett Firm), Agent, Request a Variance of Ordinance
No. 2007-2 (Village of Agua Fria Zoning District), Section 10.5
(Village of Agua Fria Zoning District Use Table), to Allow a
Towing Business on 0.70 Acres. The Property is Located at
2253 Ben Lane, within the Traditional Community of Agua
Fria, within Section 31, Township 17 North, Range 9 East
(Commission District 2)

MR. LARRAÑAGA: Thank you, Madam Chair. Robert & Bernadette Anaya, applicants, Talia Kosh, agent, request a variance of Ordinance No. 2007-2, Section 10.5 to allow a towing business on 0.70 Acres. The property is located at 2253 Ben Lane, within the Traditional Community of Agua Fria, within Section 31, Township 17 North, Range 9 East, Commission District 2.

On June 21, 2012, the County Development Review Committee met and acted on this case. The decision of the CDRC was to recommend denial of the applicants' request for a variance.

The applicants request a variance to allow a towing business as a special use under Ordinance No. 2007-2, § 10.5, Village of Agua Fria Zoning District Use Table. A special use is an allowed use which is subject to master plan and development plan approval by the Board of County Commissioners. The use as a towing company falls under the category of vehicle service not listed which is not allowed as a use as outlined in the commercial use category within the Traditional Community Zoning District.

The applicants state, The towing business has been in operation since 1989 at the current location and the property has been in the family for generations. The ability to operate the business with eight towing vehicles on the site provides a community service in response time to emergencies.

The applicant's were issued a notice of violation of Ordinance No. 1992-3 on February 9, 2012, for operating a business without a county business registration. It was determined by staff that this type of business activity was not allowed within the Agua Fria Traditional Community under Ordinance No. 2007-2.

On July 12, 1989, the applicant made application to allow a small-scale commercial vehicle impound yard on this site as a special exemption of the Extraterritorial Zoning Ordinance. On August 28, 1989 the Extraterritorial Zoning Authority denied the Applicants' request and ordered the Applicants to discontinue all commercial activity on the site.

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

