

waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified.

Article II, Section 3.2 states: In no case shall any variation or modification be more than a minimum easing of the requirements.

Growth Management staff thoroughly 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 recommendation is denial of a variance from 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 as a special use under the Zoning Use Table. Madam Chair, I stand for any questions.

CHAIR STEFANICS: Are there questions for staff? Commissioner Vigil.

COMMISSIONER VIGIL: Does this comply with the Agua Fria plan?

Have you had an opportunity to do that evaluation?

MR. LARRAÑAGA: Madam Chair, Commissioner Vigil, no, not to the plan. It doesn't comply with the ordinance.

COMMISSIONER VIGIL: Thank you.

CHAIR STEFANICS: Any other questions for staff before we go to the applicant?

COMMISSIONER ANAYA: Madam Chair.

CHAIR STEFANICS: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, Mr. Larrañaga, could you talk again – and I'm reading back through some of what you just went through- but relative to the length of time that the company's been in business, and restate when the violation was issued. Has it been in place since 1989? Is that correct? Has the business been in place in that location since 1989?

MR. LARRAÑAGA: Madam Chair, Commissioner Anaya, that's what the applicant states. The notice of violation was issued February 9, 2012. That's when we had a complaint and an officer went out there and saw that they were running a business without a business license.

COMMISSIONER ANAYA: Has the County – and I thought you mentioned we had issued some other violations? Have we issued other violations preceding February 12th of this year?

MR. LARRAÑAGA: Madam Chair, Commissioner Anaya, not to my knowledge. In 1989, that's when the applicant made application to the EZO for a special exemption to have a towing – to have a storage yard and parking yard there and they were denied. One of the letters, exhibit 8, where they were supposed to take the cars out of there as an impound yard.

COMMISSIONER ANAYA: So we provided a notice for them to take the cars out in 1989 for an impound yard? The County did?

MR. LARRAÑAGA: Madam Chair, Commissioner Anaya, that's correct. It was after a denial from the Extraterritorial Zoning Authority.

COMMISSIONER ANAYA: So then we only followed up on that and 23 years later in February of this year we got another complaint and we followed up with a code enforcement violation. Is that what it was?

MR. LARRAÑAGA: Madam Chair, Commissioner Anaya, of course I wasn't here in 1989 but they followed up and made them take out all the cars. Some of the aerials, they covered a lot more than what their property is, .70 acres as an impound yard, and then we recently got a complaint back in February, January/February of having the tow trucks. They don't have any more, that I know of – they're not using it as an impound yard as you can see from the newest aerial. It's all filled up with residential houses and different lots on that area.

COMMISSIONER ANAYA: So, Madam Chair, Mr. Larrañaga, did the County ever, prior to February of this year, issue any violations for a tow truck business?

MR. LARRAÑAGA: Madam Chair, Commissioner Anaya, not to my knowledge.

COMMISSIONER ANAYA: Thank you.

CHAIR STEFANICS: Anything else for staff before we go to the applicant? Okay, is the applicant here? Please come forward and be sworn in. Okay, anyone who is going to speak for the applicant needs to be sworn in, so yourself or others.

MERIT BENNETT: I'm counsel for the applicant.

CHAIR STEFANICS: So is anyone else going to speak for the applicant except yourself?

MR. BENNETT: I think counsel will and also Mr. Anaya will speak.

CHAIR STEFANICS: Okay. So anyone who's not counsel – are rules are different for counsel, correct, Steve? They're bound to the word. Okay, so anybody on this group who's not an attorney would you please stand and be sworn in. Dddgroup.

CHAIR STEFANICS: Okay, so when you speak, we're going to need you to say your name, your full name and your address so it goes into the record. And why don't you start off with your introduction. I missed your name. I'm sorry.

MR. BENNETT: Merit Bennett.

CHAIR STEFANICS: Oh, Merit Bennett. Okay.

MR. BENNETT: Good evening. Thank you for taking this time to hear the case of the applicant. First, in response to Mr. Larrañaga's comments with respect to the decision in 1989 regarding not having an impound lot on this property. That decision was obeyed. This is not about an impound lot. The Anayas were conducting a towing business. They were since 1989 to this date at this location. At that time they did make application to store some of the vehicles that they had towed when they would go to the scene called by the State Police, County Sheriff's Office or City Police, they would oftentimes – drunk drivers, they would have to tow an impounded vehicle and impound it. And yes, they were making application to be able to impound those vehicles on this particular property and their application was denied.

In response to that denial the Anayas then established another offsite impound lot where they have been since 1989 towing the vehicles that are impounded to that lot and they're stored and warehoused at that lot. The impound lot question has nothing to do with this application, just to be clear, because that, as we already know, that petition was

denied for those reasons. It presents a whole different issue within a community area than conducting a family business. So this is not that, just to make clear.

The Anayas have owned this property. They're fifth generation family, have owned this particular property on Ben Lane for probably as long as we've been here and they have been landowners. Their family compound has been in the Agua Fria Village for that period of time. In 1989 Mr. Anaya purchased an existing towing company, Padilla's Roadrunner Wrecker Service. This is Anaya's Roadrunner Wrecker Service, purchased an existing towing company that had been grandfathered in in 1981 by the Agua Fria Village Ordinance. So there already was an existing towing company that I believe, according to Mr. Anaya had the same number of vehicles as the Anayas currently park at their location.

This towing company consists of eight vehicles of varying sizes and capabilities and in order to perform a varying degree of tasks for state, local, federal, our City and our County. These services include anything from towing a vehicle from the scene of a crash or a drunk driver is stopped, to recovering vehicles that have gone down ravines or into riverbeds or off the road during ice storms or whatever, and some of these vehicles have very large weight capacities and degrees of difficulties in extracting them from various hazardous positions. And the Anayas are really the only towing company in northern New Mexico that can accommodate all of these needs of state and local authorities.

So they're called constantly, and this is a constant, 24/7 business. They have a contract with the County to provide 24/7, 365 days a year service and that contract I will discuss later. It's in the exhibit book that you've been provided.

As a part of this obligation to keep the community safe and perform activities that are vital to our community they run a 24-hour business and as a result, most of these vehicles are not always on the property at the same time. This is 24/7. On average they have about four vehicles that are parked on this property. There's plenty of room on this property to park the vehicles and I will discuss that with you in a minute. There's adequate ingress and egress. They've been doing this for 23 years, safely. There's never been any safety incident at all in this neighborhood caused by one of their emergency tow truck vehicles in the last 23 years, which I think is really remarkable.

This business is operated by Robert and Berna, his wife. Berna sits in the house and take the dispatch calls. They don't have any signage out on Agua Fria and their son Robert has been a part of this business, has grown up there and is now working with his dad helping manage the vehicles and the employees they need to drive the trucks. In addition, some of the employees who drive these trucks take them home with them, so that's another reason you'll never find more than four trucks on this property at any give time, is because some of the employees take them home. But there has to be a core number of trucks on the property to be able to respond and to perform the services.

For example, for the County, in their contract they require 60 minutes onsite response time from the call. Anywhere within the county that require that those vehicles be immediately accessible so they can get in the vehicles and go to the scene of a crash or something. Also, as you can imagine, the emergency responder, the lower the time of response the more likely you're not going to have somebody die on you or sustain a serious or disabling injury. So the service that they perform is really kind of a unique business service to this community that is other than just selling goods in a wholesale-retail or in a retail shop. And so consideration should be given for that.

Robert's been a volunteer firefighter for most of his life. He was the chief of the local Agua Fria volunteer force for five years. The Anayas even housed one of the volunteer fire trucks on their property for a year in 1992. This is a family of service to the community. Over the last 23 years they have received community recognition and awards. You can go to tab 8 in the notebooks, and I will warn you about these notebooks. When you get to tab 5, tab 5 has subtabs one through 32 attached. So you don't want to get lost in 1 through 32 which is attached to tab 5. So when I say go to tab 8 you have to bypass that collection of 1 through 32 that's attached to tab 5, and then go on to tab 8 in this notebook. This is a recent, 2012 nomination by the Chamber of Commerce for an outstanding business award in this tab. This is again major tab 8, following the tabs 1 through 32, and it goes to 6, 7, and then 8. Also in this tab is a recent note from Robert Schilling who you may know is the Chief of the New Mexico State Police. Thanks so much for the tow and taking care of me last week. You're a great guy and run a great company. Enjoy and thanks for taking care of my troops out here. This is the type of business that's been operated in Agua Fria Village that improves this important community service.

I indicated that they currently have a contract with Santa Fe County. We've attached that as tab 6. Again, you're going to have to bypass the 1 through 32 of tab 5 to come to – I'm sorry. I take that back. The County contract is under tab 9. So you need to go to tab 9, again, bypassing 1 through 32 in tab 5, to tab 9, is the County contract. It runs from the 2nd of June 2009 to the 1st of June 2013. You'll be able to locate it. In this contract you can see that the Anayas are required by the County to provide emergency wrecker and towing and related services. I'm now looking at page 1 of the contract's scope of work, subparagraph C. The contractor shall provide emergency wrecker and towing and related services 24 hours per day and seven days per week, 365 days per year at the request of the Santa Fe Sheriff's Office.

The contract – and go down to E. The contractor is allowed a maximum 60-minute response time for contractor's tow truck to arrive at the arrest location. Response time begins upon receipt of notification of request for services by the Santa Fe Sheriff's Office.

So to park these vehicles somewhere else, out away from their property and have to go to get the vehicle at some other location and then respond would then be very difficult in some cases in some parts of the county impossible. So that's another reason that they've been operating this tow business on their property for the last 23 years is so they can provide that type of emergency response that's not only required by local law enforcement, it's required by the community to literally save lives.

Just to orient you to the property, I'm going to direct your attention to tab 4. This is the tab 4 that's before the tab 5 that has the 32 tabs in it. If you go to tab 4, the last page of tab 4 has a survey map of the Anaya's property on Ben Lane. This is the Anaya's compound and you will see to the left of this fold-out survey, Agua Fria Street and the yellow marked roadway is a dirt road and that is called Ben Lane, and it cuts through the middle of the Anaya family compound that has been there for now five generations. The Anaya's, Bernadette and Robert, own two portions of this property. The first portion as you come down Ben Lane is on the right. That is their residence. The next portion is on the left and that is an open area, a large open area, you're going to see photographs of that in a moment. And at the far end of that open area there is a line here which has been

marked here as the Romero wall. This is where the neighbors to the right, on the right of this survey had erected a wall to provide them with privacy for between their property and the Anayas' property and presumably their trucks.

We believe this wall to have been built within the last ten years. You will see a circle where it's indicated that the Anayas park one or more of their trucks when they are unoccupied or unused in this big open area that is designated with the hatch marks as going to the Anayas at the end. There's no structures on it. It's an open area with a huge turnaround and you'll see photographs of that where large vehicles can come in, in order come into this lane and then back out somehow. They can come in and they can turn around no matter what size of the vehicle, around in this big circular area in the back, and then exit, and this is a question that's also been raised about fire access, access to the fire vehicles in and out of this property in case of fire. I will also discuss that as well.

In order to further orient you as to what we're talking about, if you could go to tab 3. This is right at the beginning of the book, tabs 1, 2, 3. This is another fold-out and this is an aerial view, I think from Google Earth, looking down onto their property. This again will help you orient as to what we're actually talking about. As you can see on the left side of this fold-out is again Agua Fria Road, and as you come up to – you see the number 5 that's circled down in the lower left-hand corner, if you then proceed on Agua Fria a little further, the first road on the right is Ben Lane and you can see it lightly marked Ben Ln. And you'll see where that traverses.

You'll see as you come into the road on Ben Lane then you first jog to the left on Ben Lane, then it straightens out and goes down past a large structure with a white roof on it. That's the Anayas' home. The purple roofed structure is their garage. So you will pass that down to the #11 that has been circled. That is the same circled area that I just directed your attention to on the plat survey. That's where the Anayas' vehicles are parked. So you can see, if you're standing on Agua Fria Road and you look to the right, or northward, you cannot see those trucks because the road, Ben Lane, is hooked to the left and then straightens out again. So all you can see if you're a commuter or passerby on Agua Fria is nothing. It's a residential area and the trucks are parked way back down on the end.

You can see that straight white line just to the right of the circled #11 and that is the wall that was constructed by the Romeros who are the chief complainants in this case. They're the ones who initiated this review, if you will, 23 years after the Anayas began doing business there. That wall was erected by them and to the right of them is their compound. And we'll see pictures of their compound where they conduct a business of their own. They rent property, apartments to people. And so we'll talk about that a little later.

So this is one way to help you orient to the total environment. With respect to the character of the surrounding community, the Anayas are not the only business in this immediate locale. As you can see on tab 3 that we just looked at those circled numbers are all businesses. Every one of them are businesses within this very immediate vicinity. And what we've also done, if you now turn to tab 5, which has the multiple 32, 33 exhibits attached to that, these are the businesses within a quarter mile of the Anayas' driveway, along Agua Fria, along and near Agua Fria in this area. And if you look, we've identified 32 businesses within a quarter mile in the Agua Fria Village of the Anayas' home and business.

And attached – those tabs are photographs of each of these businesses that are numbered within Exhibit 5. We provide the numbers, then you can go to these subtabs and you can see a little bit more about the businesses being conducted here. And there are just a few of these businesses that I would like to direct your attention to.

If we can go to subtab 3 of Exhibit 5, this is photographs of the Rodriguez Brothers Sand and Gravel Company. And as you flip through the pages, if you go to the second page of the exhibit, you will see this is a major business. Far greater activity involving large trucks, sand and gravel trucks. Go to the third page, the third photograph, we've got four trucks side by side, a very substantial size, similar in size to the Anayas' towing vehicles. There's another view of the Rodriguez Brothers Sand and Gravel. Several views, you can see the extent of this business. And this business is located in the immediate vicinity of the Anaya's business. This is on that Exhibit 3 fold-out. This is one of those businesses that is right there next to the Anayas' business. On Exhibit 4 it's business #3, circled #3. As you can see it's within hailing distance of the Anayas' – where they park their trucks. You can actually see it from where they park their trucks.

If we jump to subtab 8, this is Scott's Garage. Talk about impound lots, it looks like an impound lot. Scott's garaging a lot of cars here, a lot of vehicles. So this is the impound lot type situation that naturally the Agua Fria Village was seeking to avoid in 1989, but this is what it then looks like.

If you go to tab 9, this is within a very short distance of Ben Lane. This is the Padilla Bingo Buses business, where they operate bingo buses that transport people to and from their bingo hall. If you go to subtab 12, this is Santa Fe Concrete. This is as you can imagine utilizing very large concrete trucks that tow large concrete trailers that are very heavy and occupy a lot of space and movement within the [inaudible]

Exhibit 13, August Construction Company, and if you'll just thumb through the photographs, you'll see – you're going to get the flavor of the character of this community and how what the Anayas are doing here is consistent with that character. If you just thumb through these photographs you get a quick picture of it.

If you go to subtab 15, we have Cassidy's Landscaping. Again, multiple vehicles parked here. So of them with large trailers and plowing vehicles for landscaping, small tractors.

If you go to Exhibit 23, sub-exhibit 23, this is the property of Mr. Larrañaga's brother, where they hold rodeo events on at least a monthly basis, and when they have these rodeo events they have over 200+ people come with their vehicles, families and that creates blockage of traffic, quite a stir in Agua Fria Village and I don't believe Mr. Larrañaga's been investigating them lately.

Number 26 is a combination of businesses. This is owned – these are four businesses owned by four brothers, all located within the same general area. Padilla's Towing, Quality Towing, A-1 Towing, and Tony's Towing, all belonging to the four brothers, and they have an impound lot in addition to towing facilities. So if you just look through some of these photographs you can see that there's a lot more going on here than there is on the Anayas' property.

Subtab 27 is another wrecker service. This is the Flores Wrecker Service and again an impound lot. So they're storing vehicles on these properties as well as storing their own tow vehicles, they're storing other people's vehicles on these properties.

Subtab 28 is Chavez Septic. Again, large septic vehicles. You all know what those look like when they pull up to drain a septic tank. This is the character of this portion of the Agua Fria Village. This is the character of their family businesses that's being conducted there.

29 – 29 is the Romero property, and we've looked at that on the plat. This is the property of the people who have initiated this proceeding in fact. As you can see, the first photograph is looking from the Agua Fria River towards – this is the Romero compound. The Romero compound is blocked by trees that run along the wall that they built and the Anaya property is out of view in this photograph. It's on the other side of the Romero compound. The next photograph is a shot of the compound. Again, there's no view of the Anayas' property from this perspective, from the river perspective. Then if you go down about four photographs you come to a photograph of part of the Romero compound that is the apartment business, the rental business that they conduct on their property.

