



COUNTY OF SANTA FE) BCC MINUTES
STATE OF NEW MEXICO) ss PAGES: 167

I Hereby Certify That This Instrument Was Filed for
Record On The 13TH Day Of May, A.D., 2005 at 16:08
And Was Duly Recorded as Instrument # 1379842
Of The Records Of Santa Fe County

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

SANTA FE COUNTY

BOARD OF COUNTY COMMISSIONERS

REGULAR MEETING

April 12, 2005

Michael Anaya, Chairman
Harry Montoya, Vice Chair
Paul Campos
Jack Sullivan
Virginia Vigil

SFC CLERK RECORDED 05/13/2005

SANTA FE BOARD OF COUNTY COMMISSIONERS

COMMISSION CHAMBERS

COUNTY ADMINISTRATION BUILDING

REGULAR MEETING

(Public Hearing)

April 12, 2005 – 3:00 pm

Amended Agenda

- I. Call to Order
- II. Roll Call
- III. Pledge of Allegiance
- IV. State Pledge
- V. Invocation
- VI. Approval of Agenda
 - A. Amendments
 - B. Tabled or Withdrawn Items
 - C. Consent Calendar Withdrawals
- VII. Approval of Minutes
 - A. March 4, 2005 – *corrections needed*
 - B. March 10, 2005 – *corrections needed*
 - B. March 17, 2005 – *corrections needed*
- VIII. Matters of Public Concern -NON-ACTION ITEMS
- IX. Matters from the Commission
 - #41* A. A Resolution Dedicating County Road 89-A, Cuyumungue Bridge as the Dos ^{ok} Romeros Memorial Bridge (Commissioner Montoya)
 - #42* B. A Resolution Opposing any Proposed Funding Cuts of the Federal Medicaid ^{ok} Program (Commissioner Montoya)
 - #43* C. A Resolution Supporting the Reauthorization of the Temporary Assistance for the ^{ok} Needy Families Block Grant (TANF) and Other Related Programs (Commissioner Montoya)
 - #44* D. A Resolution in Opposition to Budget Cuts in U.S. Department of Agriculture ^{ok} (USDA) Rural Community Advancement Program (RCAP) and Other Rural Development Programs (Commissioner Montoya)
 - #45* E. A Resolution in Support of the Re-Authorization of the Pre-Disaster Mitigation ^{ok} Program and the Hazard Mitigation Grant Program (Commissioner Montoya)
 - #46* F. A Resolution in Support of Maintaining Current Funding Levels for the Federal ^{ok} Workforce Investment Act Programs (Commissioner Montoya)
 - G. A Presentation Recognizing Santa Fe County Employees During National County Government Week, April 10-16, 2005 (Board of County Commissioners)
- X. Appointments/Reappointments/Resignations
- XI. Consent Calendar
 - ^{ok} A. Request Authorization to Enter into a Professional Services Agreement with Glorieta Geoscience, Inc. for an Investigative Work Plan for and a Preliminary

SFC CLERK RECORDED 05/13/2005

Site Investigation at the Santa Fe County Public Works Department Yard --
\$12,054.62 (Public Works Department)

XII. Staff and Elected Officials' Items

A. Housing and Community Services Department

1. Approval of Resolution No. 2005 – A Resolution Approving the PHA
#47 Certifications of Compliance With the PHA Plans and Related Regulations
OK (PUBLIC HEARING)

B. Matters from the County Manager

1. Updates
a. Update from Staff Regarding the Status of the Energy Task Force
b. Update on Geohydrologic Model and Collaboration with the City

C. Matters from the County Attorney

1. Executive Session
a. Discussion of Pending or Threatened Litigation
b. Limited Personnel Issues
c. Discussion of the Purchase, Acquisition or Disposal of Real Property or Water Rights

XIII. Public Hearings

A. Land Use Department

1. Ordinance 2004 – An Ordinance Amending Ordinance 1996-10, Article V, Section 8 (Subdivision Design Standards) of the Land Development Code to Require 30% of the Total Housing Approved Within a Subdivision of 5 Lots or Greater to be Affordable Housing. Wayne Dalton (FIRST PUBLIC HEARING) TABLED
2. Request Authorization to Publish Title And General Summary of An Ordinance Requiring Installation of Hot Water Recirculation Systems Within New Homes. Wayne Dalton
3. Ordinance 2005 – An Ordinance Amending Ordinance 2003-2, Article V, Section 5.2.2.g 8 and Section 5.2.2.g 9 (Master Plan Procedures), and Ordinance 1996-10, Article V, Section 5.3.2 (Final Plat Submittals), and Article VII, Section 6.4 (Water Availability Assessments) of the Land Development Code to Specify at What Stage Water Rights are Required to be Transferred. Wayne Dalton (SECOND PUBLIC HEARING)
4. CDRC Case #V/Z 04-5490 Alfonz Vizolay Variance and Master Plan. Alfonz Vizolay, Applicant Requests a Variance of Article III, Section 4.1 and 4.2 (Types and Locations of Commercial Districts) of the Land Development Code for the Eligibility for Commercial Zoning Outside of a Commercial District. The Applicant is also Requesting Master Plan and Preliminary and Final Development Plan Approval for an 8,510 sq. ft. Warehouse and Office. The Property is Located Within the Santa Fe Metro Highway Corridor in the Commercial Gateway at 4 Reata Road, Within the Remuda Ridge Subdivision, Within Section 24, Township 16 North, Range 8 East (Commission District 3) Vicente Archuleta
5. CDRC Case #Z/DP 04-5490 Beth Longanecker Master Plan/ Development Plan. Jim Corbin, Agent for Beth Longanecker Requests Master Plan Zoning and Preliminary and Final Development Plan Approval for a Commercial Horse Business on 4.43-Acres. The Property is Located off State Road 14 at 2 Ron's Road Within Section 26, Township 15 North, Range 8 East (Commission District 5) Jan Daniels TABLED

SFC CLERK RECORDED 05/13/2005

6. **LCDR Case #V 04-5780 Viola Chaverri Variance.** Viola Chaverri, Applicant, is Requesting a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow the Placement of a Second Home on 2.5- Acres. The Property is Located at 100 Camino Montoya Within the Traditional Historic Community of La Cienega/LaCieneguilla, Within Section 20, Township 16 North, Range 8 East (Commission District 3) John M. Salazar
7. **CDRC Case #V 03-5621 Bobby Armijo Density Variance.** Bobby Armijo, Applicant, Requests a Variance of Article III Section 10 (Lot Size Requirements) of The Land Development Code to Allow the Division of 16.20-Acres into Two 8.0- Acre Parcels for the Purpose of a Family Transfer. The Property is Located at 428 Ojo de La Vaca, Within Section 30 Township 15 North, Range 11 East (Commission District 3)TABLED
8. **CDRC Case # V 05-5010 Thomas Heine Variance.** Thomas Heine, Applicant, Requests a Variance of Article III Section 10 (Lot Size Requirements) of the Land Development Code to Allow the Division of 2.50-Acres into Two Parcels for the Purpose of a Family transfer. The Property is Located at 03 East Trail and Barton Road, Within Section 30 Township 10 North, Range 7 East (Commission District 3) Victoria Reyes
9. **BCC Case #MIS 05-5030 Jose Villegas Reconsideration.** Jose Villegas, Applicant, is Requesting a Reconsideration of a Previously Approved Condition on a Variance Request for an Attached Second Dwelling Unit to the Existing Residence in Order to Allow the Second Dwelling Unit to be a Separate Structure on 1.87-Acres. The Property is Located off of County Road 56 at 10 Camino Torcido Loop, Within Section 20, Township 16 North, Range 8 East (Commission District 3) John M. Salazar
10. **BCC Case #MIS 03-6001 Robert Pearson Master Plan Extension and Reconsideration.** Robert Pearson, Applicant, is Requesting a Two Year Time Extension of the Vista Ltd. Master Plan and Reconsideration of Two Conditions on the Original Approval for a Provision Requiring the Developer to Acquire a Water Contract with the Santa Fe County Water Utility at the Time of Preliminary Development Plan Submittal and Prohibiting Wells on the Property. The Property is Located at the Intersection of I-25 and State Road 599, Within Section 26, Township 16 North, Range 8 East (Commission District 5) John M. Salazar
11. **EZ Case # S 96-1212 Las Campanas Estates VIII, Units 1,2,&3.** Las Campanas Limited Partnership (Michael D. Baird), Applicant, is Requesting and Amendment of the Plat/Development Plan for 104 Residential Lots, to Permit Guest Houses. The Property is Located off Las Campanas Drive within Section 11, Township 17 North, Range East (Commission District 2) Joe Catanach
12. **CDRC Case #MP 04-5770 Parker Property Master Plan Zoning.** Jim Siebert, Agent for Paul and Mary Jo Parker, Applicants, Requests master Plan Zoning Approval for Light Industrial and Office Use on 5.8-Acres. Also, Requested is an Application for a Grading Permit for Four Feet of Fill (That has Previously Occurred) to a Portion of the Property. The Property is Located in the Santa Fe Metro Highway Corridor Area Within the Santa Fe Airport Redevelopment Sub-district just Outside the

SFC CLERK RECORDED 05/13/2005

Santa Fe City Limits, Adjacent to the Santa Fe River, on the Northeast Side of N.M. 599 Within Sections 2 and 11, Township 16 North, Range 8 East (Commission District 2) Jan Daniels

- 13. CDRC Case # MP/DP 04-5730 Dale and Karen Lewis Development Plan Approval. Dale and Karen Lewis, Applicants, are Requesting the Creation of a Local/Village Center Commercial District at the Intersection of State Highway 41 and County Road 31A and Zoning and Preliminary Development Plan Approval to Permit an Automobile Repair Service Along with a Sales Lot and a Mobile Home on 10.00-Acres. Also, the Applicants are Requesting a Variance to the Size of Water Cistern Required. The Property is located at 3875 Highway 41 in the Traditional Community of Stanley within Section 27, Township 11 North, Range 9 East (Commission District 3) Jan Daniels**
- 14. AFDRC Case # MIS 04-5700 Plants of the Southwest Master Plan Amendment. Plants of the Southwest, Applicant, and David Perrigo, Agent, are Requesting a Master plan Amendment for a 1,300 Square foot Bakery/Café addition to the Existing Retail Business on 4.39-Acres. The Property is Located at 3905 Agua Fria Street in the Traditional community of Agua Fria, within Section 32, Township 17 North, Range 9 East (Commission District 2) John M. Salazar**
- 15. EZ Case # S 04-4451-Oshara Village. New Village Consulting LLC., (Alan Hoffman) Applicant, Lorn Tryk, Agent, Request Final Plat and Development Plan Approval for Phase I of the Oshara Village Development which will Consist of 175 Residential Lots and 136,000 square feet of Commercial Space on 74 Lots on a Total of 37.78 Acres in Accordance with the Previously Approved Master Plan. The Property is Located Along Richards Avenue South of Interstate 25, in the Community College District, within Section 16, Township 16 North, Range 9 East, (Commission District 5) Vicki Lucero TABLED**

XIV. Adjournment

The County of Santa Fe makes every practical effort to assure that its meetings and programs are accessible to the physically challenged. Physically challenged individuals should contact Santa Fe County at 986-6200 in advance to discuss any special needs (e.g., interpreters for the hearing impaired or readers for the sight impaired).