The next photograph and the third to the last photograph of sub-exhibit 29 is a view, an elevated view of the Romeros' garage – now, this is on the back side of the photos you were just looking at, and what you can see here is you can see the wall that they have constructed, which by the way, the right-hand portion of this wall – what you see on this side of the wall is the Anayas' property, that open area, part of the open area I was talking about. That wall blocks the easement of Ben Lane. The easement of Ben Lane as I showed you on that plat, goes through that wall. That wall has been blocked by the Romeros, and there's been no vacation of the easement that's been recorded of record. So that easement has been blocked. So if the Anayas wanted, or a fire truck needed to get through from Agua Fria to the river or any structure along the way, ordinarily, if that easement were open like it should be, they would go right along that easement and keep on going, but at some point the Romeros blocked this.

The next photograph is again another photograph of their compound and again, you can't see Anayas' vehicles, you can't see anything on the other side of their wall, which is on the opposite side of this photograph. And yet another photograph.

CHAIR STEFANICS: So, Mr. Bennett, are you almost finished so that we can hear the rest of your applicants?

MR. BENNETT: Yes. I'm getting – I just wondered if you could direct your attention to exhibits 30 and 31. We've got more construction companies and Santa Fe Frame and Auto, again, large vehicles. Let me try and move a little faster.

CHAIR STEFANICS: Right. And just remember, you'll have a chance to answer questions as they come up after the public hearing as well.

MR. BENNETT: Okay. The other thing I would just like to bring up quickly is I think I've pretty well discussed the character of the surrounding community, is if you look at tab 11, it's entitled, and this is in right at the back and it has six subtabs. It's the last major tab with six subtabs, and it's the table of contents to this, tab 11 is entitled to impeachment of opposition. And Ms. Kosh, my colleague is going to discuss the legal issues surrounding all of this including the issue regarding the ingress or the access to the Anayas' property and the other homes in that vicinity by a fire truck. So I'm not going to discuss that.

But at the hearing before the land use committee where this application was denied, I believe 5-1, there was some testimony given by opponents to the Anayas' application that was not quite accurate. For example, tab 1 of tab 12 – excuse me, I take

that back – tab 2. Rosemary Medrano testified that this business use was a bane to her ownership of property in that area. Well, if you look at – as it turns out, Ms. Medrano only owns vacant land near the Anayas and Ms. Medrano lives on Botolph Road. And what we have here is a photograph of her residence on Botolph Road, there's a mailbox, 2904, and the last photograph in this is the vacant land that she claims is impaired or its use impaired by the Anayas operating of their business.

The other thing that is of note, it was at the hearing of Robert and Diane Roybal testified that they – actually, if you go to the last tab of this book, tab 6, there are two pages of the testimony given at the last hearing that I would like to direct your quick attention to. The last page, which is the last page of this notebook, talks about Robert and Diane Roybal's testimony. Ms. Roybal says she neighbors the Anaya property and her kitchen window looks out to their trucks. This is true, but she doesn't live there. She – her property is, number 1, not within 100 yards of the Anayas' property, and number 2, she lives in Rio Rancho and she rents out this property. So the impression was given to the committee that she was somehow offended by the view out of the kitchen window.

The other testimony that I want to draw – while we're on this exhibit is the status of Mrs. Romero, who is one of the, or the – her and her husband are the main complainants against the Anayas' ability to operate their business. Some of the things she said, on page 25 of the testimony, which is the second to the last page of this book. She said the Anayas are being investigated by DOT because it's dangerous for those big trucks to turn off Lopez Lane onto Agua Fria. It's not true. It's simply not true. There's no investigation by DOT of anything and Mr. Anaya can testify to that if necessary.

Ms. Romero said – all of these are highlighted. One of Anayas' tow trucks was last registered in 2006. It was not insured, knocked down her wall in January. Now, that reference is to why we're here. What happened was that wall between the Romero property that I pointed out to you, which is the end of the Anayas' property, it was an adobe wall that was erected by the Romeros within the last ten years, one of the Anayas' trucks accidentally backed into and collapsed a portion of it. And that's where all of this came from. The Anayas did have insurance and were trying to get the wall repaired, wanted to get it repaired. The truck damaged it. And got an estimate out and were all ready to go and an agreement to get it repaired and hire somebody to do it when a demand was made for \$7,000 by the Romeros to pay for the wall, which was of course totally exorbitant.

But the Anayas were insured, but they had a deductible. So they were trying to fix the wall within their deductible which they had to pay anyway, so this is what happened. We're sitting here tonight because of that incident.

Then Ms. Romero questioned Mr. Anaya's business ethics and was concerned that he has not been paying taxes while he continues to the deterioration of Agua Fria. Mr. Anaya pays his taxes, property taxes and –

CHAIR STEFANICS: Okay, we're kind of diverting from the presentation here.

MR. BENNETT: Okay, well, you can see this in here, which is important. The last thing about impeachment is the way that this has been handled by Mr. Larrañaga. I met with Mr. Larrañaga right at the beginning of this and he told me that the business in his office is essentially complaint-driven. So if you're not complaining then he's not going to make sure that you're complying with whatever rules that are out there

that the County has. So all he does is respond to complaints. And this was one. And so he responded to this complaint and not only responded to it, inappropriately responded to it. He comes on to the Anayas' property. There's an affidavit from Mr. Anaya here. He will come on to the Anayas' property for really no good reason other than to drive up and down Ben Lane and sit on Mr. Anaya's property. He has told other supporters or neighbors of Mr. Anaya, family members, that if you support Mr. Anaya's application that your property taxes will go up. We have that in Mr. Anaya's application. Bernadette's brother was actually told that, that if you somehow support this you're going to have to actually give up property. I think they're talking about creating a hammerhead where one doesn't need to be created.

So there's been personal influence into this when at the same time all of these other businesses, including his brother's rodeo is not being vetted for compliance with the County's rules and regulations. So I would move, at least I'd have this motion on the record that Mr. Larrañaga and the land use Commission that was investigating this application be disqualified and that their input into this be stopped from making the arguments they're making. This petition should be denied. But all of that documentation is in this notebook. There are legal issues that I'm sure the Commissioners want to hear about briefly. My colleague, Ms. Kosh, will advise you of those.

CHAIR STEFANICS: Thank you. So let's here from Ms. Kosh and the applicants, and then if the Commissioners have questions now they might ask them, or then we'll go to the hearing of the pros – the opponents and the supporters, and I'm going to ask Mr. Larrañaga in a few minutes to speak, as well as Chief Buster Patty. Ms. Kosh.

TALIA KOSH: I'll try to be brief. County Commissioners, I'm Talia Kosh and I represent Robert and Bernadette Anaya. [inaudible] shorter version of what is in tab 2, their letter of request and the supplement to that. So what is the issue here? Parking up to eight towing vehicles, but really at most times, moments of the day and night, about four and dispatching those vehicles from their residence.

First I'm going to talk about, going to demonstrate how the Anayas are grandfathered in and therefore no variance is needed. Second, in the alternative, I will demonstrate the current use of the property is a permitted use consistent with the character of Agua Fria Village Association. And I will also demonstrate that the current use of the Anaya's property has not resulted and will not result in any conditions that are injurious to health or safety.

We've already touched briefly on emergency response concerns so I'm going to say a few things about this, but the ability of their towing service, which has written and verbal agreements with several government agencies to respond quickly to emergencies is a public interest concern. Regularly, the Anayas are called by emergency responders who have no other towing company alternative due to the Anayas' range of towing option. This came into play recently. I'll just give you a couple of examples. When the Anayas were called in the middle of the night by emergency dispatch in northern New Mexico about four hours away from Santa Fe because there were no other towing services that would be able to handle a large wrecked semi truck off of a major highway. Again, recently the Anayas moved a City garbage truck that had crashed into a riverbed and no one else could get it out of the riverbed.

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR STEFANICS: Commissioner.

COMMISSIONER MAYFIELD: Just real quick. The Anayas have a Class D?

MS. KOSH: Yes, Class D. Also, even Barbara Salas, the Chief of the fire department has given me permission to tell you that Robert Anaya and his business are incredibly valuable to the community and have trucks that perform services that no other towing company can perform.

Also, there's just a few constitutional issues that I'd like to touch on. Finding a site to lease and park most of these eight towing vehicles offsite from their property would be prohibitively expensive and would effectively destroy their ability to make a living in the tow truck business after 20 year of service. Further, as a tow truck business in a new place the Anayas would have an even more difficult time to get a variance because they would not be faced with a situation which I'll discuss briefly where the use could be deemed permissible within the Agua Fria Village Association and this would effectively shut down their business.

Should the use be disallowed by this Commission this would effectively be an arbitrary denial of equal protection, treating the Anayas differently from similarly situated businesses and individuals. Also this differential treatment would have no rational basis as the Anayas have been using their property without issue for over two decades. Further, the Anayas have many contracts with governmental enforcement agencies and other private parties and these contracts would be nullified by this denial, and that is also a denial of the fundamental right to make a livelihood and the right to contract for personal employment.

I'm going to quote from a United States Supreme Court case. Nothing is more clearly settled that is beyond the power of the state under the guise of protecting the public arbitrarily to interfere with business or prohibit lawful occupations or impose unreasonable and unnecessary restrictions upon them.

Further, in support of this I'm going to just talk briefly again about how the Anayas are grandfathered in. Mr. Bennett already discussed how the business was purchased, and I'd also like to draw your attention to tab 6, which is Mr. Mee's letter from the Agua Fria Village Association. It's the major tab 6. It's a letter from William Mee, the president of the Agua Fria Village Association. I'll call it AFVA. Mr. Mee states that also, and I'm quoting, also during the community planning process a number of businesses which have industrial land uses not compatible with residential land uses were grandfathered in, such as Anayas' Wrecking, L & L Portable Toilets, etc. He lists several businesses.

According to the AFVA, the Anayas' Wrecker business has been grandfathered in along with many other businesses, so many that he did not even begin to list all of the businesses that are grandfathered in within this village. Also, they're very much a part of this traditional and contemporary community of the Agua Fria zoning district, and in going back to William Mee's letter, he states parking Anayas' Road Runner Wrecker Service towing vehicles also have been parking them consistent with running their business at 2253 Ben Lane is not inconsistent with the character of Agua Fria Village and there are many mixed-use, family-run businesses within the village. This effectively demonstrates permissible use.

So the only objections to the Anayas' towing business should have been made when the Agua Fria Village Community planning process was occurring from 2003 to

2006. As Mr. Mee states in that same letter, during this process it would have been reasonable to discuss any objections to the Anayas' Roadrunner Wrecker Service land use as being incompatible with the residential land use around it. However, I recall no such objections or protests. This is also in his letter. Neither the Romeros nor anyone else who currently stands in opposition to the towing vehicles ever made objections during this time, even though they were a part of this planning process and they could have easily voiced their objections. They should now be stopped from making such objections after over two decades of the Anayas parking their towing vehicles.

Just quickly, I'd like to point out that the Anayas' use of the property is also consistent with the Santa Fe County Sustainable Growth Management Plan. This mixed-use case is not out of character for that plan and according to the plan, compact mixed-use development served by adequate facilities are a priority. Due to 2.2.4.1 of this plan mixed uses provide for a variety of uses within traditional neighborhood and village type settings and they're integral to achieving appropriate land use and transportation goals and objectives. And the Anayas [inaudible]

I also like to point out a few more statements by the Agua Fria Village Association because I think it's appropriate here. In their blog they state that the residents of AFVA are committed to maintaining their traditional way of life and protecting their independence from Santa Fe. As the Agua Fria Village Association states in its blog there is no need to better understand traditional communities in rural areas and the slow and steady growth they have had as each generation comes of age and wants to do their own thing.

Further the Agua Fria Village Traditional Community is based on three main elements: centralized purpose, cultural function, and mixed uses. The mixed uses is an integral part of the Agua Fria Village Association. Residents have extended families to provide for, childcare and supervision. Many residents are from multi-generational families that have been on their land for years. A goal of the AFVA is to pursue a diverse and sustainable local economy for traditional communities. The Anayas are exactly this type of family and business discussed in the AFVA blog. They also provide multiple family members with employment opportunity, daily childcare. They are the quintessential Agua Fria Village family business.

The Agua Fria Development Review Committee would normally be the proper authority to bring this issue to. At the current time the AFDRC is on hold, according to meeting minutes from the Agua Fria Village meeting minutes since April 2, 2012. That's attached as an exhibit to the supplement. These minutes also state that the AFVA, the Agua Fria Village Association will be taking on the role of Agua Fria development review. These minutes also state that the AFVA took on the new role of planning for the THC area. This means that development is reviewed and approved by the AFVA, then mixed use becomes permissible use.

These minutes clearly demonstrate, along with Mr. Mee's letter that the AFVA is standing in place of the AFDRC has previously approved all the Anayas' business uses of their property as mixed use. Therefore a variance is not required to continue this permitted use of the property for just parking their vehicles and taking calls for their business. I'm getting close to the end.

Also the current use of the vehicles existed during the planning process in meetings from 2004 to 2006. The Anayas' use of the property was also approved by the

AFVA. And the County's plan also speaks – the County will honor existing community plans and ordinances and support community planning and in this vein the County should honor this process and procedure.

Also, in the alternative, should the Board of County Commissioners find that the Anayas current and past use of the property is not permissible use and is not grandfathered in it should be considered a conditional use of the property which the AFVA could also review. So now we're just getting to the variance argument. As briefly as I can, but it's also very important as a part of the agency's recommendations. The variance is not needed by should the Commissioners find that the storing of eight towing vehicles not be permitted or conditional then we are requesting a variance. And the only vital part of that is the parking of the eight vehicles. The Land Use Development Code does not specify a maximum use of commercial vehicles that can be on the property at a given time, so on its face there's no specific violation of this code.

Multiple factors may be considered in deciding whether to grant a variance, including the economic detriment to the applicant. If the variance is denied the financial hardship created by any work necessary to come into strict compliance, and the characteristics of the surrounding neighborhood, which we've already discussed.

As you've seen, even without the pre-approval of the AFVA the characteristics of the surrounding area make it appropriate to grant this variance. The commercial businesses have evolved over time to create a more mixed use, commercial and industrial area. The Romeros who are the ones who brought this complaint utilize a completely different road to access their house and cannot see any vehicle enter or exit the Anayas' property or Bens Lane. This does not affect them.

Granting the variance would result in a net public benefit and public benefit is another factor that may be considered in the granting of a variance. The agency's recommendations that the entrance to Ben Lane not meet fire code and the only option for the Anayas is to give up a hammerhead are not accurate. The hammerhead option is not required and should be the last alternative considered. Bens Lane meets all requirements and is up to code. It is clear from the photos Bens Lane meets the requirement of a 20-foot entrance. It's actually over 20 feet. Further access does not meet the required 28-foot radius is also inaccurate and you can see the photos on tab 7 that we've actually taken measurements of that area. To save time we don't have to go through those.

CHAIR STEFANICS: You are reviewing pretty much what we have in our book, so was there anything else that you'd like to say and then I'll go to the applicants?

MS. KOSH: Yes, there's a few more things.

CHAIR STEFANICS: Briefly. Briefly.

MS. KOSH: So the reason that the hammerhead is not necessary, number one a fire hydrant should be considered. There's a fire [inaudible] currently in Bens Lane. If that were replaced by a fire hydrant there would be no issues. No one would have to give up any property. This would be the most non-invasive solution to the problem at hand. If that is not possible – currently it's not even necessary because a fire truck, as you can see from these photos can complete a turn without having to use a hammerhead, without having to back up. The second alternative should be that that utility easement is opened up. There have been no vacations of easements recorded. That means it wasn't

properly done. In fact the existence of this easement when the survey of the land was taken was vital to how the land was surveyed, and why a hammerhead was not created or considered in the first place.

In order for the easement to be vacated permission has to be granted by all the affected owners and the Anayas were most certainly affected by this and now they're being asked to give up land for this hammerhead, and they were never given notice of this. So at the very least that easement should be considered in lieu of the hammerhead. And that's all I have. Thank you.

CHAIR STEFANICS: Thank you both for your thoughtful remarks, Now, Robert and Bern Anaya, correct? Do either of you want to make a statement? If you'd like to now is your time. Please.

[Duly sworn, Robert Anaya testified as follows:]

ROBERT ANAYA: Basically, what we're asking is so we can park our trucks on the property that we own. We've been doing it for 23 years and we'd like to continue doing so. We're not asking for anything else; we're not asking for commercial buildings and commercial zoning, just permission to have the trucks there and have them for our availability when needed when I need to go out and provide service, be it to a motor vehicle accident or a seizure for the Sheriff's Department, whatever it is, I need my access to be there. So we're asking the County. Thank you.

CHAIR STEFANICS: Thank you very much for that statement. Before we go to public comment I'd like to hear, Mr. Larrañaga, would you please come forward. And for the record, would you please state whether you do or you do not have a conflict in this case.

MR. LARRAÑAGA: Madam Chair, I do not have a conflict in this case. This was brought by code enforcement. I did not issue the notice of violation on the property. All I did was bring it in as a variance.

CHAIR STEFANICS: So in relation, what I'm asking you, Mr. Larrañaga, is a conflict has been identified with your relative in the area carrying out a business. So could you address why you feel you do not have a conflict with this case in relation to those remarks, for the record.

MR. LARRAÑAGA: Madam Chair, for the record, that is my brother. He's been doing that for over 20 years and he is in the city limits.

CHAIR STEFANICS: So being in the city limits you do not feel that we have any purview or what? What is your – where is not your conflict?

MR. LARRAÑAGA: Madam Chair, they listed several businesses, some of which are master planned, some of which are non-conforming, some of which I'm dealing with actually right now. The conflict that they listed is my brother having a roping arena that's been around for 20 years. He has a jackpot once a month, about 40 to 60 people, and he's always had steers there. He has practice twice a week. I don't see where there's a conflict on his property. I don't own the property –

CHAIR STEFANICS: So the issue is his property is in the city.

MR. LARRAÑAGA: Correct.

CHAIR STEFANICS: Thank you. That's where the conflict doesn't arise. Mr. Patty, could you come forward please? Mr. Patty, just in general, and other Commissioners might have questions, do you have anything that you want to add? You

have a fire report in here in our book on pages 63 and 64. Anything that you want to highlight or bring to our attention?

BUSTER PATTY (Fire Department): Madam Chair, Commissioners, when this was brought to the Santa Fe County Fire Department for review for the variance for the commercial use we reviewed it like we do any other commercial business and that basically is for access or any kind of fire requirements per the 1997 Uniform Fire Code. In the 1997 Uniform Fire Code it explicitly states what size the fire lanes are to be, what the turnarounds, what the lengths of the turnarounds are. We've mentioned several times before, anything over 150 feet long then does require a turnaround.

There is on their property, on the Anayas' property, on his private property in the area where he turns his trucks around, yes, we can turn around, but it is not designated as a fire turnaround, if it got built on then the turnaround was gone. We re-reviewed and went out there and had a look at the property outside of a cul-de-sac turnaround, that was in our original letter, a hammerhead could be built to be able to turn around in this lot. It is a problem if we have to drive down in there, even if they placed a hydrant. You pull the hose off the back of the truck. So if we pulled down in there we have to turn around somewhere, hook on the hydrant and pull out. Otherwise we have to back back down in there, which is more than 150 feet long.

The access going in off of the main road is what we measured was just a little bit under 20 feet but there is no radiuses on the turns. That is also in the Uniform Fire Code of 28-foot inside radiuses on a 90 degree turn, on a 20-foot wide road. If the road was wider then those radiuses would be cut shorter.

CHAIR STEFANICS: Thank you. There might be further questions for you so stick around. Okay, we're now at that point -- how many people are here to speak in support of this application? Okay, so let's hear the supporters first. Are there four or five people who wish to speak? Whoever would like to speak in support would you please come up so you can all be sworn in together, and then we'll go to the opponents in a minute. So there's five of you, right? Anybody else who wants to be sworn in at this time?

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CHAIR STEFANICS: So when you speak please identify yourself by name and address for the record and stay right up here and make it as short as you can. Let's hear. We're very happy that you're here to comment. This is part of the public process.

[Previously sworn, Robert Anaya, Jr. testified as follows:]

ROBERT ANAYA, JR.: My name is Robert Anaya, Jr. My address is 2253 Ben Lane, Santa Fe, New Mexico, 87501. Basically, the only thing -- business operations we do out of that area -- my father owns the company. That's obvious. We're just asking to park our trucks there, answer our phones, keep our books, that's it. Our storage facility for the cars we tow in is at 2876 Industrial Road. It's in the city. We meet all city requirements for that. For the past 23 years we've just been parking our trucks there as we take them home and that's about it. As for an eyesore, I don't think they're ugly but those are my trucks, so it's my preference.

As for safety, those trucks are as big as any fire truck going down the road so if it's unsafe for my trucks to be driving down the road it's unsafe for the fire trucks to be going down the road. So if it's a problem for our trucks to get up and down Agua Fria

whatever way then Agua Fria needs to be widened up because the fire trucks, garbage truck, all them run down those roads too.

So as for the difference in them, the only difference is our trucks are owned by us and not a government. They're there to provide a service for you, anybody out there. If you need our service we're there for you. We provide service 24/7. Not now because we're here but other than that they're always available – day, night, 24 hours, Christmas, Thanksgiving. You name it; we're there. So, thank you.

CHAIR STEFANICS: Thank you very much. Yes sir.

[Previously sworn, Antonio Montoya testified as follows:]

ANTONIO MONTOYA: Hello. My name is Antonio Montoya. I live at 2010 San Ysidro Crossing right there in the village itself. I seen the damage of the wall. I offered to fix it. The estimate was way out of line. I said, hey, I can do that for \$300, \$400. I've known Robert Anaya and his family for many years. As a matter of fact both sides of the family. He's not only a personal friend but a lot of these emergencies he would call me to go and help him. So now that my profession is so low, because I do remodeling, I do a lot of masonry.

So I offered to fix the wall and I told them, hey, I can do it for as low as \$350, \$400. He has all the material and everything. It could have been done in a timely fashion without any incident or anything else. So I think it's a shame, because I give him a lot of respect for the things that he does for the community and for me, and my brothers, he's helped us out with just work. Because right now, I'm facing – if I don't get no work eventually I'm going to be homeless. So he provides much more on a personal level, and I just want to make that known. Especially on his emergency services that no other wreckers here in Santa Fe or even 100 miles closer. I mean Albuquerque is the closest one. And when he calls me I promised that I would be there for him. And that's why I want to be here. Thank you.

CHAIR STEFANICS: Thank you very much for coming. Yes, sir.

[Previously sworn, Charles Smith testified as follows:]

CHARLES SMITH: Yes, my name is Charles Smith. I run C. Smith Construction Company. My address is #2 Entrada de Santiago, Santa Fe, New Mexico, 87508. Robert Anaya asked him to go give him a bid, which I did and I went to do the job and I was chased off by the – I guess [inaudible] or whatever, by him, and he actually threatened my guys. Which we actually walked off at the time, due to the fact that we don't to see fighting or anything going on because of that. Since then, [inaudible] about what's happening. I feel it's unfair that you guys, 23 years come out to take something away from them that's actually provided a good service for this community and he's been there to help each and every one of us. And everybody's been helped once in a time.

So I don't think that what you guys are looking at – I mean just to look at the truth and see the person for what he is. And his business is a good business and it should be around and left the way it is. It ain't hurting nobody. It never has, whatever the case may be with his family, should be just between them. Robert Anaya is really good people and his business has been very supportive for the community and for [inaudible] Anyway, he's been there for us; we should be there for him. That's why I'm here tonight. Thank you.

CHAIR STEFANICS: Thank you very much. Yes, sir.

[Previously sworn, Mario P. Montano testified as follows:]

MARIO P. MONTANO: Hi. My name is Mario P. Montano and I live at 28-B Prairie Dog Loop, which is right across from Agua Fria park. Obviously, this is my uncle and auntie. It's been in the family, obviously, my whole life, 29 years. I do like he just said, 23 years he's had his business, always looking up to him as far as dedicating his time. Leading a different life than a lot of kids did here in New Mexico, in Santa Fe, it was basically Santa Fe, small community, not really not much to do. He provides a service as far as his time and to the school, with us growing up. He just does a positive impact as far as me growing up in a positive way. So I just think what you said, in 23 years, one complaint and all of a sudden it's just an uproar out of basically nothing. You know what I mean? So I just want to say I support him and I love my family. So thank you.

CHAIR STEFANICS: Thank you very much for coming. Yes, ma'am.

[Previously sworn, April M. Anaya testified as follows:]

APRIL M. ANAYA: Hi. My name is April M. Anaya. I'm a daughter of Robert and Bernadette. My address is at 3019 Primo Colores, Santa Fe, 87507. I would just like to say I'm in support of my family because we have had 26 years of my life, 23 years was all I had with them before they started this business. They have run it 24/7, 365 days a year. I've given up many birthdays, many holidays, just so my dad could be out there serving the community, and now I'm giving up my brother as well. So I'm just here asking that they can continue to keep their trucks, which they are beautiful trucks; they are not eyesores and, on their property, which they have been like I said for 23 years. So I'm just in supportive of them.

CHAIR STEFANICS: Thank you very much. Yes, sir.

[Previously sworn, Patrick Romero testified as follows:]

PATRICK ROMERO: Hello, my name is Patrick Romero. I'm in support of the Anayas' business. I understand it's late and I'll be very brief. I ask for five seconds of your time. Turn around and reflect upon the drawing and the writings on the wall behind you. It states equal justice under law, and I do realize and understand this used to be the old courthouse. But it says protection of property, religion and language. Madam Chair and County Commissioners, you have the opportunity here today to protect someone's property. Please do so. Please be in support of this.

CHAIR STEFANICS: Thank you very much. How many people are here to oppose the application? Could you raise your hands? Okay. And are there – there were six people who spoke in support, are there six people who want to speak in opposition? No, you have to be on the record, so just a minute. Anybody who wants to speak in opposition please stand up and come forward so you can be sworn in. We're going to keep it to six since there were six on the other side. So we've got six. Great.

[Members of the audience wishing to speak were administered the oath as a group.]

CHAIR STEFANICS: So if you'd please introduce yourselves by name and by address and we'd love to hear what you have to say.

[Previously sworn, Patrick C de Vaca testified as follows:]

PATRICK C DE VACA: My name is Patrick C de Vaca. I live at 2249 Ben Lane. I'm Bernadette's brother and Robert's brother-in-law. I just wanted to set things straight. The property they're showing towards the back, their property is on the left and my property is on the right of theirs, where they say there's supposed to be an easement. I don't know what arrangements my grandma made or my grandpa made

[inaudible] when we were young. That's up to them. But if they knew then [inaudible] an easement there, it's not affecting their property, it's affecting mine.

CHAIR STEFANICS: Okay. Thank you very much.

MR. C DE VACA: That's all I needed to say.

CHAIR STEFANICS: Okay. I appreciate your being here to say that. Very much. And what's your address again?

MR. C DE VACA: 2249 Ben Lane.

CHAIR STEFANICS: Okay.

[Previously sworn, Georgia Romero and Henry Romero testified as follows:]

GEORGIA ROMERO: Georgia Romero, 5124 Avenida de Sesario.

HENRY ROMERO: Henry Romero.

MS. ROMERO: I guess the first thing we should clarify is the easement that Mr. Bennett brought up. Back in 1987 there was a quiet title deed signed by the courts against – for Bernadino Sandoval. And the easement was personal to him so when he died we legally had the right to build this – well, we fenced it off first. To fence off the property so that no one could die. It was actually our property. We paid for even the easement on the land. So then in 1989 Mr. Anaya cuts the fence while we're at work and throws in like 20 cars. So we're the ones that reported him the first time that he was denied and he was hauling – he had a stack of wrecked cars and I think he had like six tow trucks at the time.

Again, back in like November – between September and December, all of a sudden we noticed these big trucks against our wall, and every day, every time they would take these trucks out, they would tap our wall to stop. Well, one day our wall said, no more. On January 13th. They put a 23-foot gap, which is about the size of what the podium you're on, 6 feet by 4 inches. There's photographs in your packet that show his tow truck backed into our wall. To get it fixed, you heard statements from all these people and Mr. Bennett, and at the last meeting they said they could have fixed it for \$200, \$500, well our insurance, home insurance had to fix it and it came in at over \$7,000.

I have insurance paperwork to prove it. Mr. Anaya has evidently received it. Otherwise he wouldn't come up with the figure of \$7,000. And then if you look at your packets from the County, the County packet, there should be pictures of what it looked like when the – when they went in and cited them for illegal parking and for not having a business license or a variance on the property, it was loaded with towed cars and Mr. Anaya corrected himself. At the last meeting they kept saying eight trucks. There's actually ten. Mr. Anaya corrected himself at the last meeting. He said there were ten tow trucks between 20 and 30 feet long.

Today I went out there and I looked. There were nine vehicles, two trailers, an RV and seven tow trucks and two of the tow trucks are parked in that 30-foot or 20-foot easement that they keep talking about. He constantly parks cars there. They're talking about a utility easement. Mr. Anaya blocks our gas meter with his vehicles. They're his personal tow trucks, which I think is tow truck #2 on the list he gave the County. On that list he lists eight trucks and he says there are two drivers. And yet his attorney wants to say that only four trucks are there at all times. It's not just four trucks.

These trucks run 24 hours a day, seven days a week, 365 days a year. The only difference is these tow truck drivers take a day off. The immediate area, the immediate

neighbors, we don't get a day off. They also testified at the last meeting that they don't let these trucks run for hours; they do. We have the diesel fuel fumes. We have dirt. We have fighting. We have lights. We have noise. There is no safety. And the road they come down off of Ben Lane, to get there you have to come off of the four-way stop on Agua Fria and Lopez Lane. So they turn into Agua Fria, come down to go, drive into Lopez Lane, but before they do that they have to go into the left lane because their trucks are so big they can't make the turn. Then they back up into the traffic.

What happens when a school bus hits that? An emergency vehicle? One of these fire trucks? A police vehicle? People run the four-way stop all the time. We're going to have a person beheaded just on Agua Fria itself. It's not wide enough to accommodate the size of trucks they're driving.

On top of that, the truck that hit our wall, it's WD6187 is the license plate number. It hasn't been licensed and it hasn't been registered since 2006. It's still on the road constantly. To get down from Lopez Lane just onto Agua Fria we witnessed that truck making three vehicles that were going up Agua Fria towards town, had to back up to let that truck go down the road. Then they go down the road and again, into that left lane, backing up and going down into Ben Lane.

We have reviewed the piece of property and the fact that he has to have that 100-foot radius, and if you look at the plat, just looking at the plat, you know they don't have the property with a 100-foot radius that the fire department wants, plus the ten trucks they want to park there.

Another issue we're having is the rodents, which is going to even get worse because we were doing the feral cat program for the Santa Fe County. Last year we had 27 cats fixed. We trapped and had them fixed. We were feeding them; they were fine. They have been poisoned. And we've taken them in to be euthanized because they're stumbling back into our yard. So now we really have a problem because all these cats are gone that weren't bothering anybody. And the majority are coming from the other side of the Anaya wall.

If you could just give me a second here. When they talk about this plat, this map that they showed you, we're over here by number 11 and you see between 7 and 11, that's the middle of that property. Technically, that's the property they're talking about. They're talking about this property over here by number 11, against our wall, because the property's been subdivided. That's when he started to park trucks there.

MR. ROMERO: He hasn't been owner for 23 years.

MS. ROMERO: He hasn't been doing it legally for 23 years because in 1989 in this same room by the committee and told that he had 45 days to pull out the wrecked cars. Well, he never bothered to get a business license. He never bothers to get any kind of permit to park trucks there. So yes, he's been there probably for 23 years some of the trucks, but there are no towed vehicles. This is a picture they're saying from 2005. So where are all these things that he's talking about. But now he's all the way back against the privacy wall that borders our property. There is not enough room for a turnaround and there's not enough room for ten trucks. There's no way he can do a master plan or a development plan. There is no place. There is no more room.

And it wouldn't hurt him to relocate and get himself the proper parking lot that he needs but he's afraid of variances some place else. These people on the internet make \$500,000 a year is what they're recording as income. And the nuisance -- this is what they

are. It's the unlawful or irresponsible use of one's own property in a manner that causes such inconvenience, annoyance or discomfort as to injure or damage the rights of an other person or the public in general.

We have people with asthma, emphysema, living there. We have small children running in their tracks. They burn down that road, Ben's Lane. They peel out. They make dust. They're abusive to all the neighborhood. You can't hang clothes out on your clothesline, because I have a clothesline right next to the wall, which will show in the picture where he knocked down our wall. And if you look at the plat again, he doesn't measure up. He doesn't have it. He just doesn't have it.