SFC CLERK RECORDED 05/13/2005

SANTA FE COUNTY
REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

April 12, 2005

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 3:10.m. by Chairman Mike Anaya, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Following the Pledge of Allegiance, roll was called by County Clerk Valerie Espinoza and indicated the presence of a quorum as follows:

Members Present:

Commissioner Mike Anaya, Chairman
Commissioner Harry Montoya, Vice Chairman
Commissioner Paul Campos
Commissioner Jack Sullivan
Commissioner Virginia Vigil

Members Absent:

[None]

V. Invocation

An invocation was given by Rabbi Leonard Hellman.

VI. Approval of the Agenda

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

ROMAN ABEYTA (Deputy County Manager): Thank you, Mr. Chairman. We have the following amendments. Under XII. A. 1, we added that this would be a public hearing. Then under XIII. A. 1, that's been tabled. A. 5, CDRC Case #Z/DP 04-5490, Beth Longanecker master plan/development plan is tabled. Item number 7, CDRC Case #V 03-5621,

SFC CLERK RECORDED 05/13/2005

Bobby Armijo density variance has been tabled. And the last item on the agenda, item 15, EZ Case #S 04-4451, Oshara Village has been tabled. Other than that we have no further amendments from staff. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Thank you, Roman. Are there any other amendments that the Commission would like to amend? Hearing none –

COMMISSIONER MONTOYA: Move for approval.

COMMISSIONER VIGIL: Second.

CHAIRMAN ANAYA: Any more discussion for approval of agenda?

The motion to approve the agenda as amended passed by unanimous [5-0] voice vote.

**VII. Approval of Minutes
A. March 4, 2005**

CHAIRMAN ANAYA: Are there any amendments?

COMMISSIONER VIGIL: I have one correction, Mr. Chairman.

COMMISSIONER SULLIVAN: Move for approval as amended.

CHAIRMAN ANAYA: Motion.

COMMISSIONER MONTOYA: Second.

CHAIRMAN ANAYA: And a second, as amended.

The motion to approve the March 4, 2005 minutes as amended passed by unanimous [5-0] voice vote.

VII. B. March 10, 2005

COMMISSIONER SULLIVAN: Mr. Chairman, I had three minor corrections.

CHAIRMAN ANAYA: Three minor corrections from Commissioner Sullivan.

COMMISSIONER VIGIL: And I have one, I believe.

COMMISSIONER MONTOYA: Move for approval as amended.

CHAIRMAN ANAYA: There's a motion. Is there a second?

COMMISSIONER SULLIVAN: Second.

CHAIRMAN ANAYA: Motion and a second. Any more discussion?

The motion to approve the March 10, 2005 minutes as corrected passed by unanimous [5-0] voice vote.

VII. C. March 17, 2005

COMMISSIONER SULLIVAN: Mr. Chairman, I think I had one correction.

CHAIRMAN ANAYA: Commissioner Sullivan had a change, one correction. Is there a motion?

COMMISSIONER VIGIL: Move to approve with the correction.

CHAIRMAN ANAYA: There's a motion. Is there a second?

COMMISSIONER MONTOYA: Second.

CHAIRMAN ANAYA: And a second.

The motion to approve the March 17th minutes as amended passed by unanimous [5-0] voice vote.

VIII. Matters of Public Concern -NON-ACTION ITEMS

CHAIRMAN ANAYA: Is there anybody out there in the public who would like to come address the Commission on any concern that you have?

IX. Matters from the Commission

A. Resolution 2005-41. A Resolution Dedicating County Road 89-A, Cuyamungue Bridge as the Dos Romeros Memorial Bridge (Commissioner Montoya) [Exhibit 1: Revised text of the resolution]

COMMISSIONER MONTOYA: Thank you, Mr. Chairman. You have before you a resolution honoring two individuals who served during World War II, and I'd like to ask Mr. Joe Romero and Mr. Atenacio Romero to please come forward. They are brothers of the cousins that were lost. Could you please come forward now and address the Commission please?

JOSE ROMERO: Mr. Chairman, I think each one of us has something to say, and I would like to continue here.

CHAIRMAN ANAYA: Go ahead, Mr. Romero. Thank you for being here.

MR. J. ROMERO: Mr. Chairman, members of the Santa Fe Board of County Commissioners. Thank you for allowing me to address the Board in support of the resolution to name the structure on County Road 89-A across the Tesuque River, Cuyamungue as the Dos Romeros Memorial Bridge. My name is José Romero, one of six brothers who honorably served the country during the period of World War II. And one, my brother Francis, whose name will appear on the memorial. It may seem odd that 60-some years later we are requesting to honor our fallen heroes. In this period our country

has been involved in numerous wars and campaigns throughout the world in support of freedom. We keep adding to the casualties which occur during the course of these actions. Generations come and go and soon they become a part of history. This has been in the case in what once was the small village of Cuyamungue who lost two of its young men, Frank and Julian, during the World War II conflict.

Sixty years ago, everyone knew who they were. Sixty years later, nobody remembers. There's an adage that says that a country who forgets its past, that country has no future. We would like this memorial to be a reminder for future generations of the sacrifices others have given for their freedom. Again, my family and I thank you for being here. Thank you.

CHAIRMAN ANAYA: Thank you.

COMMISSIONER MONTOYA: Thank you, Joe.

ATENCIO ROMERO: Thank you. First of all, I would like to take this time to thank everyone for this opportunity to present this proposal. I'm here to propose that the bridge in Cuyamungue be named after two heroes from the community of Cuyamungue. I would like to tell this community what type of person my brother was. First of all, his name was Julian Romero. He was born September 5, 1926 in Cuyamungue, New Mexico. This was the place he was born, raised, along with three brothers, raised by José Aniseto Romero and Lucinda Romero de Quintana.

Julian attended Santa Fe High School and graduated in 1943. While in high school, he was very athletic. He played basketball and football for Santa Fe High School. Julian was known as an outgoing individual who made friends easily. His cousin, Vergie Montoya, once described Julian as a person who walked into a room and would light up and he would soon have everyone laughing and feeling good about themselves.

Julian was drafted into the army September, 1943. Upon completing his basic training at Camp Roberts, California, he volunteered for the paratroopers and was sent for training to Ft. Benning, Georgia. He graduated from paratrooper training and was placed in the 82nd Airborne 504 Parachute Battalion. Julian was quickly sent into action and was sent overseas into Holland where he quickly turned a very capable paratrooper. While conducting an operation in Holland, Julian was hit by enemy fire in his leg and wounded. He was hospitalized in Belgium where he recovered from his injuries. When he recovered he was sent to the Battle of the Bulge December of 1944. The Battle of the Bulge turned out to be the final major battle of World War II and in this battle Julian Romero gave the ultimate sacrifice for his country.

December 29, 1945, 19-year old Julian was killed in action in the Battle of the Bulge. For his courage, Julian's parents received the Purple Heart for Military Merit. This brings me here to day where I feel naming a bridge after Julian and Frank Romero will benefit the community in three different ways. I feel it's crucial for people who cross the bridge to think about some of the sacrifices many soldiers have made over the years, not just World War II but Vietnam and every other war, including the young men who are currently in Iraq. It is also important when our children study US history they know that

there are heroes not only in history books from other parts of the nation but are numerous New Mexicans, including a hundred from your own backyard that have made a huge impact on our nation, our state and it is because of these men we will get to live the life we live today.

Number three, I feel it's also very important that when visitors from outside the community look at this bridge and read about Frank Romero and Julian Romero, perhaps they will take some time and read the names of these two individuals as they cross this bridge. Maybe they will take time to ask someone about Frank and Julian. If this happens, maybe we'll have an understanding that two Hispanic men from this little community have given the ultimate sacrifice for all Americans.

It is my hope that this committee passes this proposal. Frank and Julian have given the ultimate sacrifice for why we are here today. Passing this proposal is the least we can do for these heroes. Thank you for your time.

CHAIRMAN ANAYA: Thank you.

COMMISSIONER MONTOYA: Atenacio, thank you. Mr. Chairman, if I could just read the resolution before you. It says, Whereas, we honor all who served the United States of America during World War II and thereby acknowledge the historical commitment and achievements of the entire nation; and

Whereas, two cousins, Frank and Julian Romero, of the community of Cuyamungue, New Mexico, served and died for their country during World War II; and

Whereas, Frank Romero was killed in action in France in 1944 and Julian Romero was killed in action in Belgium in 1945; and

Whereas, it is fitting and proper to memorialize Frank Romero's and Julian Romero's spirit, sacrifice and commitment to the country as exemplified by their selfless service during World War II; and

Whereas, Santa Fe County and the family of the Romero cousins would like to honor, recognize and memorialize the lives, service and sacrifice of Frank and Juliana in the community where they were raised.