We are sixth generation on our land and we did buy from Bernadette Anaya's grandfather. My great grandchildren will be seventh generation. And we take a lot of pride in what we did. We built a beautiful home. We donate to the community. We're in the Agua Fria Association also. We've done everything we have to to make a better life for us and our family. We have title insurance. We have an abstract on our property and the reality of it is is they've just outgrown the area. They just don't fit there. They started out with six small tow trucks. Now he's got two sleeper trucks, a big truck that hauls semi-trailers. And he's not only parking in that location, he also parks up on Prairie Dog Loop, right behind Nancy Rodriguez. All those semi-trailers and junked buses, and everything – the burnt cars, everything else is his.

He's got a lot there; he's got a lot behind our house. He's got a lot on Industrial Road which he testified was 1 ½ to 2 acres. It's only .4 of an acre and it's packed. Vehicles in that lot have not moved since January.

But this isn't about what he provides to the community. He does nothing for Agua Fria. He hasn't been licensed. He pays no taxes.

CHAIR STEFANICS: Could you summarize?

MS. ROMERO: Excuse me?

CHAIR STEFANICS: Could you summarize, like end your comments? Because there are other people waiting.

MS. ROMERO: Okay. This isn't about what the – the safety issues is what they're bringing up. It's a variance for a residential area with ten residents that he has to come right past their house with a 20-foot easement to the very back property. The fire department can't get in there as Mr. Patty testified. It's not about the safety issue. It's about the variance. That's what we're here for, if he qualifies for a variance or not. If he's able to develop this land or not, if he should get his variance tonight, which is an impossibility. We're not giving him any land. No one else here is. No one is selling. Thank you.

CHAIR STEFANICS: Thank you. Did you want to say something, sir?

MR. ROMERO: Just the fact that we don't have nothing against – we have no objections to what they want to do. Bernadette is my cousin and to me she is my cousin, my blood. We've been family for years and her grandfather sold that property to me. He came to my property – I asked him when we first got married in 1966 if he's sell me property. He said, no, mi hijito, park your trailer there. You don't have to pay me. Just park it. I said no deal. I want to own. So we let it go at that. Seven years later he came to knock on my door and asked me, ¿todavía quieres comprar? Do you still want to buy? Yes. Vamos. He paced off what he wanted. He buried a stake. I had it surveyed and I have the [inaudible] in there that we paid him for four years, the payments that he

wanted. The way he wanted it down. He only wanted so much a month, but he wanted it his way. So I honored that. He's my great uncle. My great grandfather owned that property before my Tio Benjamino owned that property, my grandma owned it first. They swapped properties. By handshake. I bought that property from my tio.

My great grandfather, I named that road, Avenida de Sesario, in honor of my great grandfather, because I stand proud on this earth. And I protect my family, my daughters, my grandkids. This is their future. This is why I'm standing here, to protect my family like he stated. We're here to protect our family. Well, fine. I have nothing against what they're doing but they're not doing it properly. As they say, 23 years? Negative. Only in the past couple years they've been parking up against my wall. And they say it's not an eyesore. Well, maybe it's not an eyesore but it is affecting my view. That's why I had to construct that type of wall that I did, for privacy. We have a personal clothesline that we use, because we're nostalgic. We're still from the old school. We hang our clothes on the clothesline.

My wife has to rewash sometimes those clothes because it was full of diesel fumes because [inaudible] If the clothes are wet and the fumes are coming over, [inaudible] she has to rewash the clothes.

On January 13th when he backed up into our wall, my wife had just removed clothes off that clothesline, and it happened within 15 minutes. She would have been under that debris. I'm sure you have a picture of our property, or our wall. If you need it I can show it to you. I don't know if you have it in your packet.

CHAIR STEFANICS: We have it.

MR. ROMERO: Okay. So that view right there. Evidence that he destroyed our table, our chairs. We used to sit out there and watch the sunset, because sit out there. That's our private quarters. Our clothesline was damaged and not repaired. Our tables and chairs were not repaired. My lawnmower. He claims that I hit him with a hammer. That's absurd. The debris was on top of my lawnmower. The pictures are evidence. The evidence is right there. What more do they need? What does Mr. Anaya need? Does he need to be grabbed by the hand and shown, this is what happened when you backed up into our wall? That's my property. And I stand proud to say that we built that home and it's not an adobe wall like he stated. It's not a wire fence either. It's 8" masonry constructed, well constructed.

Even my insurance adjustor that came by to give us an estimate, he stated that's a very structurally sound wall to have caused that kind of damage and not destroy the whole thing. The whole thing could have toppled over. But no. Negative. Between the two pilasters that are reinforced with concrete and rebar, it didn't budge it. But he's still, the insurance claim, but he put stress on the entire 80-foot span of it. That's why it came out in the photo as it did. Repair the wall, repair my table and chairs. My brother fabricated those chairs and it was a gift to me. Those are my personal property. He [inaudible] repair. He states that he wanted to repair it, he asked me for a list of materials. It happened on a Friday 13th. Over the weekend Bernadette's dad passed away so I gave him that week out of respect. I didn't bother them, I didn't go approach them. I gave them that week out of respect, because her dad just passed away. I didn't want to go put any stress on them. So I fell back. Out of my kind heart I held back.

The following Saturday I went by to ask him, I had my list. I had it in my back pocket. She asked me. Give us the list of the material and we'll pay you for the material

and you fix it. When I went there to negotiate with them, they stated another version. They said, we have a friend that's going to fix it. Okay. So I left.

CHAIR STEFANICS: Okay, so we're not going to get involved in the fixing of the wall. We're here to hear your concerns about the property. So I heard about the wall and the space, so I got it.

MR. ROMERO: But like Mr. Merit said that he had never had an accident in 23 years, well that was an accident. That didn't just happen out of the clear blue, it was an accident, on my property.

COMMISSIONER VIGIL: Madam Chair.

CHAIR STEFANICS: Yes. We have three more people to speak.

COMMISSIONER VIGIL: I have a question of this particular –

CHAIR STEFANICS: Go ahead.

COMMISSIONER VIGIL: Mr. Romero.

CHAIR STEFANICS: She'd like to ask you a question.

COMMISSIONER VIGIL: I'm a very process oriented person and that's an issue that's being elevated for me. We heard testimony on part of the record that the Agua Fria Village Association did have a response to this case. Did any of your who are opposed to this attend that April meeting? Were you at the Agua Fria Village Association when apparently, to some extent, this case was discussed?

MR. ROMERO: At the Nancy Rodriguez?

COMMISSIONER VIGIL: Yes.

MR. ROMERO: I think at that time we were attending a funeral, so I really don't know. We didn't go to the meetings every month.

COMMISSIONER VIGIL: Yes, but that particular one, when there's been testimony that this case was discussed. You don't recall being there? Is that what you're saying?

MR. ROMERO: No, ma'am.

COMMISSIONER VIGIL: Okay. And your wife wasn't there also?

MS. ROMERO: No. We were at a family meeting, a family funeral. My sister-in-law's mother passed away.

COMMISSIONER VIGIL: Thank you. I just needed –

MS. ROMERO: So we didn't – we had planned to make the meeting but then we helped prepare food and all the other things.

COMMISSIONER VIGIL: Most definitely understandably. Thank you very much for answering my question. Thank you, Madam Chair. And those who testify, I'd like to know how many attended any meeting at all if in fact this project was discussed with the Village Association.

CHAIR STEFANICS: I'll ask that in a minute. Yes, ma'am. Your name?

[Previously sworn, Raquel Romero testified as follows:]

RAQUEL ROMERO: My name is Raquel Romero and I live at 1330 Camino Sierra Vista. Georgia and Henry are my parents. So my interest is obviously my inheritance to their property. I'd just like to point out that I don't feel that my parents are trying to shut down the Anayas' business and the last person who spoke on their behalf, Patrick Romero states as the wall says, equal justice under law, it's unfortunate that he can't practice the law and it's unfortunate also that Mr. Larrañaga, that his business is – what's the word that they used? It wasn't the conflict. I'm sorry. I don't remember the

word that he used. Something that his business is complaint-driven. And it's unfortunate that they have to make a complaint to make people comply with the law, and I just think if you're going to run a business, do it right. So for 23 years, if you're going to practice a business and you're not going to follow the law, what everybody else has to do then maybe you shouldn't be running a business. That's just my point. Thank you.

CHAIR STEFANICS: Thank you very much. We have two more speakers please.

[Previously sworn, Diane Roybal testified as follows:]

DIANE ROYBAL: Diane and Robert Roybal, 7124 Hartford Hills, Rio Rancho, New Mexico. We're the owners right across from the Anayas' property. There's a wooden fence that divides the property and I have a few problems in regard to the attorneys' comments. Number one, it's true that they've been operating illegally for 23 years. Back in 1989 the only reason we opposed it was we were raising two young boys and they started parking cars right up against our wind fence, [inaudible] window, and they were right up against my fence. And to me, that was a very – it was a safety issue, because it doesn't take the boys very long before they jump the fence, get curious and get in the cars.

You can do everything you can to try and keep them in your yard but it's bound to happen and it did happen. I'm not going to go into that, because we're not here for that right now, but it is also true that right now we are not living on that property but we are the property owners and we have rights. And it is true that we have about three families living there that have all complained about the noise from the towing trucks, the traffic, unfortunately, and again, we're not trying to keep them for being able to operate a business. We just want everyone to come to a mutual understanding, show respect to each other and comply.

We could have come back and we could have said, okay, you guys. You told them you were running an illegal business. You have 45 days to clear it up. They didn't do it so what are you going to do about it? We could have come back here. We didn't do that. Everybody deserves the right to be able to work and provide for their family. Our problem now here is that they're not doing that. They're not doing that and they have made it apparent – what they do, the work that they do is important. It's important to the community, but they're doing it in the wrong place. They don't have the kind of yard that they need, the space. And just like the fire chief said, there's a lot of things that we could be taking into consideration and all we want is for everyone to come to the table and find a place to have an understanding.

We did leave our property but for the first couple of years we've had family living there. It wasn't being rented out, and that's a matter of choice. We are the property owners and we need to be heard and that's why we're here. So thank you.

CHAIR STEFANICS: Thank you. Do you have anything, sir?

[Previously sworn, Robert Romero testified as follows:]

ROBERT ROMERO: I also want to say something. I'm not really opposing about this but like she said, he might have to change the zoning area for him to have that business there. And I've known the C de Vacas because I was born and raised in Agua Fria and I've known them for many years and the board asked me when we were last time why we didn't turn him in. Well, the C de Vacas are good people. They're humble people and I feel that they should say something if they really like it or not. The

one of the [inaudible] said he doesn't want the roundabout. That's what we're concerned. We didn't want the roundabout to go through our property. Now he's talking about a hammerhead, and how could he afford a roundabout? How's he going to afford a hammerhead? So I couldn't see why that was brought up at the last meeting.

So that's what we were concerned, that that roundabout was going to run through our property, which is my sister's property, my sister wrote a letter, Elaine Cervantes, she's my sister, and she wrote a letter to the Board saying she's opposed to this but she don't know what it's about. But we know some others. When we first moved there, it was way before I got married, we – the C de Vacas, we were working at \$3 an hour and I know the Anayas started low, with only three trucks And we felt for him. We couldn't turn him in. We were good neighbors and we wanted to keep it that way. But then this company came about and it's turned into more turmoil and everything because we're good neighbors and we wanted to keep it that way but it's up to you guys to see what is right, if it's right for him to have these trucks parking there or not, or if they're too big.

I guess he went too big on his business. He used to stay with the smaller trucks and now that he has the bigger trucks, or he has ten trucks. I don't understand where he's going to park them. So I thank you, Commissioners, that you guys are going to do your job and we have the right to speak out, and I thank them for what they have done all these years. They have done a good job. And that's all I've got to say.

CHAIR STEFANICS: Thank you so much for coming.

MS. ROMERO: One short comment. You mentioned a meeting of the association?

CHAIR STEFANICS: There were 36 Agua Fria Association meetings and I think Commissioner Vigil wants to know how many of you attended any of those meetings to talk about –

COMMISSIONER VIGIL: No, no. That wasn't the question. There was a meeting when this project was discussed specifically, in April or something. I just wanted to know whether there was equal representation. If there were people for and against?

MS. ROMERO: I don't think there really was, because we were never notified of that meeting. And we have been notified – we're keeping up as much as possible. And the last meeting you had, we were here by chance.

CHAIR STEFANICS: Okay.

COMMISSIONER VIGIL: Thank you very much.

CHAIR STEFANICS: Commissioner, there was a woman in the back who attended a meeting. Do you want to hear from her or not?

COMMISSIONER VIGIL: I'm happy to, please. If you'd come forward.

CHAIR STEFANICS: I'm going to end – come on up. I'm going to end the public hearing. I'm going to end the public hearing and now it's the Commission's turn and the Commissioner has asked the question and she believes, we believe this person can answer it. Then if the Commissioners want to ask questions of the staff or the applicants they will. Okay? I want to thank everybody in the audience for coming. Your comments are taken very seriously. So the public hearing is closed. We are now at the Commissioners' point for asking questions.

DONNA ROYBAL: I did not attend –I'm Donna Roybal, but I did not attend the meeting. They did not tell people that they were having a meeting for that day. What they did is they called a community meeting, and it's usually a water association

meeting, but they don't tell people ahead of time that they're going to have a community meeting at the center. They're going to have a meeting at the Nancy Rodriguez Center and they tell people ahead of time what the meeting is about. Usually, it's like a water board meeting, but they don't give us notification ahead of time when they're going to have meetings about such as what they discussed about their metal wall or anything like that. Okay?

CHAIR STEFANICS: Thank you very much for coming. Okay. So, Commissioners, questions, comments? Commissioner Vigil.

COMMISSIONER VIGIL: I have a – I represent this district. The people from Agua Fria are long-standing, traditional historic villagers. There's a lot about Agua Fria Village that needs to be protected including property rights and personal business rights and everything that was brought up in the issue tonight. I did put this vote with Agua Fria Village with regard to their planning process, and it was a very long and arduous planning process. I am concerned about whether or not this complies with that ordinance and plan that we adopted after that and I have a concern also about what our fire department is saying.

I have a recommendation though. And I think and hope that you all will agree to move forward on this because it requires an agreement. This involves neighbors. This involves family. There's lots and lots of history with family neighbors. I'm going to recommend that the parties go into facilitation on this issue. I don't think we're ready to make a decision tonight because frankly, there's enough evidence here where the Commission could decide in one favor and possibly in the other. I'm not sure, because that evidence would have to be fully weighed. But what would be far more likely a successful outcome would be if these neighbors, who want to be able to work things out, and I hope that. And those neighbors who want to continue in their businesses went through a facilitation session and I think maybe the way to follow up with that is to visit with staff.

We've actually had several cases that have gone to facilitation and I will tell you, when it comes to people in Agua Fria who are related and who have common interests, you have a better chance for success than many of the cases that we've sent to facilitation because you have a common bond. So my recommendation, Madam Chair, members of the Commission – and I heard that this case was discussed at the Agua Fria Village Association, and I do need to disclose that I heard from a proponent and an opponent, from one of each, and did not respond to them because it would be ex parte communication.

So irregardless of any process you go to, the most important outcome is that you all sit down and talk around the table with a facilitator, bring out your issues, and perhaps there's ways it can be resolved. Perhaps there's even a way the issue of the fire department's concerns can be resolved. But this case is not ready in my mind to be approved or disapproved.

I would move that we table this case so that facilitation can actually occur between now and our next land use meeting. That would be fine. I'd be happy to see what the applicant has got to say, to see what this issue is, but I'm really sensing a very strong need for that to occur. And I wouldn't be surprised if you came out with a good resolution of this, at least I hope that would be the outcome would be. And that would be my recommendation, Madam Chair.

COMMISSIONER HOLIAN: Second.

CHAIR STEFANICS: Okay, there's a motion and second. Now, Commissioner Anaya, I'll take your comments, but a tabling motions –

COMMISSIONER ANAYA: That's why I was going to do a comment before the second was made. And all I wanted to ask you –

CHAIR STEFANICS: [inaudible] a tabling motion.

COMMISSIONER ANAYA: I just wanted to ask you, Madam Chair, Commissioner Vigil, I absolutely concur that there is some work that needs to be done that I believe they can do. I'm not quite sure of the logistics of facilitation because this would be the first time I would experience it on the bench here, so I'd need more clarification on what that means from staff. But what I would ask you and Commissioner Holian to consider is before we move on the tabling motion I do have some comments that might help the discussion and specific questions to staff that I would like to get answered that might help that dialogue along. But I think it is worthy to give an opportunity to see if there can be something more set up but I do tonight have some things I wanted to ask.

COMMISSIONER VIGIL: I'm perfectly willing to suspend the rules on a tabling motion and allowing all Commissioners to bring forth any issue that they think might help resolve or clarify based on the testimony.