Now, therefore be it resolved by the Board of County Commissioners of the County of Santa Fe that the Cuyamungue Bridge located on County Road 89-A, also known as the Bronze Sky Road, in Cuyamungue, New Mexico is hereby dedicated and shall henceforth be known as the Dos Romeros Memorial Bridge. And be it further resolved that the Santa Fe County Public Works Department is directed to obtain and place a sign at the bridge that reads Dos Romeros Memorial Bridge, named in honor of Frank Romero and Julian Romero both of whom died while serving their country during World War II.

Mr. Chairman, I would move for approval of this resolution.

CHAIRMAN ANAYA: There's a motion.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN ANAYA: Second by probably all of us. Any further discussion?

The motion to approve Resolution 2005-41 passed by unanimous [5-0] voice vote.

CHAIRMAN ANAYA: Commissioner Montoya, I want to thank you for bringing this forward. They were definitely heroes from Cuyamungue, from New Mexico and we always like to acknowledge them and keep their spirits alive.

COMMISSIONER MONTOYA: Thank you, Mr. Chairman, and when you think about how small Cuyamungue was back in 1944 to have two cousins that gave their lives for their country, that's a huge contribution from this community for this country.

CHAIRMAN ANAYA: Right. I've got a question on the memorial plaque. Is it going to be a bronze plaque? Is it going to be a sign?

COMMISSIONER MONTOYA: I think we'll work that out with James. Do you know what we typically do?

JAMES LUJAN (Public Works Director): Mr. Chairman, members of the Commission, usually what's placed is a green on white sign at both ends of the bridge, the abutments. At times, when they're building the bridge they can make a plaque and fasten it to the concrete abutments. If that's what's requested we could also look at something like that. Usually it's a sign in both directions.

CHAIRMAN ANAYA: I'd like to see - this is my opinion but I'd like to see a bronze plaque embedded into the concrete, or bolted onto it or something. Glue it on. I'd like to see the signs that you're proposing but also one that's permanent.

MR. LUJAN: Okay. We'll take a look at it.

COMMISSIONER MONTOYA: And Mr. Chairman, I think Mr. Romeros, plural, are we still looking at Memorial Day? Trying to have some sort of a dedication? Okay. So Memorial Day, I'd like to let all the Commissioners know also so we can be there. We'll have a dedication of the bridge at that time on that date. Thank you, fellow Commissioners.

CHAIRMAN ANAYA: And I'd like to just give these two young gentlemen a big hand. Thank you very much for being here.

COMMISSIONER VIGIL: Mr. Chairman, I'd like to tell them that we're honored that they're here today. I met the Romero family just briefly before the Board of County Commission. What lovely people you are. Thank you for being here. And you're right, Mr. Romero, the history books don't reflect the contributions that northern New Mexico has given. This is one opportunity where we can maybe make more history. Thank you for being here.

MS. ESPINOZA: Congratulations to the Romeros. They're beautiful people from the north.

- IX. B. Resolution 2005-42. A Resolution Opposing any Proposed Funding Cuts of the Federal Medicaid Program (Commissioner Montoya)**
- C. Resolution 2005-43. A Resolution Supporting the Reauthorization of the Temporary Assistance for the Needy Families Block Grant (TANF) and Other Related Programs (Commissioner Montoya)**
- D. A Resolution in Opposition to Budget Cuts in U.S. Department of Agriculture (USDA) Rural Community Advancement Program (RCAP) and Other Rural Development Programs (Commissioner Montoya)**
- E. A Resolution in Support of the Re-Authorization of the Pre-Disaster Mitigation Program and the Hazard Mitigation Grant Program (Commissioner Montoya)**
- F. A Resolution in Support of Maintaining Current Funding Levels for the Federal Workforce Investment Act Programs (Commissioner Montoya)**

COMMISSIONER MONTOYA: Thank you, Mr. Chairman, and actually, I'd just like to ask the Commission if they wouldn't mind, maybe if we go through B, C, D, E and F all together, unless there are specific questions, but I think they're all pretty self-explanatory. What we're looking at here are resolutions that have been adopted also by the National Association of Counties and these resolutions we would forward to them so that we can be included as part of a packet that will go to the congressional delegations of both the Senate and the House. And I would stand for any questions, Mr. Chairman, unless there are any specific ones that we need to go over each one. I would make a motion that we approve B, C, D, E and F.

COMMISSIONER VIGIL: I would second that.

CHAIRMAN ANAYA: There's a motion and a second. Any other discussion?

COMMISSIONER VIGIL: I just have a question because I know that you've been working really closely with the National Association of Counties and I know these resolutions are required for their lobbying efforts. I'm wondering - it does help. I recognize it does when you submit this to the significant committees to Congress. I'm just wondering at what extent we might be able to, and just to keep this on the radar screen, let NACo know that our counties needs a lot of this funding and keep that at the forefront of the lobbying efforts that we're trying to do with the delegation in Washington. I know we have a delegation that's going to be going there next week and I think we should have copies of these sent with our delegation. These are areas where Santa Fe County is in need of more money. So I'd like that lobbying effort to include these.

COMMISSIONER MONTOYA: Okay. Thank you, Commissioner Vigil.

COMMISSIONER CAMPOS: Mr. Chairman, just a comment also. In the light of these resolutions, it seems to me that from the federal government, at least for the foreseeable future we're not going to see a lot of money. Certainly the taxes have been reduced. The budget is tighter than ever. So it seems that we have to decide what we're going to do as

local government and state government, and it seems that we're going to have to take on more of these spending and tax burdens. It seems that's what's going on. Like Jerry Brown used to say, It's not a tax cut it's really a tax shuffle. It's actually going to cause state and local communities to increase taxes if the people really want the same services that we're getting. Because this doesn't look like a short-term thing that's going on in Washington.

COMMISSIONER MONTROYA: You're absolutely right, Commissioner.

CHAIRMAN ANAYA: Any other comments?

The motion to approve Resolutions 2005-42, 43, 44, 45 and 46 passed by unanimous [5-0] voice vote.

CHAIRMAN ANAYA: We've got item G but we're not going to do that one quite yet. We're waiting for Rob Yardman.

X. Appointments/Reappointments/Resignations

CHAIRMAN ANAYA: We don't have any of those, right?

MR. ABEYTA: No, Mr. Chairman.

X. Consent Calendar

- A. Request Authorization to Enter into a Professional Services Agreement with Glorieta Geoscience, Inc. for an Investigative Work Plan for and a Preliminary Site Investigation at the Santa Fe County Public Works Department Yard -- \$12,054.62 (Public Works Department)**

CHAIRMAN ANAYA: Is there any comment on that?

COMMISSIONER SULLIVAN: Move for approval.

CHAIRMAN ANAYA: There's a motion.

COMMISSIONER VIGIL: Second.

CHAIRMAN ANAYA: And a second.

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

XII. Staff and Elected Officials' Items

A. Housing and Community Services Department

1. Approval of Resolution No. 2005-47. A Resolution Approving the PHA Certifications of Compliance With the PHA Plans and Related Regulations (PUBLIC HEARING)

ROBERT ANAYA (CHDD Director): Mr. Chairman, Commissioners, I'm going to cut right to the chase. There was specific questions raised at the last Board of County Commission meeting by Commissioners relative to what the County's proposed use of resources that we have generated from the sale of public housing units would be. And so what I've done for the Commission, if you'll turn to the second memorandum in your packet, which you've had and I hope had a chance to review, I just want for clarification purposes to make sure that the Commission understands that there are two buckets of financial resources that the Commission has available to them for the production of affordable housing.

CHAIRMAN ANAYA: What page was that, Robert?

MR. ANAYA: It's the second page behind the cover memo that you see in front of you, is certifications and the next memo is a memo from Dodi and I based on resources that has some recommendations and suggestions. The first source listed as A in your packet is funds that were generated primarily through an agreement between Las Campanas and Santa Fe County that generated approximately \$2 million to Santa Fe County. Of that \$2 million, Santa Fe County currently has \$991,625 left in that particular fund, and below that you will see four recommendations as to ongoing potential uses that staff suggests to the Commission.

Under Section B, you'll see that there are \$3,085,105 that has been generated off of the sale of public housing units that we've either newly constructed or we have rehabilitated and sold, primarily at the Valle Vista public housing site on rehabilitation. Section B is the specific request the Commission had be included in the packet of the annual plan to be approved by the Commission today if the Commission approves the recommendation. The recommendations are as follows to be placed in the annual plan:

1. Leave the resources or a percentage there of in a reserve or trust fund to assist with the expenses of the Housing Authority for general operations in order to assist with the financial solvency over the long term and help to create a recurring pot of resources for future needs of affordable housing for the Housing Authority and the County.
2. In the upcoming fiscal year, apply for federal resources to leverage with the County resources for the construction of a senior housing project.
3. In the upcoming fiscal year, continue to utilize resources for the continued upgrades and improvements of the units that are part of the 5-H Public Housing Homeownership Program.
4. Utilize resources for grounds and common building areas and common area

improvements at the three public housing sites, Santa Cruz, Jacobo and Valle Vista.

It is staff's recommendation that the resources generated be utilized in the above listed manner if approved by the BCC.

Recommendations for the use of the public housing proceeds are then submitted to the Department of Housing and Urban Development for their review and approval. Resources discussed to this point, affordable housing developer fees, which is the Las Campanas money, and proceeds from the 5-H Homeownership Program. In addition, the Commission has had an allocation of water resources that was set aside to be targeted for affordable housing use. I put that in this memo as a place-setting for the Commission to consider that is still there and it's still sitting there and I suggest, a recommendation here that potentially we could leave part of those resources for internal affordable housing development or potentially put an RFP out for somebody to potentially use those resources. On that last item it's more of an informational items, and whatever it is the Commission recommends or suggests we do as far as that item goes, we would need to discuss that item closely with the Utilities and Land Use Departments to come back with more specific recommendations.