CHAIR STEFANICS: Okay, and before I do that, Commissioner Vigil, I'm going to ask you to think about how you're going to phrase your motion because you're really doing a tabling motion with a condition and you might want a different motion. But think about that a minute. And the other issue is who would be facilitating? Because we have not in the past paid for professional facilitators here. So, Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Madam Chair. Thank you, Commissioner Vigil and Commissioner Holian. I would just re-emphasize what I think that Commissioner Vigil's comments are in line with my thought process. But I did want to ask some specific question relative to the case, and then provide some comments on the record as one Commissioner from my perspective.

Just a comment before I ask some questions. The comment I would make is, as one individual Commissioner sitting on this bench, I would find it really difficult being quite candid with everybody in the room, to look at a business that's been in existence for 23 years, whether it's a donut shop, [inaudible] Anything. Construction business. Any kind of business. Understanding a lot of the sequence of events that have happened, I would have a really hard time going from that business existing to making a decision that would essentially cease the business period. I mean I'm just saying this honestly to all of you in this room and this case, that would go for anybody that would come before us. I just – I would just have a concern with that. That's why I say what Commissioner Vigil has suggested is something that I'm hopeful – like I said I don't know how the logistics would work but maybe that's even a staff mediated discussion that would help the discussion along. I don't know.

But let me just ask these questions. Mr. Bennett, I wanted to ask you a question, and if there needs to be clarification from the Anayas or anyone else I'm willing to hear that. But you say in your presentation that the towing company was purchased – the towing company started in 1981?

MR. BENNETT: No.

COMMISSIONER ANAYA: Hold on. In 1981 the Padillas – okay? – had a towing company from 1981 until it was purchased in 1989. Is that correct?

MR. BENNETT: My understanding is that as of 1981 the Padillas already had a towing company in existence and ran that towing company – I don't know how long before 1981, but ran it continuously through to 1989 when they transferred that very business that had been grandfathered in by the Agua Fria Village Association.

COMMISSIONER ANAYA: Right. But just be brief in your responses because I know there's other people that are going to ask questions. From 1981 to 1989 a towing company was operated by the Padillas in the Village of Agua Fria.

MR. BENNETT: Yes, sir. That's my –

COMMISSIONER ANAYA: Okay. So, okay. And then in 1981, 89 the towing company was purchased by the Anayas and has been operated in the same location from 1989 from to now.

MR. BENNETT: Yes, sir.

COMMISSIONER ANAYA: Okay. So, and this is for you, Mr. Larrañaga, that I think they wanted you doing some review of historical documents or issues pertaining to code enforcement and I asked it earlier but I'm going to ask it again for clarification. Are you aware of any other complaints, land use oriented or otherwise, okay, that came to the County prior to February of this last year?

MR. LARRAÑAGA: Madam Chair, Commissioner Anaya –

COMMISSIONER ANAYA: This year. I'm sorry. This current year we're in.

MR. LARRAÑAGA: On this particular site, no.

COMMISSIONER ANAYA: Okay. So towing companies, and I know my colleague to my left here is the expert on the PRC, but towing companies are regulated by the Public Regulation Commission. Correct?

MR. LARRAÑAGA: Madam Chair, Commissioner Anaya, I don't know.

COMMISSIONER ANAYA: Madam Chair, Commissioner Mayfield, towing companies are regulated by the PRC? Correct.

CHAIR STEFANICS: Yes. There's documents in our book from the PRC records.

COMMISSIONER ANAYA: So just a couple more things. Just a couple more things and a couple comments. Relative to the land use case, and I think this is helpful information that we should see more of in our packet. I went back and read the packet again. I read the letter that came from the County again, from the Land Use Administrator, and what was to cease and desist at the time which – I'm not quite sure – I see that they wanted the commercial activity and what I heard in the testimony was the cars were removed and it just puzzles me that from that letter till now there was nothing else that the County provided or did to stop any operation. I mean, it seems like there would have been more information. I'm just asking you guys to go back and look at that actual document and the discussions and what was the backup information that we could have.

Regardless of what comes out of the outcome of the facilitation, mediation, whatever the heck we call it, I would like to see more of the detail behind that particular decision in 1980 or what was the date?

MR. LARRAÑAGA: Madam Chair, Commissioner Anaya, that was 1989 and I did try to find minutes, try to find something and couldn't find anything. This letter – there is a file.

COMMISSIONER ANAYA: Okay. I think those are all the comments I have for now. The comment – I made a comment at the beginning that said that I couldn't see myself from operating in a place for 23 years and then ceasing and desisting that business. By that same token, and I think this is where the comments of Commissioner Vigil have a lot of merit and a lot of standing with me is that I don't think that having a business is a carte blanche, the opportunity to do whatever the heck you want. I mean I think there are parameters. And I'm not implying that they've done whatever the heck they wanted but I think it's obvious that their business has grown over time and they have had to try and accommodate that growth over time, so that when you look at solutions, that I think we need to look at that closely. We need to analyze the space, we need to analyze the business itself, and trying to figure out what makes the most sense. But there are limitations associated with what you can do in a confined space. And I think we would be remiss if we didn't consider that there should be some limitations associated with the business.

So those are my thoughts. I look forward to seeing what comes of the discussions between the parties and I'm hopeful, as Commissioner Vigil stated that you all will be able to come up with some agreement that is mutual and that as neighbors and as family you could work through. Thank you, Madam Chair.

CHAIR STEFANICS: Thank you. Commissioner Mayfield.

COMMISSIONER MAYFIELD: Thank you, Madam Chair, and thank you applicants and also the individuals who are opposed to this. I concur also; I think Commissioner Vigil brought up a great suggestion. This is one case that would definitely warrant some sort of mediation as far as the opposing parties, recognizing this area and all areas in Santa Fe County but in particular this area and some of the documents that were forwarded to me. It's mixed use. There's private residences in this area. There are numerous businesses in this area, but I do have a couple questions and I'm just going to shoot them out. I don't know who they're appropriate for, if they're appropriate for the applicant or for staff. But I am going to ask really quick that we go to Exhibit 3, the first Exhibit 3 from the applicant's packet. And there's a map, an aerial map that shows a lot of areas. Just so I have in my clarification. Ben Drive. Where on this map, County Road 62, and what is this adjacent road here to my right, to my left, straight up right here? What road is right in front of the circled 5?

MR. BENNETT: Circle #5?

COMMISSIONER MAYFIELD: Yes. What road is that?

MR. BENNETT: The road to the right of that –

COMMISSIONER MAYFIELD: The main paved road.

MR. BENNETT: The main paved road is Agua Fria.

COMMISSIONER MAYFIELD: That is Agua Fria. So then County Road 62 is down here in front of arguably 2 and – in between 2 and 1. Okay, so the access to this property then is accessing Ben Lane right across arguably the street from 5, off of Agua Fria Road?

MR. BENNETT: No, it's just up further from 5 –

COMMISSIONER MAYFIELD: I'm sorry. Right in front of that. In between that red and white structure.

MR. BENNETT: That's correct.

COMMISSIONER MAYFIELD: And it goes to the right in between circle 7 and where it actually says Ben Lane?

MR. BENNETT: Yes, that's correct.

COMMISSIONER MAYFIELD: Okay and then we proceed down that road and now right in that middle area I'm seeing a bunch of vehicles.

MR. BENNETT: There are some vehicles --

COMMISSIONER MAYFIELD: What are those? Are those the towing vehicles? Are those the vehicles that we're talking about now?

MR. BENNETT: Those are personal vehicles. I think they belong to a neighbor.

COMMISSIONER MAYFIELD: Well, help me out, sir. This whole area right in between where those vehicles are at that has all the tire marks, that's arguably vacant property, who owns that property?

MR. BENNETT: Who owns this property?

MR. ANAYA: That belonged to Stella Sandoval. That's my wife's aunt.

COMMISSIONER MAYFIELD: Okay. So there's vehicles parked on Ms. Sandoval's lot?

MR. ANAYA: She's given us permission to park our trucks there. Those are our tow trucks.

COMMISSIONER MAYFIELD: Okay. But now your tow trucks are move to area 11.

MR. ANAYA: That's correct.

COMMISSIONER MAYFIELD: So is there a fence or is that still an open piece of property?

MR. ANAYA: It's been developed now. It's fenced off.

COMMISSIONER MAYFIELD: Okay. So now let's go from 11 over to 6. I see there's a little entrance in that area that comes over to Entrada Fabian.

MR. ANAYA: Yes.

COMMISSIONER MAYFIELD: So is that a turnabout or is that some way that you can get your vehicles out?

MR. ANAYA: That's actually -- between the property line there is an opening that we had created to cross over to visit the sister-in-law.

COMMISSIONER MAYFIELD: But that's not for your business vehicle access?

MR. ANAYA: No, sir.

COMMISSIONER MAYFIELD: Okay. So you kind of just turn around your vehicles on area 11 and then run them back out Ben Lane.

MR. ANAYA: That's correct.

COMMISSIONER MAYFIELD: Okay. Thanks. That really helps me out a lot. So now a question for again the applicants, but that fence that was knocked down on the Romeros' property, I guess to my far right. I'm assuming that's that white wall that was right there in between the green.

MR. BENNETT: Yes, that is --you're looking at still at that same --

COMMISSIONER MAYFIELD: I'm looking at circle 11 on the same page.

MR. BENNETT: Yes, it's just at the top edge of the circle, on the right side of the circle. See that white line that comes down to the right going from top to bottom downward to the right.

COMMISSIONER MAYFIELD: So the wall – I'm trying to question the wall.

MR. BENNETT: It's that white line.

COMMISSIONER MAYFIELD: The wall was built on the property line? Do we know?

MR. BENNETT: Yes.

MS. ROMERO: Actually, when we first put up a fence to separate our property, it's six inches in from the original survey, and then when we built the wall that's another six inches. So we're 12 inches in from what is actually our land boundary. But he has totally destroyed the fence and already knocked down the wall.

COMMISSIONER MAYFIELD: And that wasn't my question. I know typically, everybody does it. I may be guilty of it but I'll say this. But on an adjoining property by law you should arguably have that five-foot buffer on the size. So that means if you guys go to mediation that could arguably be a topic of discussion of at least bringing those vehicles five feet from that wall. Yes, sir.

MR. ANAYA: After the wall incident with the accident itself what we did is we brought the footings in about eight feet and we put railroad ties. So when the back of the trucks back up, when the wheel hits the railroad tie that gives whatever the distance from the wall, so that this incident will not occur again. We do have railroad ties that have been stamped into the ground to give us that boundary so that we back up to the railroad ties, that's the distance that we're given for the wall.

MS. ROMERO: Excuse me, that is incorrect.

CHAIR STEFANICS: If the Commissioner wants to ask you something he will. So thank you very much.

COMMISSIONER MAYFIELD: Just so I can understand this, depending on where this case goes, but thank you. So honestly, I think you guys have clarified a lot of this for me except – I'm going to ask this again. That center area that I believe you said Ms. Sandoval owns that property, there are no vehicles that you tow parked on that property, right?

MR. ANAYA: [inaudible]

COMMISSIONER MAYFIELD: Thank you, Mr. Anaya. And I guess my question is, based on some of my past experience in my past capacity, I was looking through your warrant application. The warrants do say, from the PRC, that this is for Ben Lane. I know the provisions within the Public Regulations Commission as far as having to keep an impound yard that people have access to, and I saw that in one of your packets in the back. I think it was 32 or something. Was that your impound lot?

MR. ANAYA: No, sir.

COMMISSIONER MAYFIELD: Who's impound lot is that one? It says Anaya's Towing on it. It's your guys' packet. And I may be wrong on the number; there's a lot of subtitles on here.

MR. BENNETT: Are you talking – yes, subtab 32 –

COMMISSIONER MAYFIELD: On subtab 32 it says Anaya's Roadrunner Wrecker Service. And it says it says it's storage lot 2876 Industrial Road.

MR. BENNETT: May I approach?

COMMISSIONER MAYFIELD: Sure. This one right here.

MR. BENNETT: That's Bob's Towing.

COMMISSIONER MAYFIELD: So that's not – it says Anaya's Roadrunner on the right side.

MR. BENNETT: Where is it?

COMMISSIONER MAYFIELD: So let me ask this question then. That shows an impound lot. And if you guys look at the title on this page it says Anaya's Roadrunner Wrecker, Bob's Towing, storage lot 2876 Industrial Road.

MR. ANAYA: That is correct. That's where we have our towing facility, the storage yard.

COMMISSIONER MAYFIELD: Are you sharing this facility with another towing company.

MR. ANAYA: No, we own both companies.

COMMISSIONER MAYFIELD: Okay. You own – okay, that's great. And then I'm going to go back to some minutes that were given to me in staff's packet, and I'm going to ask this question. And I am on page – let's see what page I'm on. I'm on staff's summary page and it is the second page, and it says the applicant states – so this is staff saying what the applicant stated. Oh, no. I apologize. [inaudible] I am on page 3 and the exhibit number is NBI-6. Okay, here we are. So I'm going through the second paragraph. I'm not going to read the whole paragraph but I am going to say, The Anayas utilize an impound lot away from their property to provide temporary storage for all vehicles that have been towed. However, the impound lot is vulnerable to weekly vandalism and is not an appropriate site to park the Anaya's tow vehicles.

I'm going to say again, I'm not with the Commission but it causes me concern because you also have to have a secured facility for all impounded cars to be at. And that's why I would believe that your vehicles could also be hopefully safe at an impound lot that you have that is away from your main residence. So I'm just going to throw that out there.

And I guess my other question is in hearing the testimony that was provided on both sides, is that I've been told there are no impounded vehicles at the lot on Ben Lane but I've also been told or heard that there are occasionally impounded vehicles on Ben Lane.

MR. ANAYA: No, sir, those are my race vehicles, recreational vehicles.

COMMISSIONER MAYFIELD: I'm sorry, sir.

MR. ANAYA: They're my racing vehicles. They're recreational vehicles that we use such as my camper, my boat, my racing truck that we do in the mud. You know, various vehicles that we take out and play around when we have free time.

COMMISSIONER MAYFIELD: Again, just for the record, there are no impounded vehicles or no vehicles that you're picking up on a DWI seizure or anything that would be stored at Ben Lane.

MR. ANAYA: No, sir. All the vehicles that are picked up by the seizure contract go to the police or State Police and are held in their facilities. All we utilize that is pick up and transport are those vehicles to the law enforcement wherever they want to

seize them at. Our facility on Industrial Road is not adequate enough to park all my tow trucks in there. That's the reason why we don't put them there. Are entry ways that the property has is too small. It's big enough for a small truck to get in there. And basically, that's where we store accidents and stuff that we pick up for the insurance people.

COMMISSIONER MAYFIELD: So say you have Class D wrecker license.

MR. ANAYA: Yes, sir, we do.

COMMISSIONER MAYFIELD: So if you towed a fire truck – you could tow a fire truck with a Class D, where would you store that vehicle at?

MR. ANAYA: We don't store them. Vehicles of that magnitude and size get delivered to the fire department or the – where they do the repairs at Station 5 on Siler Road, or if they're badly wrecked or whatever then we would be delivering them to Albuquerque to a facility that does work on that type of equipment. But here in Santa Fe we don't store anything of that magnitude in our yard. It's not big enough.

COMMISSIONER MAYFIELD: Okay. Thank you. And then this question will be for staff and it will just be a follow-up. Mr. Larrañaga, so in the code as it exists today – and I do appreciate what the Anayas just told me, if they are keeping towed vehicles off at a secured site, but I believe that the question here is keeping their primary business vehicles at this site. I guess my thoughts though on this is that they came in for the application from the County, they came in for a business license, but arguably they have almost like a split-use business license, because of what I heard, they're doing the bookkeeping, they're keeping their primary access vehicles for towing at this site, but everything else that they're impounding and taking to a different location.

So in our current code, if somebody's running a business or doing a business and understanding that people sometimes work 24 hours a day, what are the rules as far as if you have to have a vehicle to get to point A for work that you cannot keep that vehicle on your private residence? Because I don't honestly view it almost as a commercial business being run out of the Anayas on Ben Lane if they have that adjacent lot.

MR. LARRAÑAGA: Madam Chair, Commissioner Mayfield, the Agua Fria Ordinance is the one that governs this and they have a home occupation and they have a home business. When the applicants first came in we discussed the possibilities of doing a home occupation or home business where they could have one tow vehicle on the property and still have their office and everything else at their house, which we've done in the past and allowed a tow vehicle just as long as it's screened and the signage and everything else is not visible from the neighbors. When I looked at the plat, the way the lot is configured, it's one big lot. So they still wanted to store their tow vehicles, the tow trucks on the back – everybody's calling it a lot but it's one lot. It's just shaped oddly. It was probably – I didn't process the family transfer but that was probably done so they could meet the density requirements to allow the family transfer or land division back then.