But I put all of the various different resources available to the Commission and would want and ask the Commission if for the purpose of the request from the last meeting if we could focus on item B specifically, because we need to pull whatever recommendations or changes of the Board in the packet for the annual plan and the annual plan has to be submitted this Friday. I would stand for any specific questions, Mr. Chairman.

CHAIRMAN ANAYA: Any questions of Robert?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: I see, Mr. Anaya, that you're still proposing the trust idea, but you haven't really fleshed it out, like how much, how much it's going to generate. I've never thought this idea is really viable. I thought perhaps we have a need that's really pressing and present and that we should go that route as opposed to putting some money, hoping that we're going to earn a little bit of interest. Also, the other drawback, I think is if you do have trust fund money sitting around, the feds and perhaps the state may be less likely to give you money if you have it already in your possession. So I don't think - I don't like the idea and I don't think it's been fleshed out sufficiently to really consider it at this point as a real option. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTROYA: Mr. Chairman, regarding - my comments are on Section A, actually. I like numbers 2 and 3 in terms of the land acquisition and leveraging of other resources. What has been done regarding - I know Katherine Miller at one time has said that she wanted to talk to us about doing something around affordable housing. It seems like 2 and 3 would be something that would work under A, as well as

number 2 on B, 2 or 3, which I like. Also under Section B, items 2 and 3. Has there been any further discussion with Katherine regarding what can be done, how it can be done, where it might be done.

MR. ANAYA: Mr. Chairman, Commissioner Montoya, I had a conversation with Ms. Miller two days ago as a matter of fact relative to several different things in the mix. The governor, as you know, signed into law the affordable housing trust fund that put \$10 million on the books to be used for leveraging resources. So there's going to be various different programs that MFA needs to develop first, and then once those are developed then those will be potential resources that we can tap. Specifically to Santa Fe County there was a proposal, it was my understanding, for some workforce type housing that a developer was trying to do in Santa Fe County. Ms. Miller would like to have a meeting between myself, representatives of the County and her to discuss that but as far as any specific detail, I don't have anything further than that, but there will be resources that we can apply for to do affordable housing from MFA. And I can bring those programs to you as they become available to seek your direction as to how it is you'd like me to move forward.

COMMISSIONER MONTOYA: And then regarding the senior housing development on number 2, how was that derived?

MR. ANAYA: Mr. Chairman, Commissioner Montoya, I have in front of me the items specifically from the study session that was conducted in December and these items area follow-through to those items, so I'm being very systematic and consistent with what I brought to you before. The senior housing project goes back several years. Before Youth Shelters built their facility on Agua Fria, we acquired the land through a lease that allowed us to master plan other parts of that particular piece of land. At that time, we put a proposal to the State of New Mexico to do a housing development. We didn't say it was necessarily senior but we said more than likely it would be a senior type development. So it's master planned with the State Land Office lease to do that type of project if that's the desire of the Commission.

COMMISSIONER MONTOYA: Okay. I think that's all I have for now, Mr. Chairman. Thank you.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chairman, Robert, I notice in the packet of information for that master plan that the Agua Fria Village is one of the considerations for the senior housing.

MR. ANAYA: Mr. Chairman, Commissioner Vigil, that's the particular project Commissioner Montoya was referring to. I don't believe it's actually in the village. It's on the corner of Agua Fria where Agua Fria makes the big bend, right where Youth Shelters is, on that same parcel of property.

COMMISSIONER VIGIL: Okay. So it's not where La Familia and the ballpark and all of that and our fire station is? The only reason I bring it in is I think it's not a bad idea irregardless of the fact that it may not be within the traditional historical

village, but they're going through their planning process now and it might not be a bad idea to call this to the attention, and Robert Griego may already know about and it may be a subject that has been or has not been discussed, but I think that would particularly impact the Agua Fria planning process, particularly since the Commission just approved a senior housing project on the corner of Rufina and Henry Lynch, and this is in close proximity. So if you can get together with Robert Griego and get this item on the agenda for the Agua Fria Planning Committee I think it would work really well and help that community in its own planning process with regard to what the County is thinking about doing.

The next question I have, Robert, is on the federal funds, because I know you have to get this five-year plan going. When there is excess funds, and I was looking at some of the ledgers, do those revert back to the federal government, or are we able to carry over some of those funds?

MR. ANAYA: Mr. Chairman, Commissioner Vigil, I will meet with Mr. Griego on the planning issue. The resources that are before you today will not revert. These are resources that the County has the opportunity to utilize towards providing affordable housing opportunities. Some of the resources if not expended within the annual plan, example: the capital fund program resources, if you don't spend those monies in the allotted time frame they do go back to the federal government and we do not turn back those resources. We expend them within the allotted time.

COMMISSIONER VIGIL: Okay. I think the next question I have for you is with these additional resources that you've brought forth, have our Affordable Housing Task Force been engaged in any of these discussions, with regard to these resources?

MR. ANAYA: Mr. Chairman, Commissioner Vigil, no. Not specifically to these resources.

COMMISSIONER VIGIL: My sense is it might be a good idea to get them engaged at some level. This is the group of experts that are going to be making recommendations and we do have this pool of money that we can actually start working towards those goals and some of the ideas they may have might be quite useful. So I would recommend that this be a part of their process too, that they be engaged in knowing, first of all, that these funds are available and that they're dedicated for those particular purposes. My sense is that once they're able to come forth making preliminary recommendations one of the things that will be useful is to know where the County can actually use resources towards the affordable housing recommendations they're going to make.

CHAIRMAN ANAYA: I want to comment on that one. If we allow them, the Affordable Housing Task Force, to use that money -

COMMISSIONER VIGIL: No, no. That's not -

CHAIRMAN ANAYA: Is that what you're saying?

COMMISSIONER VIGIL: No. I'd like their input.

CHAIRMAN ANAYA: Oh, input. Okay.

COMMISSIONER VIGIL: Yes. I think they're in an advisory capacity and

I'm not saying let's change the - and let them - we actually will be making the final decisions. But I think their input on this would be quite useful.

MR. ANAYA: Mr. Chairman, if I could, I have several specific questions for Commissioner Campos, Montoya and Vigil for this point and I'd like to wait till the end so that I can make sure that I have clear direction from the Commission as a whole so I'm absolutely positive I'm heading in the right direction.

CHAIRMAN ANAYA: Thank you. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, on the items in Section B that Robert wanted us to comment on for this submittal to HUD, the problem I have with three out of four of these items are that they're O & M items. And I think—

CHAIRMAN ANAYA: What's O & M?

COMMISSIONER SULLIVAN: Operations and maintenance. And these are costs that need to be borne by HUD for the operation of these units. And are in fact borne by HUD for that each year in their allocations. This \$3,085,105 I think is a special opportunity for us to be innovative and I really don't see much innovation in these suggestions. For example, the first one is to assist with expenses of the Housing Authority. Well, I think those are administrative expenses that shouldn't come out of a special designated fund for this entity. I think it should be budgeted just like all the departments are budgeted. So I think we need some more innovation there, rather than just saying building upgrades and ground improvements and for the bureaucracy of the Housing Authority. I think we can be a lot more innovative than that.

In terms of the items in paragraph A, representing the almost a million dollars that we still have left over from the contribution by Las Campanas. I don't think number 1 is useful. That's the same O & M type of category. I think in 2 and 3 and 4 there are some opportunities there for us to look at not ourselves getting into the housing construction business, but as you mentioned in number 4, going through a competitive process to determine a provider who may in fact build some affordable housing somewhere in the county, and that could be a part of a development that we're reviewing or it could be a stand-alone project. We need to look at that. So I think in 2, 3 and 4 there's some possibilities for us to consider there.

And the last question I had, you mentioned the affordable housing water rights as being 19 acre-feet and in looking at the 40-year plan we have a listing of allocations of the 500 acre-feet that was negotiated originally with the City of Santa Fe under the wheeling agreement. In that 40-year plan there's four acre-feet allocated for affordable housing. Could you tell me where the 19 acre-feet came from?

MR. ANAYA: Mr. Chairman, I believe we have people here from the Utilities Department but this particular resource was the project that did not go through next to the Valle Vista Subdivision, that was water allocated specifically, 19 acre-feet for that purpose, and what the Commission gave direction on was how can we potentially use this for affordable housing. So I'm not familiar with the allocation sheet you're looking at. I'm only familiar with the 19 acre-feet that were tied to that particular project and there

would need to be somebody from Utilities to give further clarification of it.

COMMISSIONER SULLIVAN: Well, the only thing that I'm aware of, the only action the Commission has taken is on the 40-year plan. I don't know what staff actions may have occurred since then. There is in that 40-year plan an allocation of 18 acre-feet to Sena, and I think Sena was the one who put that project together. I don't think it was an affordable housing project. It wasn't set up to qualify people in the zero to sixty, sixty to eighty and eighty to 100 category. It was set up as a mobile home park. And somebody decided because it was a mobile home park it was affordable, which I disagree with. So my understanding is that that acre-footage was bought back by the County. It is now owned by the County again, after the County had sold it to Mr. Sena. But the Board hasn't taken any action as to what to do with that 18 acre-feet in my understanding and Doug, you can correct me if I'm wrong on that.

DOUG SAYRE (Deputy Utilities Director): Thank you, Mr. Chairman, Commissioner Sullivan. That figure came from our department, the 19 acre-feet. It did have to do with that contract with Sena came back. It was our understanding, it was my understanding that that was to be obligated to affordable housing and then it was set up that we were going to have a program, possibly, as to how that could be utilized for affordable housing. So we kept it in that category for that reason. When it did come back it went into what we termed an affordable housing category.

COMMISSIONER SULLIVAN: I think that's a good idea. I don't disagree with the idea of using it for that and in fact I think that's where it came from originally. Originally I think there was 25 acre-feet allocated for affordable housing and somehow some of it disappeared. It might be a good idea to bring back to the Commission your department's recommendation for the revision to this because this is what's in the current 40-year plan and that's what the Commission has approved. So I would suggest we work on that. And then following up on that, I'd suggest we'd be innovative and think about how we can make incentives to developers to provide more than the minimum amount of affordable housing that's required with some kind of partnering that might bring some of these water rights to the table and see how that works. I think the time has come to move on that, which is why I felt we needed it in this plan. Thanks, Doug. That's the only question I had on that.

MR. SAYRE: Thank you, Mr. Chairman. I think it's a good idea and we'll do that. We'll bring that back to you.

COMMISSIONER SULLIVAN: If you could bring that back maybe during the administrative meeting and we could clarify that. I think in terms of direction, Robert, without specifically identifying projects which hasn't been done yet, I would just repeat what I said before that I think these should be used for new and innovative projects and partnerships, and not for operation and maintenance. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Any other comments? Robert, let me ask you a question. Do you have monies for operation and maintenance if you don't use this money?

MR. ANAYA: Mr. Chairman, Commissioners, the Housing Authority and

the operation therein has been, has come from a designation of troubled status in recent years. Commissioner Vigil and the rest of the Commissioners that have been on the Commission for several years know that. Its financial solvency has been funded through not only recurrent revenue over the years but it also has filled a gap of what the HUD or the federal government will give us. Commissioner Campos made a comment earlier in the meeting that's very appropriate in that if the federal government gave us everything we needed to operate our programs, that would be great but the reality is that they don't fund the entire need.

The current budget requests and the resolutions that Commissioner Montoya has brought forward today demonstrate that there's a trend of cutting back programs. So the straightforward answer is no. There are not the full bucket of resources necessary to maintain and operate the public housing authority. As such, the County has utilized some non-recurring revenue to fill that gap. And in taking that comment just one step further, the resources generated off the sale of public housing units are providing affordable housing homeownership opportunities for families and individuals. But in the process of selling those units, we have a waiting list in public housing of 500 and some odd people, as well as 900 people on the Section 8 waiting list that will need housing, people in the community.

So whatever it is, the recommendation and desire is of this Commission I will completely follow through. But I think I would be remiss if I did not point out that there is a need for rental programs as well, and there is a need for deeply subsidized rental programs for public housing and Section 8 residents. I have those issues as number one in both categories because those people I see on a daily basis are the most economically challenged in this community. They are people at or below 30 percent of the median income. They are people that make less than the minimum wage that I as the director am trying to help provide those programs as well.

So whatever the desire of this Commission I just ask some consideration for those individuals that are the lowest economically challenged and that we also consider projects in that frame as well, in addition to homeownership and other opportunities. Because many times the discussion always centers around more houses for people to buy and the reality is we need all levels of housing, support services type housing, apartments, low-income type housing. And that's not Robert Anaya, the director making a speech. That's Robert Anaya working in conjunction with the task force recommendations that Ms. Vigil brought up that bring up the entire continuum. So that's my response to that particular question, Mr. Chairman.

CHAIRMAN ANAYA: So I guess after hearing what you're saying, you would need some of this money to continue to operate the affordable housing in Santa Fe County.

MR. ANAYA: Mr. Chairman, my recommendation relative to the resources that are in here recommend that we use some of those resources to help with the improvements to the units that we're selling in our homeownership program, and that we

use some of those resources to also think about reserves, long term, whatever form that may take.

CHAIRMAN ANAYA: Thank you. Are there any other comments?

COMMISSIONER SULLIVAN: Question.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: My concern, and I realize we put County money into helping where we're short with the Housing Authority and I think we should. And I think the Housing Department, just like the Public Works Department and the Planning Department and the Sheriff's Department and every other department should come before the Commission with its budget and the Commission should prioritize those needs. I think that's what the process is all about. My concern is earmarking a revenue stream for something. I think you lose accountability when you do that because it doesn't go through the budget process. That's where there's a potential for misuse of funds and that's why I think we shouldn't use recurring, these revenues, these extraordinary revenues for recurring expenses. That's my concern. I realize we've got to subsidize the housing program and help it along and make it better than it is and we need to do that. But these monies are something extra and I think we can be a prototype. We can stand out by coming up with an innovative approach to their use, as opposed to that money just disappearing.

MR. ANAYA: Mr. Chairman, Commissioner Sullivan, if I could respond. The only general fund revenue infused into the Housing Authority covers part of my salary and Rosemary Bailey's salary. The balance of the budget for the Housing Department is either part of the operating revenue we generate off of rents that we charge and the operating budget from HUD, and then we have a very - I would say very solvent reserve account in addition to these funds that I have been very diligent and very prudent with, to ensure that we have proper expenditure of resources. So the Housing Authority has used those resources as well, so I just want to clarify that point. General fund resources - we've actually gone backwards to where the County has got to the point where it contributes, from a general fund perspective, less and less and less resources, and the Housing Authority has become more and more and more solvent.

So I want to just make that clear. We've come a long ways as a housing authority.

COMMISSIONER SULLIVAN: I think that's a different response than to your earlier response to Commissioner Anaya who said you need that operation and maintenance money to operate. Do you need this money? And your response was, yes, we need that money. What you're saying here is, no, we're solvent with the funds that we bring in from rents and HUD subsidies and the only thing that we use general fund money for is the salaries and overhead related to two staff. The latter is the correct interpretation, right?

MR. ANAYA: Mr. Chairman, Commissioner Sullivan, you used the term O & M, I don't have O & M anywhere in my recommendation. My recommendation is that the resources be utilized for those improvements to common areas and buildings within our

5-H Homeownership Program. But, Mr. Chairman, I have several questions that I have for the Commission so that I can make sure that I do what it is the Commission desires me to do. Commissioner Campos, if the desire of the Commission is to not look at the trust fund at all and completely abate that review, I'm willing to do that, if that's the desire of the Commission.

So we were in the process of doing some research, as you said. I was scheduled to go to a specific training on detailed aspects of creating the trust fund and what it entails and how it works, next Wednesday as a matter of fact. But if it's the desire of the Commission for me not to move in that direction then I will cease that immediately. And I would just like direction from the Commission, is that the direction relative to that aspect?

CHAIRMAN ANAYA: What does the Commission think? I guess I need to know a little bit more about the trust fund and what it's all about before I can make a decision.

COMMISSIONER CAMPOS: Two things I said, we don't know enough about trust funds and how they work, to even consider it at this point, and one, I don't think it's a good idea, generally. I think we have greater needs. We can invest in real property, purchase property. It's going to only go up, so that we have property available for affordable housing in the future. We've noted that we need 30 percent affordable housing just to keep up in this community. I think we need a more aggressive plan that to just put it in a trust fund and live off the interest. I don't think that's a good idea.

And the other issue is, politically, the feds are going to say you've got \$2 million, \$3 million sitting there, why should be give you any more? It's your choice. You've got the money. You chose to put it in this separate fund and collect interest. I don't think that's really the strategy I would choose.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: I don't have enough information, Robert, so I would advise you to go to whatever pre-scheduled meeting you have because I'm not even sure you do. I'm sure you have more than what I do, but I don't think the Commission is at a place where we can say don't pursue that direction, because I have a different sort of assessment of that. I actually think the feds might look at it as quite prudent to create a trust. We don't know. But the information isn't there yet so I feel that the Commission is at a place where we'd like to get more information.

CHAIRMAN ANAYA: Commissioner Montoya, would you like for them to go continue -

COMMISSIONER MONTOYA: Mr. Chairman, on that point, I think in terms of obtaining additional information I would be in favor of that. That wasn't one of the ones that I had circled as something that I think we should move forward on as part of this plan. Because we're approving this - or this resolution, right? And I don't know that we should include that as part of this. I would not include it, let me just say that. But I would like additional information at some point in the future.

MR. ANAYA: Mr. Chairman, and I apologize, but I just want to make sure I have a clear understanding of your desire and clear direction. In item B, which is what we're looking at if you look at the memo, you're saying you don't want that in item B at all.

COMMISSIONER MONTOYA: Number 1.

MR. ANAYA: Okay. So you're basically agreeing with Commissioner Campos in his assessment?

COMMISSIONER MONTOYA: Yes.

MR. ANAYA: Okay.

CHAIRMAN ANAYA: But I agree with Commissioner Vigil that we need to get more information, but you're not putting it in this packet.

COMMISSIONER MONTOYA: Because this is what we're approving.

CHAIRMAN ANAYA: But for future reference, you're not against him going -

COMMISSIONER MONTOYA: No. I'd like to get that additional information on the trust fund and what we can do with that.

MR. ANAYA: So, Mr. Chairman, Commissioner Montoya, in the annual plan, which is what we're requesting approval today, the language that you would be potentially amenable to is review and research the possibility or the background behind a trust fund, rather than creation of a trust fund. And that's all - I just want to make sure that it's okay from your perspective at this point to continue to research that as a possible option. We could put the language specifically in the annual plan that says research the potential of a trust fund.

COMMISSIONER MONTOYA: Yes.

MR. ANAYA: Thank you, Mr. Chairman.

CHAIRMAN ANAYA: I agree with that too.

MR. ANAYA: Commissioner Sullivan hasn't commented yet.

COMMISSIONER SULLIVAN: Mr. Chairman, I just think what we're trying to do here is get staff to home in and recommend a specific direction, project, course of action. These are vague generalities. This is what we've been hearing for four years that I've been on the Commission and we've got to do something with \$4 million that makes an impact on the affordable housing problem. Improving the upgrades for grounds and common building and area improvements, that's not, I don't think, what we're looking at here. We're looking at taking some bold steps to get out there and either partner or do it on our own, whatever's necessary. That's the kind of direction that I would give. These are too vague and I'm afraid this money's going to fall through the cracks and we come back in two years and say, what happened to this money? And it will be gone and we won't have any physical housing to show for it. That's my concern, Mr. Chairman.