So it's one complete lot. So they couldn't qualify, showing it as a legal lot, they couldn't qualify as a home occupation by having on one part of the property, having seven, six, whatever tow trucks and then one tow truck parked on the part of the lot where the house is on where they could run their books and so on.

And the variance that's being requested is a variance of the Agua Fria Ordinance. The use list, looking at the use list and analyzing that and discussing that with other staff

members and my supervisor we've – it didn't qualify under that use list. So to qualify under that use list as a special use, which a special use would need a master plan, eventually a master plan and development plan to rezone that property as a commercial use for that particular type of use, their best way was to ask for a variance. It's not a variance of the Land Development Code, it's a variance of the Agua Fria Ordinance to allow it to be recognized as a special use under the category that's stated in your packet so that they could still come forward for a master plan, preliminary and final development plan.

As I mentioned in my staff report we haven't analyzed it but a conceptual review it is a small lot, that many tow trucks, that's where they have to meet Fire Marshal requirements, they have to meet other requirements to access onto Agua Fria at the master plan process.

COMMISSIONER MAYFIELD: Okay. Thanks. Madam Chair, that's all I have.

CHAIR STEFANICS: Thank you. Commissioner Holian, and then we'll go back to your final – no issues? Okay. Commissioner Vigil.

COMMISSIONER VIGIL: Was the variance requested for the fire denial?

MR. LARRAÑAGA: Madam Chair, Commissioner Vigil, no. The variance is strictly on the fact that they do not qualify as a special use under that category for the type of business that they're operating and the use that they are using the property for. The Fire was brought into review for the use that they're using right now and that's why they reviewed it.

COMMISSIONER VIGIL: And under the current recommendation they really should consider, if all circumstances stay the same I'm hoping they can work something out with the fire department but if all circumstances stay the same wouldn't they need to request to variance once the fire department is denying if the regs are not met from their review of the case?

MR. LARRAÑAGA: Madam Chair, Commissioner Vigil, at the time of master plan they might not meet the requirements stated by Fire, as a commercial development. I believe, and Buster can answer this, but right now he's looking at it as a commercial/residential property that's running this type of business. As a master plan it would turn into a commercial property for this type of use.

COMMISSIONER VIGIL: Okay. I think that issue might need to be really insightfully discussed in the motion I'm going to make on the facilitation. With that, Madam Chair, if I may, I move that we temporarily table pending staff arranging for a mediation with a professional mediator between the applicant and persons opposing the application. The mediation should be completed prior to next month's land use agenda, at which time staff can report on the results of the mediation. If in fact more time is required for mediation that report can be given at the next land use. That is my motion.

COMMISSIONER HOLIAN: And I'll second.

CHAIR STEFANICS: Okay. Thank you. We are on the vote. It's to temporarily table with a condition, which is allowed, and the intent is to bring this back in a month. Mr. Bennett, you had a short comment or question?

MR. BENNETT: I have a question. Before a decision is made to mediate this I have some questions about such a mediation. Number one, is there going to be input into who is the mediator? Number two, is Mr. Larrañaga going to be involved with the

mediation? And number 3, who are the parties to the mediation? I know the Anayas are; they're the applicants, but is it just the Romeros? What are the limitations?

I know the likelihood of success will rise with the fewer amount of people that are involved so I'd like some clarification on that.

CHAIR STEFANICS: Commissioner Vigil, would you like to address that?

COMMISSIONER VIGIL: What I have anticipated is that the applicants and the opponents to the application be initially the principal parties of that. They will need to meet with staff. I'm not sure if they're fully familiar with what mediation is or is not. But I think there will have to be an orientation to that. I think they can talk about a consensus with the mediator. It is anticipated that a mediator who has some background in land use would be significantly helpful in this process, but when you mediate you actually are able to identify your own process, and I think the mediator can start by identifying between these two parties what the process will be and who will be involved.

And I think they become a part of that decision process. But usually it's the applicant – so that would be the Anayas, and the Romeros. Okay?

CHAIR STEFANICS: Let me add, the County has the ability to utilize State Risk Management Alternative Dispute Resolution Bureau, and they have a list of free mediators and paid mediators that can be drawn upon and have no relationship with the County or probably with you, Mr. Bennett. So there are some venues to selecting somebody totally objective for both parties.

MR. BENNETT: And who would bear the cost of a paid mediator?

COMMISSIONER VIGIL: I think when the County orders it the County is responsible.

MR. BENNETT: Thank you.

CHAIR STEFANICS: So I think we're ready for a vote.

COMMISSIONER ANAYA: Madam Chair, just one comment if I could.

CHAIR STEFANICS: Is it a question or a comment?

COMMISSIONER ANAYA: Just a comment. What's being proposed and being voted on is an opportunity to find some middle ground – bottom line. And all of you should take it as that. Thank you.

CHAIR STEFANICS: Thank you. All those in favor of the motion to temporarily table with the condition for mediation between both parties prior to the next land use case, which is a month from now please say aye.

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

CHAIR STEFANICS: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, just a note that this is still an adjudicated case and we're all bound by ex parte communication. Just so everybody is still aware of that.

CHAIR STEFANICS: That's correct.

MR. BENNETT: One other thing.

CHAIR STEFANICS: Mr. Bennett.

MR. BENNETT: With respect to that schedule, it's very difficult for me. I have out of state litigation that I'm involved with for the next month fairly heavily, and I just don't know if it's logistically possible for me to do it in a month.

COMMISSIONER VIGIL: That's a discussion you need to have with your client, I think. And the motion itself does say if the parties are not ready to come forth at the next land use they have the option of reporting that and extending it, but I don't know that we can make a decision about your availability. Thank you.

CHAIR STEFANICS: Thank you. So Commissioners, I would ask that you keep the section from the BCC book, and the entire binder that was given to you tonight, so that staff do not waste another tree. So we would have all of our materials if you keep the section from the staff BCC book and from the – and the entire book that was presented to us.

Rosemary Romero Consulting

building better communities through public involvement & decision-making, strategic planning, and conflict resolution

1350 San Juan Drive, Santa Fe NM 87505
505.982.9805 office 505.690.3016 cell romero.rosemary@gmail.com

October 11, 2012

Mediator Report to the Santa Fe Board of County Commissioners

Background: At the BCC meeting of August 14, 2012 the Commission heard a request for a variance by applicants Robert and Bernadette Anaya by their agent the Bennett Firm. The applicants, Robert and Bernadette Anaya requested a variance of Ordinance No. 2007-2 to allow a Towing Business as a Special Use under the Zoning Use Table on 0.70 acres. The Commission decided that in lieu of making a decision that evening, the neighbors on the immediate property (Ben Lane) and surrounding neighbors that were directly impacted by the Anaya's business meet to resolve issues through a mediation process. A mediator was sought with land use experience and a contract was developed to see if mediation was possible to resolve issues that had been brought to the commission's attention through the public hearing process.

Contact with parties: I was provided with a list of contact information for individuals and family members on the Ben Lane property as well as adjacent neighbors Henry and Georgia Romero.

After numerous discussions with several of the parties, we settled on Saturday, October 13 as the target date for mediation because of scheduling conflicts including a request from Ms. Kosh to wait until after September 19 due to a PRC hearing on September 19 and my own out of town schedule at the end of September. Other parties indicated that due to work and family commitments, weekdays were difficult and a weekend would be more ideal. Throughout the first three weeks of September I proceeded to talk with the various parties about the mediation process and issues to be discussed.

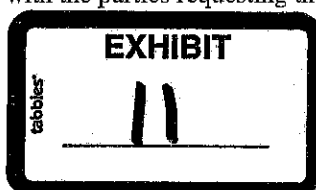
Challenges encountered: The first contact I made was to Bernadette Anaya who informed me that neither she nor her husband would talk to me and all communications would be through their attorney. I contacted the Bennett Law Firm and was informed by Associate Talia Kosh that they would participate in the mediation on behalf of the Anaya business and all communications would be through the Bennett Law Firm and I informed her that Saturday, October 13 would be the target mediation day. Place to be determined that was neutral.

I was able to contact the majority of family members and though a few thought it was helpful to talk about specific issues, many did not want to participate in the process. One family agreed to participate and then after further discussions withdrew from the process. Issues for not participating included:

- Not wanting to get involved
- Potential for retaliation from Mr. Anaya
- Having an attorney involved defeated the purpose of mediation
- Potential for further splintering of family members
- Difficulty bringing related family member's issues into the public realm
- Potential for violence

Recommendation: Mediation is a process that often helps bring parties together to resolve issues in a neutral setting with 3rd party support. In this particular case, several factors indicated that this case would not be appropriate for mediation.

In particular, the inability to talk directly with the parties requesting the variance proved challenging to the process;



getting contact information for family members and getting calls returned from family members who did not want to be involved was difficult and the issues noted above indicate that full participation from all affected parties in a mediated process would not be possible. The lack of participation from opponents to the variance is not an indicator of interest, but of "just not wanting to be involved" in either a mediation process or the county land use process and the potential for making things worse rather than better.

1. Survey Plats and Deed for Tract 4 - Anaya Property:

- A. Plat Book 124, Page 3, recorded in 1982, created Tract 4 a 0.332 acre parcel and a 30 foot access and utility easement (Ben Lane).
- B. Plat Book 250, Page 42, recorded in 1993, adjusted lot lines on Tract 1 & 2. The 30 foot access and utility easement did not change.
- C. Plat Book 688, Page 2, recorded in 2008, adjusted lot lines and increased the acreage of Tract 4 from 0.332 to .0.72 acres. The 30 foot access and utility easement did not change.
- D. Quitclaim Deed document # 1543429, recorded in 2008, transferring ownership of Tract 4 from Stella Sandoval to Bernadette Anaya.

2. Aerials of Site:

- A. September 27, 1989 DOT Aerial. 0.33 acre Anaya property outlined. Tract-1 and Tract-2 used as an impound lot by the Anaya's. On August 28, 1989 the Extraterritorial Zoning Authority denied the Applicants request to allow a small scale commercial vehicle impound yard on this site and ordered the Applicant to discontinue all commercial activity on the site.
- B. October 6, 1996 DOT Aerial. 0.33 acre Anaya property outlined. No visible impound yard or tow trucks on what was Tract-2 and what resembles 3 vehicles on Tract-1. Tract-2 was incorporated into Tract-1 (Plat Bk. 250, Pg. 42).
- C. December 20, 2002 DOT Aerial. 0.33 acre Anaya property outlined. 8 vehicles on Tract-1 and a residence on what was Tract-2.
- D. 2008, Santa Fe County Aerial. 2008 Lot Line Adjustment increased the Anaya property from 0.33 acres to 0.72 acres (Plat Bk. 688, Pg 2). No visible storage of vehicles or Tow Trucks on Anaya property.
- E. 2008, Santa Fe County Aerial. 0.72 acre Anaya property outlined. No visible storage of vehicles or Tow Trucks on Anaya property. 7 Tow Trucks and vehicles stored on Tract-2 and Tract-3.
- F. 2008, Santa Fe County Aerial. 0.72 acre Anaya property outlined. This Aerial illustrates Tracts 1 through 5 and the ownership of each Tract. Tow Trucks and vehicles being stored on Tract-2 owned by Leonard CdeBaca and Tract-3 owned by Anthony CdeBaca.
- G. 2011, Santa Fe County Aerial. 0.72 acre Anaya property outlined. This Aerial illustrates that sometime between 2008 and 2011 the Anaya's started storing vehicles and Tow Trucks on the northern part of their property.

3. Photos of Site:

- A. February 9, 2012 photos taken by a Code Enforcement Officer. 2 photos show Tow Trucks parked on the 30 foot easement known as Ben Lane and Anaya property. 3 photos show storage of Tow Trucks, vehicles, RV's, tractor and overflowing dumpster on the northern portion of the Anaya property.
- B. June 19, 2012 photos supplied by the Applicant show Tow Trucks, trucks and Camper Trailer backed up to the wall on the northern portion of the Anaya property. This wall separates the Anaya property and the Romero property.



4. Response to Businesses as Outlined in Applicants Submittal:

1. Lujan paint & Body Shop – License # 10768, approved via zoning
2. Ranchitos de Baca – No record under this name
3. Rodriguez Brothers Inc. – License # 11015, non-conforming
4. Gemini hair Salon – License # 12290, Home Occupation
5. Flores Construction Inc. - No record under this name
6. Body Shop - No records under this name
7. L & G Auto mechanic – License # 91138
8. Scott's Garage - No record under this name
9. Will & Virginia Padilla's Bingo Buses – License # 91595
10. Anaya's Roadrunner Wrecker – No Business License
11. Santa Fe Concrete Co. - No record under this name
12. August Construction Equipment – License 12118
13. Ramon's gas & Diesel – License # 10965, non-conforming
14. Cassidy's Landscaping – License # 11470, approved via zoning
15. Phillip Padilla's Commercial Lot, un-occupied, approved via zoning
16. Living World Church - No record under this name
17. GK Account/Bookkeeping & Tax Service - No record under this name
18. Danny's Upholstery – License # 11724
19. Goodrich Roofing – License # 92675
20. Casa Builders – License # 11887
21. Puertas de Santa Fe – License # 10949
22. Larranga property – Under City Jurisdiction
23. Albert Montano Sand and Gravel – License # 10839
24. Stone Forest – License # 12701
25. Padilla's Towing, Quality Towing, Tony's Towing - License # 10902
26. A-1 Towing – License # 10077
27. Flores Wrecker Five Star Wrecker Service– License # 10671
28. Chavez Septic – License # 10203
29. Henry/Georgia Romero Home/Easement – Residential Property
30. RL Leeder Company - Under City Jurisdiction
31. Santa Fe Frame and Auto - No record under this name
32. 24/7 Towing – License # 12510

APPROVED by the Extraterritorial Zoning Commission at their meeting on 12/10/81
 By Doug Martinez Chairman
 By Edwin G. ... Secretary

APPROVED on 12-29-82 1982 By M. D. Yucero City Planner
 APPROVED on 12-29-82 1982 By William ... City Engineer

APPROVED on 10/15 1982 by Richard ... County Land Use Administrator
 PERMIT # 52-625

AFFIDAVIT

This subdivision lies within the planning and platting jurisdiction of the City of Santa Fe, New Mexico.

Stella A. Sandoval
Stella A. Sandoval

3

STATE OF NEW MEXICO
COUNTY OF SANTA FE

Subscribed and sworn to before me this 9th day of November 1981.

My Commission Expires April 10-1983 Mary Ann Skinner
Notary Public

DEDICATION

KNOW ALL MEN BY THESE PRESENTS :

That Stella A. Sandoval has made a subdivision of the hereinafter described lands lying and being in section 31 in Township 17 North, Range 9 East in Santa Fe County, New Mexico as shown on this plat thereof ;
That the subdivision is named and shall be known as : Easements are hereby granted as shown :

BEN SUBDIVISION

That the above and foregoing subdivision is made with the free consent and in accordance with the desire of the undersigned thereof ;

Stella A. Sandoval
Stella A. Sandoval

STATE OF NEW MEXICO
COUNTY OF SANTA FE

The foregoing instrument was acknowledge before me this 9th day of November 1981.

My Commission Expires April 10 1983 Mary Ann Skinner
Notary Public

UTILITIES

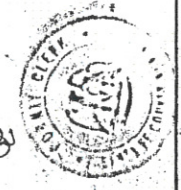
By F.R. Frantz 11/9/81
MOUNTAIN BELL

By J.S. ... 11/9/81
GAS COMPANY OF NEW MEXICO

By Ramon J. ... 11-9-81
PUBLIC SERVICE CO. N.M. ELEC. DEPT.