CHAIRMAN ANAYA: Thank you, Commissioner Sullivan. I think that we need to make sure that Robert and his staff are clear on what his direction is and he's trying to make it clear to us, and I think that the affordable housing, the Housing Authority

has come a long way. So go ahead and continue, Robert.

MR. ANAYA: Mr. Chairman, the second point that was brought up that I seemed to hear concurrence on from the Commission is that there is an overwhelming desire to leverage our resources with other resources, specifically, and this ties back to the request I had in December. Does the Commission want us to pursue the specific housing project on Agua Fria that could be up to 50 units, potentially, in the master plan, given the discussions that we've had with – that we need to have with the Agua Fria Village as Commissioner Vigil has pointed out. Does the Commission want me to pursue that project or not?

CHAIRMAN ANAYA Commissioner Campos.

COMMISSIONER CAMPOS: Is it appropriate, Robert, Mr. Anaya, to do that at this point? I don't have context or a lot of information right now on that project, so I'm not really here to – I don't think this is the time to talk about that project.

MR. ANAYA: Mr. Chairman, Commissioner Campos, would it be more preferable if the language on that particular item read – because we're specifically tying back to the concerns the Commission had at the last meeting, Commissioner Sullivan in particular wanted items listed in the annual plan. So would it be more appropriate to say, Santa Fe County staff will pursue possible opportunities for a project of a senior housing type or multi-family type? Or do you just not want anything in there at all which would take us back to where we were at the last BCC meeting when this request was brought forward? I just want to make sure I have the right information, but if you would like – if you don't want to be specific, that's okay.

COMMISSIONER CAMPOS: Well, Mr. Anaya, this wasn't designed to be specific as I understood it. It was very general language that you were proposing. I don't know if you've given us the context or the briefing necessary to make those specific decisions. Or you just want us to make a second level of generality. I don't know what you're asking for.

MR. ANAYA: Mr. Chairman, Commissioner Campos, if you'd like me to take that item out, I will take that item out.

COMMISSIONER CAMPOS: I'm just saying it's pretty general, pretty broad.

MR. ANAYA: So it's okay?

COMMISSIONER CAMPOS: What does it say? I don't know.

MR. ANAYA: I think, Mr. Chairman, Commissioner Campos, we have an opportunity based on a master plan that this Commission discussed several years back to potentially get additional housing in that area. If it's the desire of the Commission not to move forward because there's not enough information, that's okay. I just – if we don't want to put it in the plan right now, that's okay. Let's take it out.

CHAIRMAN ANAYA: I'd like to see it in the plan.

COMMISSIONER CAMPOS: Mr. Anaya, that's not what we're saying. We're saying what you presented us is not sufficient to make that decision today and if you

want us to make that decision today, you should have had more information. The ball's in your court.

MR. ANAYA: Mr. Chairman, Commissioner Campos, number two says in the upcoming fiscal year, apply for federal/state resources for the construction of a senior housing development. Mr. Chairman, with all due respect -

COMMISSIONER CAMPOS: For a senior, not Agua Fria. You haven't specified anything.

MR. ANAYA: Mr. Chairman, Commissioner Campos, with all due respect, I don't think that that language is inappropriate but as I said before -

COMMISSIONER CAMPOS: I don't appreciate what you're doing here, Robert. You didn't bring it up that way. If you want us to consider things in detail, give us some detail in context so that we can be prepared prior to the meeting to assess what you're saying.

CHAIRMAN ANAYA: Commissioner Campos, listen, I think, Commissioners, I think Robert is trying to get clear clarification on where this Commission wants him to go. Now, if we're not going to allow him, if we're just going to shut down every time he has a question or gives us a recommendation, then how are we going to move forward?

COMMISSIONER CAMPOS: Mr. Chairman, what's the time line on this? Do we have to act -

CHAIRMAN ANAYA: Here we go again. We're going to delay it again like we did last month.

COMMISSIONER CAMPOS: I'm asking, do we have a time line on this?

CHAIRMAN ANAYA: I don't know what the time line is but I just want to kind of move forward.

COMMISSIONER CAMPOS: I'm just asking a question, Mr. Chairman.

MR. ANAYA: Mr. Chairman, Commissioner Campos -

CHAIRMAN ANAYA: Robert, hold on one second. Go ahead, Commissioner Campos.

COMMISSIONER CAMPOS: What's our time line?

MR. ANAYA: Mr. Chairman, Commissioner Campos, this is an annual plan and could change as Ms. Salazar said at the last meeting. You don't have to have any of these recommendations in the annual plan for us to move forward and we can bring back more detailed recommendations at a later date. We do need to get the annual plan in by Friday. If we could just zero in on those items that everybody is in agreement with and reduce the number in Section B down to one or two. I think that would be fine and appropriate. And Mr. Chairman, Commissioners, all Commissioners, I mean no disrespect in my comments. I want to make sure I have the clear direction and as far as innovation goes, construction, if it's the desire of this Commission to build housing units, I know how to build housing units and I can help the Commission get to that point, if that's the desire to put bricks and mortar in the ground.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Let me suggest then, so we can move on, that we simply focus on 2 in item B, and make it a little broader to say, "In the upcoming fiscal year, plan for the construction of a senior housing development and other affordable housing, and in conjunction therewith, apply for federal and state resources to leverage with County proceeds."

COMMISSIONER MONTOYA: I like that.

COMMISSIONER SULLIVAN: Would that work to moving forward towards the specific program during the next 12 months?

CHAIRMAN ANAYA: Okay. Any other comments? Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Robert, for all that you do and I know the affordable housing is a difficult one and we operate and try to meet the needs of the county, and they're ever increasing and we don't have the ability to meet the needs, so I know you're working with somewhat of an unfounded liability here. I actually think that my desire for all of this is to bring the Affordable Housing Task Force as much as you possibly can on these issues. I'm passionate about, yes, we need more senior housing but I think they're going to be able to provide the expertise to tell us and be able to tell us where the needs are. Perhaps even bring in that innovative component that Commissioner Sullivan is referring to. I think if we incorporate most of our advisory groups in our process we're probably going to be better informed officials and probably what I'm hearing today is we really don't have enough information here to move forward with. The ideas are good. I'd love to be able to say, yes, go look for that senior housing and let's leverage funds, but it's really not specific and then general. So what I'm saying is: not enough information.

So if you can bring the Affordable Housing Task Force in the loop with this and perhaps at your next agenda go through this memorandum and get some input from them and get us in on the loop of that, I think we'll be at a better place.

MR. ANAYA: Mr. Chairman, could I ask Commissioner Vigil a question?

CHAIRMAN ANAYA: Yes.

MR. ANAYA: Mr. Chairman, Commissioner Vigil, we've had a couple of task force meetings. The task force has a large task, a huge task in front of them relative to making recommendations in a constricted time frame. Is it the desire - I know it's your desire. Is it the desire for us to now go back and say in addition to the task at hand which is huge, give them the additional task of resources, because I think they're - I'm not going to say the word overwhelmed, but they've been bombarded and barraged with a lot of information on land use, zoning, what we did in the Community College District, and there's a large amount of work that's been underway. Is there some way we could maybe defer that piece? Do it in this year but defer it to after that initial phase of recommendations come by as a suggestion?

COMMISSIONER VIGIL: Mr. Chairman, Robert, I think the idea behind that recommendation is to keep them informed at the very minimum and let them know

you are going through a policy recommendation process but I want you to know, Affordable Housing Task Force, that the Board of County Commission has some difficulty in making a decision for some recommendations that we as an agency brought for them. One of them was senior housing, possible Agua Fria location. The other one was this. Do you have any feedback on this and can you assist us in solidifying a recommendation. I don't see it as separate tasks. I see that being incorporated in the process of their discussion.

CHAIRMAN ANAYA: Okay. So does everybody agree with that? With Commissioner Vigil's -

COMMISSIONER SULLIVAN: Mr. Chairman, is everyone okay with that revised B. 2 that I put forward as at least something to put into this document that would provide a red flag, a goal, so that HUD, when they come back and look at the plan next year they'll ask what progress did you make on that goal. And then I think having done that we then need to get into the more specifics, most certainly with the advise of the Affordable Housing Task Force. Lots of good, smart people there that we can call on for specifics, because they're in the business and they can come up with bricks and mortar ideas that hopefully we'll be able to implement. That would be my suggestion to the Commission. I don't know whether we need a motion or whether that's adequate direction.

CHAIRMAN ANAYA: Hold on one second. Commissioner Campos.

COMMISSIONER CAMPOS: I have a question for Mr. Anaya. You heard Commissioner Sullivan's proposed language. Is that satisfactory to staff? Does that work for you?

MR. ANAYA: Mr. Chairman, Commissioner Campos, I think it's more than adequate, yes.

COMMISSIONER CAMPOS: Nothing else you would add or take from it?

MR. ANAYA: Mr. Chairman, Commissioner Campos, no. I think that we will be bringing back more specific stuff throughout the course of the year to give you more to make decisions with.

COMMISSIONER CAMPOS: That's fine. Thank you, sir.

CHAIRMAN ANAYA: Okay, any other comments from the Commission? This is a public hearing. Is there anybody from the public who would like to come forward and make a statement to the Commission? Hearing none, then is that a motion, Commissioner?

COMMISSIONER SULLIVAN: I would so move, Mr. Chairman, and hopefully I don't have to repeat it. If you need the text of it the recorder can provide that.

CHAIRMAN ANAYA: Okay, and then Robert, do you have clear direction on what you need to do?

MR. ANAYA: Mr. Chairman, so we will insert the language as put forth by Commissioner Sullivan and the motion on the floor now would be approval of the annual plan, as amended by Commissioner Sullivan's statement.

COMMISSIONER SULLIVAN: So moved.

COMMISSIONER MONTOYA: Second.

CHAIRMAN ANAYA: Motion by Commissioner Sullivan, second by Commissioner Montoya. Any more discussion?

The motion to approve Resolution 2005-47 assed by unanimous [5-0] voice vote.

CHAIRMAN ANAYA: Thank you, Robert, Dodi. And thank you to all of your staff. You've done a wonderful job and keep up the good work.

IX. G. A Presentation Recognizing Santa Fe County Employees During National County Government Week, April 10-16, 2005 (Board of County Commissioners)

CHAIRMAN ANAYA: I want to thank all the staff that's out there and has been waiting patiently. We are going to a presentation recognizing Santa Fe County employees during National County Government Week, April 10th, which is this week, through the 16th, 2005, Board of County Commissioners. I also would like to thank – we've got a lot of volunteers and I'm not going to thank all the volunteers but I'm just going to thank the committees that volunteer. We have the Agua Fria Development Review Committee, the BCC invocations for the meetings, COLTPAC, the Community College District Development Review Committee, the contractors' representative, the Corrections Advisory Committee, the County Development Review Committee, the DWI Planning Council, the Extraterritorial Zoning Commission, the Fairgrounds Committee, the Family Self-Sufficiency Advisory Board Committee, the Health Policy and Planning Commission, the Indigent Fund Subcommittee, the La Cienega Development Review Committee, the Lodgers' Tax Advisory Committee Board, the Maternal and Child Health Planning Council, the Road Advisory Committee, the Senior Service Advisory Committee, the Sheriff's Reserves and Chaplains, and the Tesuque Development Review Committee.

So there's over 1000 volunteers in Santa Fe County that volunteer their time and we want to thank them very much. I also want to thank the committee that put this whole thing together and put this nice ad in the paper. That was on Monday. I want to thank Lisa Roybal, Jennifer Jaramillo, Jeff Trujillo, Lorie Johnson, Mario Gonzales, Justin Salazar, Rob Yardman, Ish Lovato. They've worked very hard to put this together. I thank the Benefits Committee and the Manager's office and we have a little presentation that this committee put together, so Rob, roll it.

[A film presentation followed:]

COMMISSIONER ANAYA (on tape): Hello, I'm Commission chairman Michael Anaya. On behalf of the Board of County Commissioners, I thank you all for your hard work and dedication that you put into your jobs here at Santa Fe County. As

Commissioners we are confronted with issues every day and I'm proud to say that we have an excellent team to help us get the job done. As you excel in your County career it benefits our constituents because you have the knowledge and the know-how and that makes our jobs as Commissioners a lot easier.

You all are an extended family to the Commissioners and to each other. I hope you know how much you are truly appreciated. Unidos aquí para la gente. Here, united for the people, y muchas gracias.

CHAIRMAN ANAYA: (live): Tomorrow at the fairgrounds, at the extension office from 11:30 to 1:30, we're going to have hamburgers and hot dogs, cokes, chips and little bit of music, so come on out. I expect to see all of you there. Any other comments from the Commissioners?

COMMISSIONER SULLIVAN: You're all invited tomorrow. You will be tomorrow designated as honorary members of Commission District 5.

COMMISSIONER CAMPOS: You will be registered right then and there.

CHAIRMAN ANAYA: Any other comments?

COMMISSIONER MONTROYA: I just want to thank all the County staff. It's really a privilege and I've said this a few times before, to be a part of such a wonderful and caring bunch of staff because you're the ones that make us look good. That's the bottom line. If it wouldn't be for you, then we'd be getting more phone calls that we do from our constituents. But I really appreciate everything that you all do and thank you and God bless you all.

COMMISSIONER CAMPOS: I'd also like to thank everybody that works here. I think we do a great job and I think people talk about it and tell us when they come to the County they get a friendly face and they get somebody who's really excited about providing good service to them, as opposed to other places in the community. So thank you very much.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: I'd like to thank staff and let you know that I'm one of you, rising from the ranks, having worked at Santa Fe County and now that I'm on the Commission I also get phone calls and it's never, never about staff treatment. Staff always gets a lot of accolades and that's heartening to me. When I'm out there in the community I often boast that we probably have the most talented group of people in the county working exactly at the County because we do with a little more than 500 people what the City does with a little more than 1200 people. So those of you who work here, I know you've tapped into your own multi-tasking ability and your own talents because you're called upon on a daily basis to multi-task, to be responsive, to be professional, and you do that with a code of conduct that represents the County very, very well. And I hear that often. Thank you very much.

CHAIRMAN ANAYA: Okay, go ahead and take the rest of the day off. Thank you for being here.

XII. B. Matters from the County Manager

1. Updates

a. Update from Staff Regarding the Status of the Energy Task Force [Exhibit 2: Supporting materials]

MR. ABEYTA: Thank you, Mr. Chairman. In your packets you have a memorandum from Wayne Dalton who is our Special Projects Coordinator with the Land Use Department. He staffs the Energy Task Force for us, and we also have Mark Sardella who is the chairman of the City/County Energy Task Force. So Wayne will present his memo and then if the Commission has any questions for Mr. Sardella he will be available. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Thank you, Roman. Okay, Wayne.

WAYNE DALTON (Special Projects Coordinator): Thank you, Mr. Chairman, Commissioners. This memo is updating the Energy Task Force as per Resolution 2004-3, the Energy Task Force shall report to the governing body of the City of Santa Fe and the Board of County Commissioners regarding PNM's ten-year plan. The task force shall report as to reliable, cost-effective and practical alternatives to transmission projects, including but not limited to energy efficiency programs, demand reduction initiatives, pricing strategy and distributed generation.

At this time the task force is meeting every other Monday until the task force gets going on the issues that the Board of County Commissioners and the City of Santa Fe want the task force to comment on, such as PNM's ten-year plan. The task force has discussion the mission and goals of the task force, Santa Fe's energy problems, framework for a solution and specific tasks and time line for completion for the task force comments.

Mr. Chairman, as Roman had stated Mr. Mark Sardella, the chairman for the Energy Task Force is here and would like to update the Commission on the Energy Task Force as well.

CHAIRMAN ANAYA: Thank you, Wayne. How are you doing, Mark?

MARK SARDELLA: Good, thank you. Members of the Commission, I appreciate the opportunity to speak and I also appreciate the video interlude between the last presentation and this one. It not only eased the tension but I kind of have a cool jazz riff going in my head now. We're all bopping a little bit.

The task force, we've not actually met every other week. We started in November and we've actually been meeting about once every three weeks. We're a volunteer, obviously, organization of nine members, some ex-officio members. PNM has brought good representation from their side. They usually have a member of their legal staff. Last night a member of their marketing staff. They typically have their interconnection expert, Pat Scharff as the ex-officio member of the commission, so we've had a lot of support from them.

I did want to just give you – first of all I want to say that the job of the task force is very difficult. We've spent a lot of time in discussions. You'll see on the front page the

nine meetings we've had a lot of it has just been discussion. It's because the issues are technical, the issues are difficult, all of it, developing an alternative to the status quo plan of just continuing to build power lines and looking at alternatives to building power lines is an extremely complex task. So we have had a lot of time just getting our feet on the ground.

We did at last night's meeting develop a set of deliverables that we'd like to present to you and to the City of Santa Fe. We don't have an exact time line on these now but I'd like to read them off to you. There are five deliverables, four of them I have the agreement of the task force, and on the fifth one I don't have the agreement of the task force and I want to talk to you about that also.

The first thing that we did provide for the City was recommendations for their franchise negotiations. I think you all know that they're entering a new franchise negotiation at the City with PNM, and we did specifically go through the draft franchise agreement and make specific recommendations on what should be added to that agreement and what should perhaps be taken out of that agreement and we have already made that deliverable to the City.

The second thing was really directly through our charter. I think you'll see on that second page the letter that I sent to both the County Manager and the City Manager basically questioning what our scope was as written in the resolution and stating how we felt we could clarify it, which was that we felt that anything under your planning and siting review authority with respect to the electric utility should come under our purview. In other words, anything that you have jurisdiction over that you can require as a condition of siting or that you have siting authority over should be something that we should be able to review as part of the task force.

So because of some anomaly - not anomaly, but perhaps the resolution wasn't as clear as it could have been and there was some conflicting language in it and we took the initiative to actually broaden our scope slightly to do that particularly. But nonetheless, given the initial, particular incentive of writing the resolution, the second deliverable which we already delivered to the City a recommendation to the City to develop a comprehensive plan for sustainable energy, and this is outside the task force. We're not saying that we're going to do it; we're saying the City should do it. I actually think the County should do that also, it's just that we were responding specifically to something that the City said when we made that recommendation.

The third thing is really very directly to the what the original intention was on creating the task force, and that was to review and comment on the investor and utilities facility plan. In other words, their expansion plan for electric utilities. And that's a particular deliverable that I don't have a time line for that but I am meeting with two members of the task force in the next week or so to prioritize the projects that PNM has put forth that they are planning to put in, and prioritize those in what order the task force will look at them, and we'll make further recommendations.

The fourth thing, and as I go down these, this is really the last deliverable that

we've agreed on as a task force and they're getting more difficult here. Those were kind of the easy ones. Recommendation for a revision to the planning process for utility projects, including recommendations for a requirement that should be imposed as a precondition of siting authority. I think this is important because if you're going to question where the utility wants to put in facilities you actually have the ability, given your siting jurisdiction, your siting authority, to question whether or not they've looked at alternatives and to what extent they've looked at alternatives. And I believe that actually you have the ability to require them to prove that they need the power line by undertaking a third party neutral study of alternatives to that power line. There's many alternatives to power lines - onsite generation, load demand, technology, load response technology, energy efficiency programs - there's lots of things that I think you could require as a condition of granting siting approval for any new facilities.