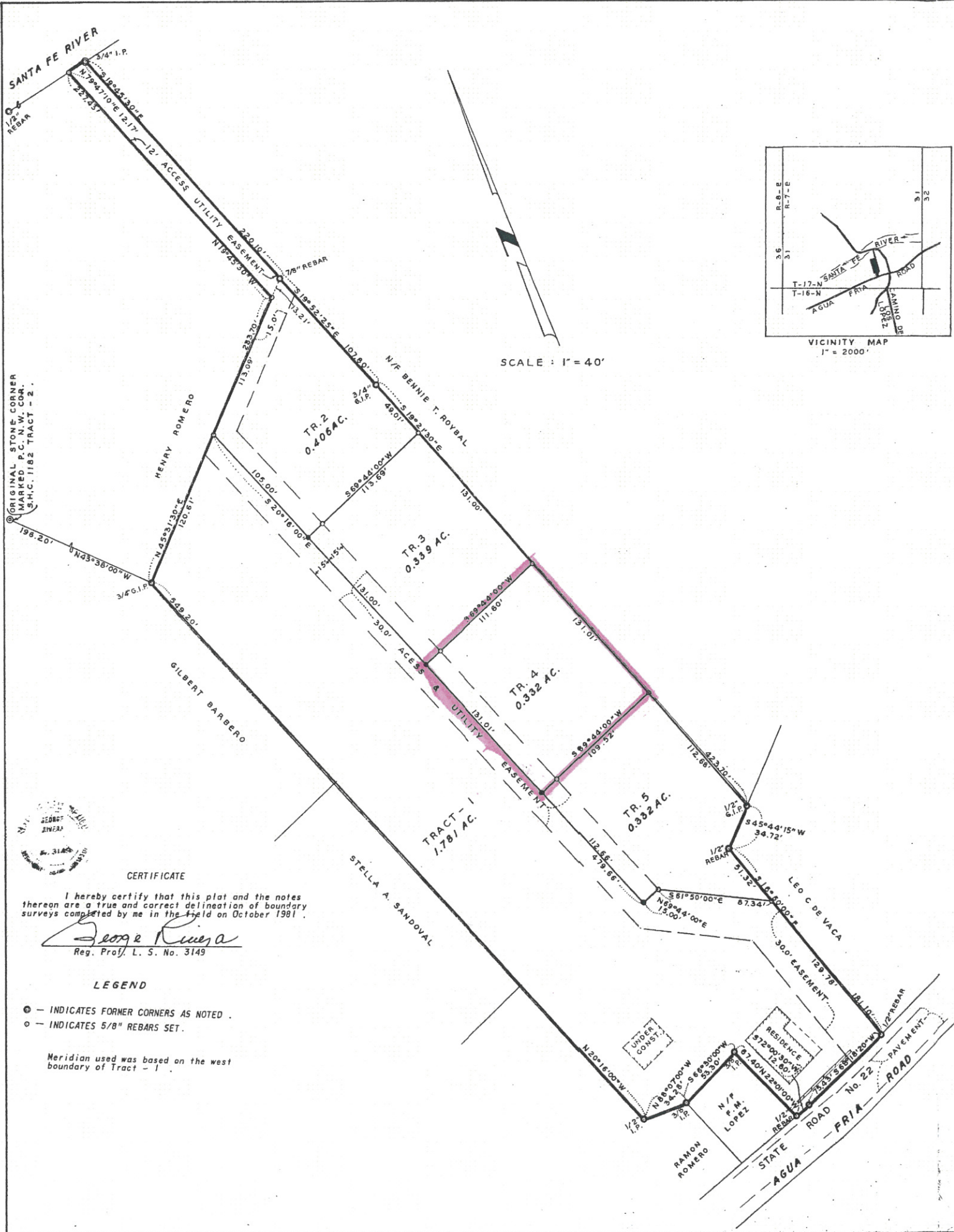
507,981
I hereby certify that this instrument was filed for record on the 11-9-81 day of November 1981, at 11:00 A.M. in the County Clerk's Office, Santa Fe County, New Mexico.

Carol ...
County Clerk, Santa Fe County, N.M.



BEN SUBDIVISION
SECTION 31 T-17-NR-9-E
AGUA FRIA
SANTA FE COUNTY, N.M.

I.A



CERTIFICATE

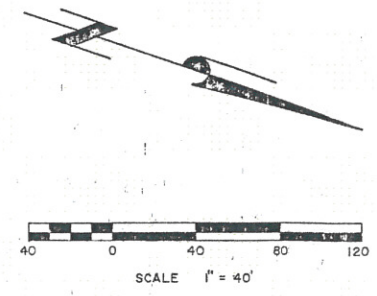
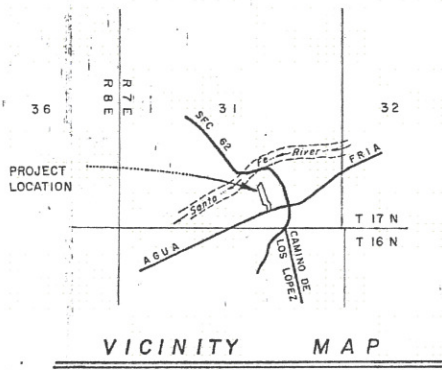
I hereby certify that this plat and the notes thereon are a true and correct delineation of boundary surveys completed by me in the field on October 1981.

George Rivera
Reg. Prof. L. S. No. 3149

LEGEND

- - INDICATES FORMER CORNERS AS NOTED.
- - INDICATES 5/8" REBAR SET.

Meridian used was based on the west boundary of Tract - 1.

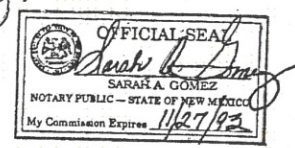


THE UNDERSIGNED OWNERS DO HEREBY CERTIFY THAT THE LOT LINE ADJUSTMENT AS SHOWN IS WITH THEIR FREE CONSENT AND IS IN ACCORDANCE WITH THEIR WISHES AND DESIRES AND FUTHER DEDICATE EASEMENTS AND RIGHT OF WAYS AS SHOWN.

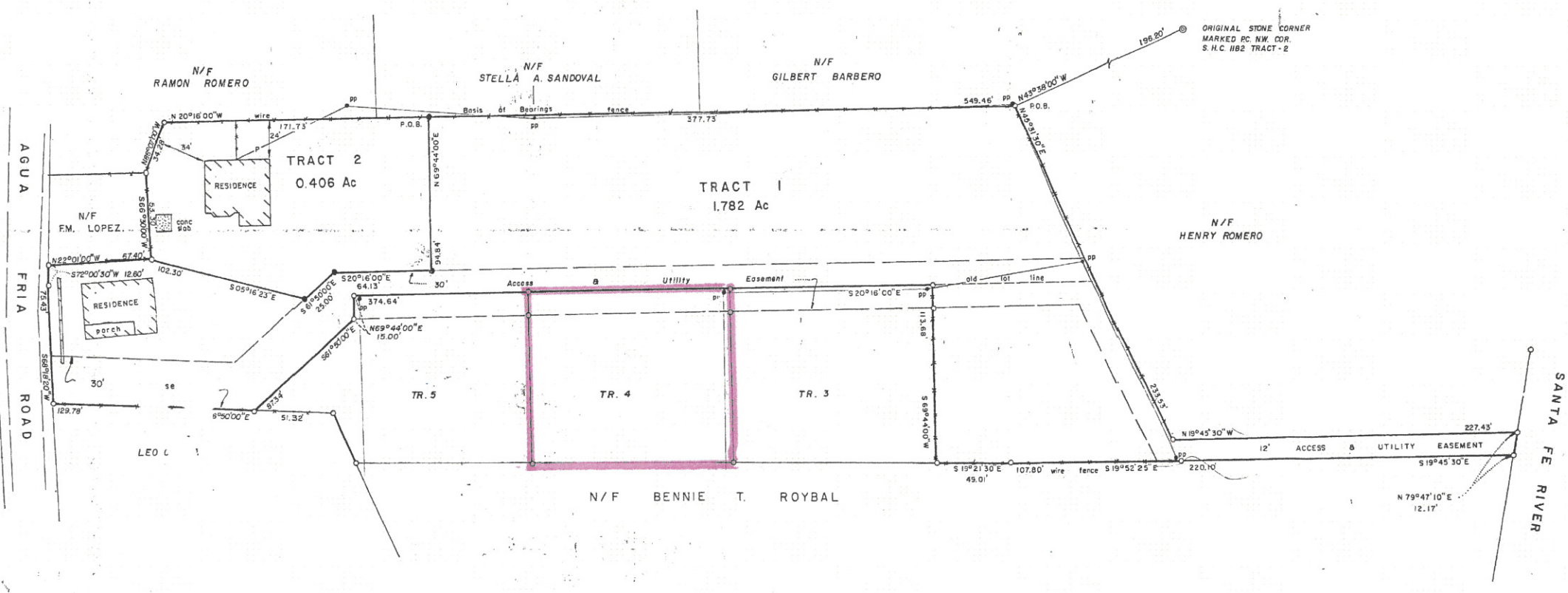
LEONARD C DE VACA *Leonard C de Vaca* DATE 7-14-93
 STELLA A. SANDOVAL *Stella Sandoval* DATE 7-14-93

STATE OF NEW MEXICO)
 COUNTY OF SANTA FE)
 ON THIS 15th DAY OF July, 1993 THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME BY THE PERSONS WHOSE NAMES APPEAR ABOVE.

NOTARY PUBLIC *Sarah L Gomez* COMMISSION EXPIRES 11/27/93



250042



TRACT 1
 A tract of land being situate within the Ben Subdivision in Section 31, T17N, R9E, N.M.P.M., Santa Fe County, New Mexico and being more particularly described as follows:
 Begin at the northwest corner of the tract herein described from whence a U.S.G.L.O. Stone marked "PC" Northwest Corner Small Holding Claim 1182, Tract 2 bears N43°38'00"W, 196.20 feet.
 From said point of beginning thence N45°31'30"E, 233.53 feet to a point; thence N19°45'30"W, 227.43 feet to a point; thence N9°47'10"E, 12.17 feet to the Northeast corner; thence S19°45'30"W, 420.10 feet to a point; thence S19°52'23"E, 107.80 feet to a point; thence S19°21'30"E, 49.01 feet to a point; thence S69°44'00"W, 113.68 feet to a point; thence S20°16'00"E, 64.13 feet to a point; thence N69°44'00"E, 15.00 feet to a point; thence S61°50'00"E, 87.36 feet to a point; thence S16°50'00"E, 123.78 feet to the Southeast corner; thence S68°18'20"W, 75.43 feet to a point; thence S72°00'30"W, 12.60 feet to a point; thence N22°01'00"W, 67.40 feet to a point; thence N03°18'23"W, 102.30 feet to a point; thence N11°50'00"W, 25.00 feet to a point; thence N20°16'00"W, 64.13 feet to a point; thence S69°44'00"W, 04.84 feet to the Southwest corner; thence N20°16'00"W, 377.73 feet to the point and place of beginning, containing 1.782 acres.

TRACT 2
 A tract of land being situate within the Ben Subdivision in Section 31, T17N, R9E, N.M.P.M., Santa Fe County, New Mexico and being more particularly described as follows:
 Begin at the Northwest corner of the tract herein described from whence a U.S.G.L.O. Stone marked "PC" Northwest Corner of Small Holding Claim 1182, Tract 2 bears N20°16'00"W, 377.73 feet and N43°38'00"W, 196.20 feet.
 From said point of beginning thence N69°44'00"E, 64.13 feet to a point; thence S61°50'00"E, 25.00 feet to a point; thence S05°16'23"E, 102.30 feet to the Southeast corner; thence S68°30'00"W, 34.28 feet to the Southwest corner; thence N20°16'00"W, 171.23 feet to the point and place of beginning containing 0.406 acres.

I HEREBY CERTIFY THAT THIS PLAT IS AN ACCURATE DELINEATION OF NOTES OF A FIELD SURVEY COMPLETED UNDER MY DIRECTION ON 7/14/93 TOGETHER WITH THE IMPROVEMENTS AS SHOWN HEREON, THIS PLAT MEETS THE MINIMUM STANDARDS SET BY THE STATE OF NEW MEXICO FOR LAND SURVEYORS.

Cipriano Martinez
 CIPRIANO MARTINEZ, N.M.P.L.S. NO. 3995
 1221-A ST. FRANCIS DR., SANTA FE, N.M.
 (505) 982-8442

NOTES
 THIS PROPERTY DOES NOT LIE WITHIN THE 100 YEAR FLOOD PLANE AS SHOWN IN SANTA FE COUNTY F.I.R.M. PANEL NO. 350069 02278 EFFECTIVE NOVEMBER 4, 1988.
 MAINTENANCE OF PRIVATE ROADS AND EASEMENTS IS THE RESPONSIBILITY OF THE LAND OWNER/USER.
 REFERENCE WARRANTY DEEDS DOCUMENT NUMBERS
 LEONARD C DE VACA - BOOK 458, PAGE 280 DOC. NO. 511,937
 STELLA A SANDOVAL - BOOK 368, PAGE 327 DOC. NO. 428,085
 " " " " BOOK 421, PAGE 813

MERIDIAN IS BASED ON PLAT OF SURVEY BY GEORGE RIVERA, DATED OCTOBER 1981, FOR STELLA A. SANDOVAL ENTITLED "BEN SUBDIVISION" AS RECORDED WITH THE COUNTY CLERK, SANTA FE COUNTY, NEW MEXICO IN PLAT BOOK _____ PAGE _____ AS DOCUMENT NO. _____

LEGEND
 ○ INDICATES IRON PIPES FOUND
 ○ INDICATES 1/2" RBAR SET THIS SURVEY
 ● INDICATES U.S.G.L.O. STONE IN PLACE

STATE OF NEW MEXICO)
 COUNTY OF SANTA FE)
 I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD ON THE 21 DAY OF July A.D., 1993 AT 9:32 O'CLOCK P.M. AND WAS DULY RECORDED IN PLAT BOOK 250 PAGE 042 OF THE RECORDS OF SANTA FE COUNTY, NEW MEXICO.

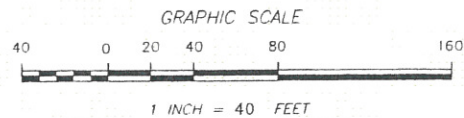
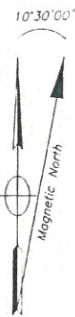
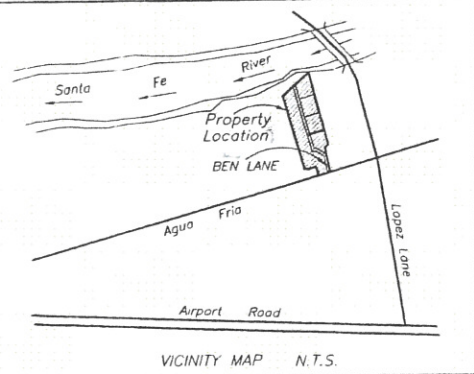
WITNESS MY HAND AND SEAL OF OFFICE
 JONA-G. ARMIJO
 COUNTY CLERK, SANTA FE COUNTY, NEW MEXICO
Jona-G. Armijo
 DEPUTY



APPROVAL: SANTA FE COUNTY
 LAND USE ADMINISTRATOR *Office of the Land Use Administrator* DATE 7-21-93
 DEVELOPMENT PERMIT NUMBER 93-1265

LOT LINE ADJUSTMENT
 LEONARD C DE VACA
 AND
 STELLA SANDOVAL
 WITHIN THE BEN SUBDIVISION, SECTION 31,
 T17N R9E N.M.P.M. SANTA FE COUNTY, N.M.

I.B



LEGEND

- MARKERS SET THIS SURVEY 1/2" REBAR WITH CAP 5300
- MARKERS FOUND USED AND NOTED THIS SURVEY
- ⊙ U.S.G.L.O. BRASS CAP
- ⊙ POWER POLE
- X- FENCE
- ▭ CONCRETE AREA
- U- OVERHEAD UTILITY LINE

OWNERS CONSENT AND AFFIDAVIT

THE UNDERSIGNED OWNERS DO HEREBY ATTEST THAT THE LOT LINE ADJUSTMENT SHOWN HEREON IS WITH THEIR FREE CONSENT AND IN ACCORDANCE WITH THEIR WISHES AND DESIRES AND DO FURTHER DEDICATE ANY EASEMENTS PRIVATE/PUBLIC TO THE APPROPRIATE UTILITY COMPANY OR USER. THIS PROPERTY LIES WITHIN THE PLATTING AND PLANNING JURISDICTION OF THE CITY AND COUNTY OF SANTA FE, NEW MEXICO.

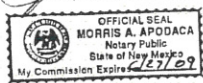
ESTATE OF STELLA SANDOVAL, LEONARD C DE VACA AND ESTHER ORTIZ, ADMINISTRATORS
Leonard C de Vaca 6-2-08 DATE
Esther Ortiz

Esther Ortiz 6/2/08 DATE
 TRACT 1 ESTHER ORTIZ
Bernadette C de Vaca 6/2/08 DATE
 TRACT 4 BERNADETTE C DE VACA
Leonard C de Vaca 6.2.08 DATE
 TRACT 2 LEONARD C DE VACA
Anthony C de Vaca 6/2/08 DATE
 TRACT 3 ANTHONY C DE VACA
Patrick C de Vaca SR. 6.2.08 DATE
 TRACT 5 PATRICK C DE VACA
Carla M. de Vaca 6/2/08 DATE
 TRACT 3 CARLA C DE VACA

STATE OF NEW MEXICO }
 COUNTY OF SANTA FE }^{SS}

ON THIS 2ND DAY OF JUNE 2008, THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME BY THE PERSON(S) WHOSE NAME APPEARS THE THE ABOVE.

Morris A. Apodaca 6/2/08 DATE
 NOTARY PUBLIC



GENERAL NOTES

1. SURVEY REFERENCE OF PLAT OF SURVEY ENTITLED "BEN SUBDIVISION" PREPARED BY GEORGE RIVERA N.M.P.L.S. No 3149 ON OCTOBER 1981. RECORDED IN PLAT BOOK 124 PAGE 003 IN THE RECORDS OF SANTA FE COUNTY CLERK
2. SURVEY REFERENCE OF PLAT OF SURVEY ENTITLED "LOT LINE ADJUSTMENT LEONARD C DE VACA AND STELLA SANDOVAL" PREPARED BY CIPRIANO MARTINEZ N.M.P.L.S. No 3995 JULY 14, 1993 RECORDED IN PLAT BOOK 250 PAGE 042 IN THE RECORDS OF SANTA FE COUNTY CLERK.
3. BEARINGS ARE BASED ON GRID NORTH (WGS84) FROM FIELD OBSERVATIONS BY MEANS OF R.T.K GLOBAL POSITIONING SYSTEM (G.P.S.). DISTANCES ARE GROUND.
4. WARRANTY DEED FROM ESTHER ORTIZ, LEONARD C DE VACA, ANTHONY C DE VACA, BERNADETTE C DE VACA, PATRICK C DE VACA, HEIRS OF BERNARDINO AND IDALIA SANDOVAL TO STELLA SANDOVAL RECORDED IN DEED BOOK 421 PAGE 083 IN THE RECORDS OF SANTA FE COUNTY. OTHER WARRANTY DEEDS THAT ARE FILED TO LEONARD C DE VACA BOOK 458 PAGE 280, TO PATRICK C DE VACA BOOK 458 PAGE 242, TO BERNADETTE C DE VACA BOOK 458 PAGE 242 AND TO ANTHONY AND CARLA C DE VACA INST NO 1339959
5. THIS PROPERTY DOES NOT LIE WITHIN THE 100 YEAR FLOOD PLAIN AS SHOWN IN SANTA FE COUNTY F.I.R.M. PANEL NO. 350069 0227B DATED NOVEMBER 4, 1988
6. SURVEY REFERENCE OF THE DISTRICT COURT, OF THE COUNTY OF SANTA FE QUIET TITLE SUIT CASE No. SF78-2224 SIGNED BY DISTRICT JUDGE LORENZO GARCIA

CERTIFICATE

I, MORRIS APODAC, A NEW MEXICO REGISTERED PROFESSIONAL SURVEYOR CERTIFY THAT ON DECEMBER 17, 2007, I CONDUCTED AND AM RESPONSIBLE FOR THIS SURVEY, THAT THIS SURVEY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND THAT THIS SURVEY AND PLAT MEET THE MINIMUM STANDARDS FOR SURVEYING IN THE STATE OF NEW MEXICO.

Morris A. Apodaca 6/2/08 DATE
 MORRIS A. APODAC P.L.S. / 5300

BUILDING PERMIT CONDITION

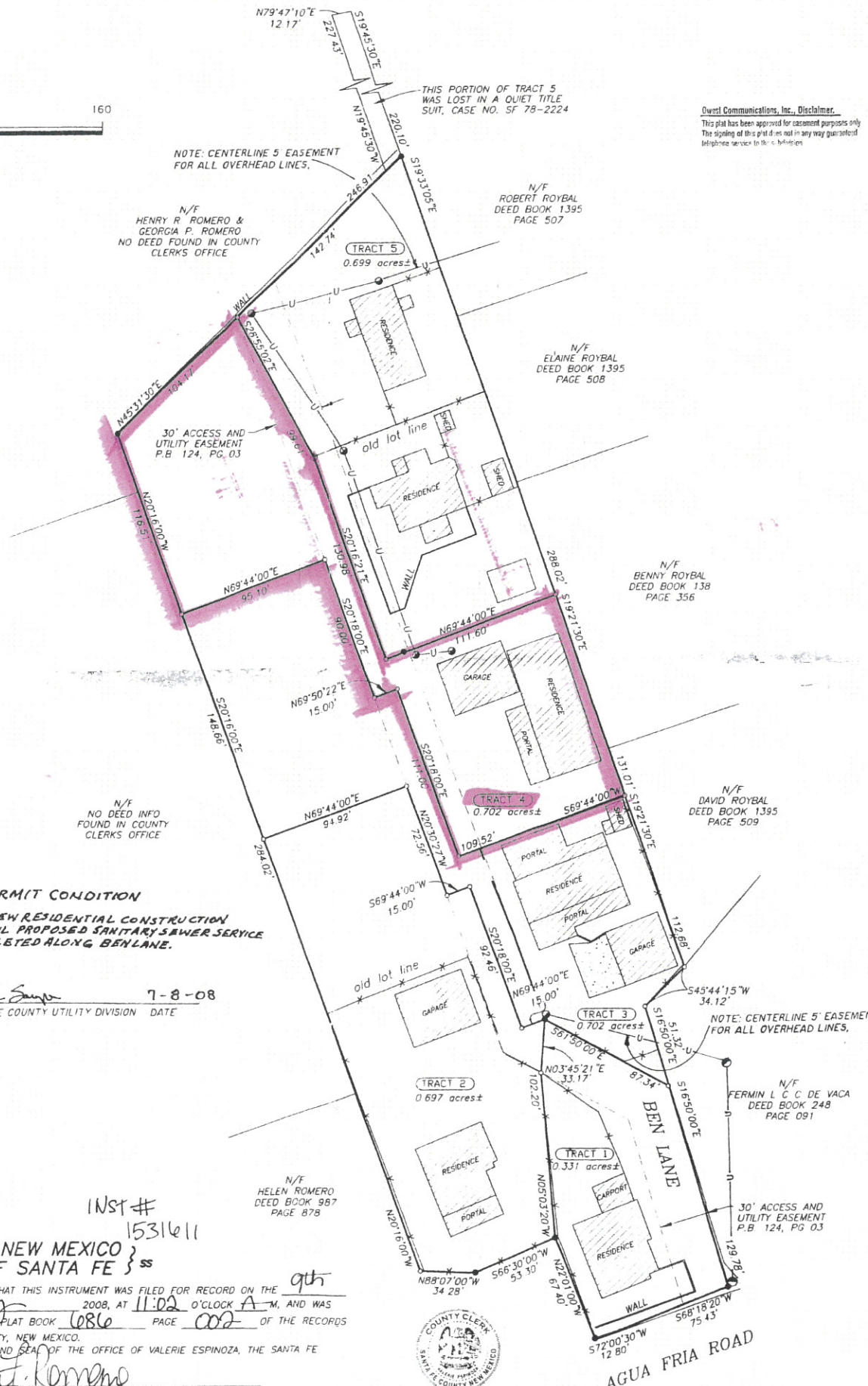
BUILDING PERMITS FOR NEW RESIDENTIAL CONSTRUCTION SHALL NOT BE ISSUED UNTIL PROPOSED SANITARY SEWER SERVICE MAINLINE HAS BEEN COMPLETED ALONG BENLANE.

Douglas Sampa 7-8-08 DATE
 SANTA FE COUNTY UTILITY DIVISION

STATE OF NEW MEXICO }
 COUNTY OF SANTA FE }^{SS}

I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD ON THE DAY OF July 2008, AT 11:02 O'CLOCK A.M., AND WAS DULY RECORDED IN PLAT BOOK 1686 PAGE 002 OF THE RECORDS OF SANTA FE COUNTY, NEW MEXICO.

WITNESS MY HAND AND SEAL OF THE OFFICE OF VALERIE ESPINOZA, THE SANTA FE COUNTY CLERK
Valerie Espinoza
 DEPUTY, SANTA FE COUNTY CLERKS OFFICE, STATE OF NEW MEXICO



UTILITIES
 AGUA FRIA WATER ASSOCIATION
Michael J. ... 6-5-08 DATE
 PNM ELECTRIC
... 6-18-2008 DATE
 OWESP TELEPHONE CO.
... 6-4-08 DATE

SANTA FE COUNTY APPROVALS

NOTES AND CONDITIONS
 FOR LAND USE ADMINISTRATOR 7/8/08 DATE
 RURAL ADDRESSING APPROVAL 6/23/08 DATE
 COUNTY DEVELOPMENT PERMIT NO. 08-3075

1. MAINTENANCE OF ACCESS ROADS AND UTILITY EASEMENTS IS THE RESPONSIBILITY OF THE LAND OWNER/USER UNLESS CURRENTLY MAINTAINED BY THE SANTA FE COUNTY PUBLIC WORKS DEPARTMENT.
2. THE LAND SHOWN HEREON LIE WITHIN THE PLANNING AND PLATTING JURISDICTION OF THE CITY AND COUNTY OF SANTA FE.
3. SANTA FE COUNTY'S APPROVAL OF THIS SURVEY PLAT DOES NOT INCLUDE THE CONSTRUCTION OF PRIVATE EASEMENT(S) OR ROAD(S) AS SHOWN. PRIOR TO THE CONSTRUCTION OF SAID PRIVATE EASEMENT(S) OR ROAD(S), IT IS REQUIRED THAT AN ADDITIONAL DEVELOPMENT PERMIT BE APPLIED FOR AND THEN APPROVED BY THE SANTA FE COUNTY LAND USE ADMINISTRATOR.
4. THESE LOTS ARE SUBJECT TO SANTA FE COUNTY FIRE AND RESCUE IMPACT FEES AT THE TIME OF APPLICATION FOR BUILDING PERMIT.
5. SOILS RATING; PURSUANT TO THE SANTA FE COUNTY LAND DEVELOPMENT CODE, THE SOILS RATING ON THIS PROPERTY IS DESIGNATED AS BEING MODERATE TO SEVERE REGARDING LIMITATIONS TO SEPTIC TANKS. POTENTIAL BUYERS/SELLERS OF THIS PROPERTY SHOULD INQUIRE WITH THE NEW MEXICO ENVIRONMENTAL DEPARTMENT WHETHER THESE SOILS ARE SUITABLE FOR A CONVENTIONAL SEPTIC SYSTEM OR IF AN ALTERNATIVE SYSTEM IS REQUIRED.
6. THE APPROVAL OF THIS PLAT DOES NOT CONSTITUTE THE APPROVAL OF ANY FURTHER DEVELOPMENT, INCLUDING BUILDING PERMITS.
7. EXISTING NATURAL DRAINAGEWAYS WILL NOT BE MODIFIED OR IMPEDED WITHOUT THE WRITTEN APPROVAL OF THE LAND USE ADMINISTRATOR OR COUNTY HYDROLOGIST. DEVELOPMENT SHALL NOT IMPEDE HISTORIC FLOW RATES OR PATTERNS TO OR FROM THESE LOTS.
8. ALL SLOPES SHOWN HEREON ARE LESS THAN 15% AND THERE ARE NO NATURAL DRAINAGEWAY(S) OTHER THAN THOSE SHOWN AS DRAINAGE EASEMENTS.
9. LANDS SHOWN HEREON LIE OUTSIDE THE 100 YEAR FLOOD PLAIN IN ZONE X, ACCORDING TO F.I.R.M. PANEL NO. 350490-0392D AND 0394D.
10. THE PARCELS AS PLATTED HEREON ARE SUBJECT TO ARTICLE VII, SECTION 3 OF THE SANTA FE COUNTY TERRAIN MANAGEMENT REGULATIONS AT THE TIME OF ANY DEVELOPMENT.
11. NEW DRIVEWAY/ROAD ACCESS FROM COUNTY ROAD 66 IS SUBJECT TO APPROVAL BY THE PUBLIC WORKS DIRECTOR. THE DIRECTOR SHALL APPROVE THE LOCATION AND INSTALLATION OF A CULVERT AS PERMITTED BY SANTA FE COUNTY PRIOR TO ISSUING A PERMIT FOR CONSTRUCTION.
12. THESE LOTS ARE SUBJECT TO SANTA FE COUNTY FIRE AND RESCUE IMPACT FEES AT THE TIME OF APPLICATION FOR BUILDING PERMIT.
13. THESE TRACTS ARE SUBJECT TO THE REQUIREMENTS OF THE FIRE MARSHAL AFFIDAVIT FILED IN THE OFFICE OF THE COUNTY CLERK AND RECORDED AS INSTRUMENT NO. 15316112

SPECIAL BUILDING PERMIT CONDITIONS
 DEVELOPMENT PERMITS FOR BUILDING CONSTRUCTION WILL NOT BE ISSUED UNTIL REQUIRED IMPROVEMENTS FOR ROADS, FIRE PROTECTION AND DRAINAGE ARE COMPLETED AS APPROVED BY STAFF.

LOT	ADDRESS	U.P.C. CODE
TRACT 1	2262 BEN LN.	1-049-097-345-085
TRACT 2	2260 BEN LN.	NO INFO FOUND
TRACT 3	2259 BEN LN.	1-049-097-360-075
TRACT 4	2253 BEN LN.	1-049-097-355-088
TRACT 5	2249 BEN LN.	1-049-097-345-111

LOT	SQUARE FEET	ACREAGE
TRACT 1	14,406.918	0.331±
TRACT 2	30,356.398	0.697±
TRACT 3	30,567.767	0.702±
TRACT 4	30,580.822	0.702±
TRACT 5	30,433.729	0.699±

PURPOSE: THIS PLAT IS TO AMEND EXISTING TRACT BOUNDARIES

A - Z SURVEYING INC.

INDEXING INFORMATION FOR COUNTY CLERK

LOT LINE ADJUSTMENT FOR

ESTATE OF STELLA SANDOVAL, ET AL.

LEONARD C DE VACA, BERNADETTE C DE VACA, PATRICK C DE VACA, ANTHONY C DE VACA, CARLA M. C DE VACA

IN BEN SUBDIVISION

WITHIN S.H.C. 1182, P2 SECTION 31

HP 17 NORTH, RANGE 9 EAST, N.M.P.M

SANTA FE COUNTY, NEW MEXICO

BY: DATE: 2008 SURVEY NO

1"=50' MAY 20, L07-035



*** QUITCLAIM DEED**

The Estate of **STELLA A. SANDOVAL**, Deceased, for good and valuable consideration, QUITCLAIMS to **BERNADETTE J. ANAYA**, a married woman dealing in her sole and separate property, whose address is 2253 Ben Lane, Santa Fe, New Mexico, 87507, the Santa Fe County, New Mexico, real estate described in Exhibit "A" (said Exhibit "A" is attached hereto and incorporated herein for all purposes),

TOGETHER WITH a perpetual and non-exclusive right in and to the 30' Access and Utility Easement shown on the plat of survey recorded at Plat Book **688**, Page **025**, in the records of Santa Fe County New Mexico, and,

SUBJECT TO Reservations, Restrictions, Easements of record, and taxes for the year **2007** and subsequent years.

WITNESS OUR HANDS AND SEALS this 5th day of November, 2008.

Estate of **STELLA A. SANDOVAL**, Deceased

*This deed is being recorded to correct a clerical error (i.e., the proper spelling of the name "Ortiz") in the *Quitclaim Deed* recorded as Instrument # 1542538, in the records of Santa Fe County, New Mexico.

By:

Leonard C de Vaca
Leonard C de Vaca,
Co-Personal Representative

By:

Ester A. Ortiz
Ester A. Ortiz,
Co-Personal Representative

I. D

SFC CLERK RECORDED 11/06/2008

Exhibit "A"

Tract 4, as shown on the plat of survey entitled "*Lot Line Adjustment for Estate of Stella Sandoval, et. al. ... in Ben Subdivision Within S.H.C. 1182, P2, Section 31, Township 17 North, Range 9 East, N.M.P.M., Santa Fe County, New Mexico*", prepared by A-Z Surveying Inc. (Morris A. Apodaca, P.L.S. 5300), on June 02, 2008 (July 08, 2008), and recorded on August 19, 2008 in Plat Book **688**, Page **025**, in the records of Santa Fe County, New Mexico.

COUNTY OF SANTA FE) QUITCLAIM DEED
STATE OF NEW MEXICO) ss PAGES: 3

I hereby Certify That This Instrument Was Filed for
Record On The 6TH Day Of November, A.D., 2008 at 12:17
And Was Duly Recorded as Instrument # **1543429**
In The Records Of Santa Fe County

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