At any rate, I have been adamant personally in the task force that the task force needs to take up this issue. My feelings have not been shared entirely by all members of the task force. I did actually get agreement on that as a deliverable, the one I just mentioned to you. But the fifth item I actually do not have the support of the task force on and to me it's the most important thing that could be done and should be done right now and that is characterization of the electric load in Santa Fe. If we don't know what this load is, what it's made of, what's driving the growth of this load, where the load is growing, how long these so-called peaks, peaks of energy demand, when have they been occurring? How long do they occur? Are they for five hours a year? Or do the peaks go up to this peak level and do they stay there?

I believe that a technical characterization of the load is critical. The task force, as I said, does not share my view on that and for that reason I have an announcement. I want to take this opportunity to make an announcement that I am resigning, I am hereby resigning as the chairman and I'm resigning from the task force for that reason. All of my work through my non-profit, I want to assure you that everything that I do is directly geared towards challenging underlying assumptions of continued load growth forever. My non-profit specifically works to protect this community from the rising cost of energy.

So while I do feel that this work is critically important, I am working on it on my own. I think most of you know I'm in the middle of a \$1.8 million project to look at alternatives to the existing infrastructure. I believe that significant resources need to be put towards looking at wholesale changes to the way we think about energy and to what's coming on, what's coming up in the energy industry. We all know that energy is getting frightfully expensive. We know that our County has below average nationally income and as a result, New Mexicans get hurt very, very hard when energy prices increase. So this is a serious problem and I think it's time to throw some very serious resource at it.

I do think the task force should continue. Neva Van Peski, my vice chair, I will talk to her about my resignation. I've not spoken with her about it yet. But she should continue and the task force should continue, I believe, on the more limited aspect of looking at the facility plan. In terms of challenging the wholesale assumptions that we're

going to grow and grow and grow and we should sink tens of millions of dollars in improving the utility infrastructure for an investor-owned utility, I'm going to be working on that on the side and I would encourage you, actually, to develop your own plan to put together some resource and really to go at this problem on a much, much more aggressive level.

So that's my report from the task force. I'm sorry if it's a little surprising. I'm certainly willing to stand for questions and alleviate any concerns that you have. Thank you.

CHAIRMAN ANAYA: Thank you, Mark. Any questions? Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, I'd just like to - I don't really want to thank you, Mark. I want you to stay on as chair. You were one of the leaders in setting this up. I think the questions you're asking about questioning these basic assumptions, I think it's critical. I think characterization of the load is critical. You're asking the basic, fundamental questions that we have to ask if we're really going to redesign our energy system. If you think this is critical and there are members on this Commission who don't share that, we need to know that before you come and say and you're resigning. When I worked on the resolution, my idea was not simply to look at the ten-year plan but to look at energy in the bigger picture. And I was hoping that was what would be done. Certainly the ten-year plan was something significant and before us in the near term but there's big issues all over and I'm afraid if this Energy Task Force doesn't do it, it ain't going to get done and if you're not involved - so can you withdraw your resignation?

MR. SARDELLA: Mr. Chairman, Commissioner Campos, what I'll agree to do, actually, is to meet with you and to meet with any members of the Commission. I know that we can't meet as a quorum but individually if you'd want to, and talk about how we will address the technical issues. The real problem on the task force - I thought about this a long time and I have been thinking about this a long time, the real problem on the task force is the issue of challenging underlying assumptions of energy policy for the County and of continued load growth and of perhaps the County becoming involved in owning its own lines and doing a little municipal extension, perhaps to the electric power grid, of powering that up with alternative sources. These are largely technical and very, very heavy policy issues. And in fact while there is a significant amount of talent, certainly legal talent on the task force, the task force has some fabulous members, but in terms of the engineering and technical capability of task force members to actually characterize the problem in terms of its technical nature, an investor-owned utility comes to you and says your load is 60 megawatts and it's going to grow, the task force doesn't have the technical wherewithal nor the resources to actually assess the truth of that statement and alternatives to that statement. So I applaud the Commission for putting together the task force. I do think it was very forward-thinking and I do think the task force can have success no a limited agenda.

In terms of really challenging the technical assumptions that are being made and the policy assumptions that are being made, I think that it's going to have to be done at a higher level with significantly greater resource than a volunteer organization that meets once every three weeks. That's all I'm saying. So I'll make this concession. I would like to meet with you if we can and discuss how we will address this problem on both fronts and then reassess whether or not the appropriate thing is to work within the task force or outside of it.

COMMISSIONER CAMPOS: I appreciate that because to me, the task force is critical. There's so many issues, they're so important, and they're imminent. And if we don't start thinking about them now we're always going to be victims of somebody.

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: I echo the sentiments of Commissioner Campos and I think if there's some discussion and dissent as to what should be done, how it should be done, this task force should be looking at any and everything and it shouldn't be limited because essentially, as you said, this is not a policy making task force; it's a recommending task force for policy based on what it is that you look at doing. So maybe that needs to be made clear because I'd hate to see you leave that task force as well, because I think you have so much to offer that is foresightful and that's what we need to be doing as Commissioners and seeing how we can be foresightful and trying to provide alternative forms of energy for residents of Santa Fe County. So I don't know what we can do to educate the members that it is a recommending body for policy, that we should be the ones that adopt. Not say, no, we shouldn't look at that, we should only look at this. I think we're cutting our own foot off before we even take a step.

MR. SARDELLA: Mr. Chairman, Commissioner Montoya, I have suggested to the task force that if we don't have the technical wherewithal within the task force to challenge some of these assumptions and to look at say, a wholesale change to the way we distribute energy, that that's a perfectly good recommendation of the task force to make to the Commission to say that we recommend that the Commission actually develop an RFP or something to hire someone technical enough to complete a thorough study of what should happen. Again, this is something that I would appreciate the opportunity to speak with you about also. I don't think I even have the support of the task force to support such a recommendation to the Commission. I don't think so. We can feel that out. But the task force really does believe primarily that they're charter should be to specifically look at the wires plan, the facilities plan that have been proposed and discuss specifically what to do with regard to those recommendations as opposed to characterize the entire load of the city and determine whether or not there are vastly different approaches that should be taken.

So I can recommend that but again, I don't believe I have the support of the task force on that.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Mark, yes, I would like you to reconsider and I am happy to visit with you about that. With regard to the task force and their process, certainly, I don't know if they have a consensus building model or not but certainly - obviously they don't. I wouldn't mind receiving a consensus report and a dissenting report and knowing who it's from. Those are the kinds of pieces of information that I think we at least can start and move forward with. I think we can, in our own processes, agree to disagree. By the same token, sometimes I gain a greater benefit from the dissenting opinion in a judge's opinion than I do from the majority.

So we are seeking that kind of information and if there's a way we can assist through the task force's process to identify some kind of a consensus building model and a dissenting opinion of some kind, perhaps we'd be able to get the information we sought after when we created it.

CHAIRMAN ANAYA: Commissioner Sullivan, did you have anything? Okay. I think all the comments were directed really well. I think they had a good point and maybe we need to somehow get back to the task force and let them know what their assignment is. I know that Mark, I recently attended the New Mexico Association of Counties meeting and Commissioner Ben Lujan, Jr. was there who sits on the PRC and he was telling us what the PRC does and there was an interesting question that came up in the discussion, and that was you mentioned the rising costs of energy. Well, his question was PNM has commercials constantly on TV, just educating the public on how to save energy and this. But if they did away with all the commercials and just concentrated on giving us energy, would our bill come down? If that's what their job is, to deliver energy and not get into all the commercials and the advertising and the PR stuff then maybe our costs would be down. And you mentioned the rising costs. So I thought maybe, since we've got an energy task force that would be something that we'd look at. So I just wanted to throw that out.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: Just a suggestion. I talked to Commissioner Montoya and we both would like to meet with you in the next week or two to talk about the work of the Commission, and then we can report back to the entire BCC.

CHAIRMAN ANAYA: That sounds good. Would that be okay?

MR. SARDELLA: That's great.

CHAIRMAN ANAYA: So anyway, thank you Mark, and reconsider and thanks again for the update.

MR. SARDELLA: Thank you. I appreciate it.

XII. B. 1. b. Update on Geohydrologic Model and Collaboration with the City

MR. ABEYTA: Mr. Chairman, in your packet you have an update from Steve Wust, an e-mail that he sent to me regarding the geo-hydrologic model. We're going to be working with the City on a single model that could be utilized with both the City and the County. The collaborative process has changed the time frame that was originally issued in the County modeling contract so instead of October it is estimated that the final report and model will be completed in December of this year. It is not anticipated that there will be any change to the cost of deliverables of the Interra contract and Dr. Wust is available for any questions you may have regarding that.

CHAIRMAN ANAYA: Any comments?

COMMISSIONER VIGIL: Thanks for the update.

CHAIRMAN ANAYA: Thank you, Roman.

IX. Matters from the Commission

COMMISSIONER SULLIVAN: Mr. Chairman, before we go to executive session, we ended the Matters from the Commission at that really good slide show, but I didn't know if any other Commissioners had anything. I just had one thing that I wanted to ask staff about.

CHAIRMAN ANAYA: You bet. Commissioner Sullivan.

COMMISSIONER SULLIVAN: I just wanted to get an update on where things were with the negotiations with the Eldorado Water and Sanitation District.

MR. ROSS: Mr. Chairman, perhaps that question is best directed to me. I have had a few discussions with them recently. One of the ideas that was discussed amongst us individually after the vote last time was that maybe we should try and reinvent the proposal so that it's maybe not as objectionable to the County and also serves some of the other goals that the County has. So I approached the Water and Sanitation District through one of the board members and I've proposed the following, which was that the County might consider purchasing all or a portion of the assets of the district, and what I suggested to them was that the County could purchase the wells, the water rights, the tanks and the mainline and then become a wholesale water supplier to the district, which might be a way to solve some of the problems that plagued the earlier arrangements.

They have been somewhat receptive to that idea. What I need to do now is flesh it out and circulate it to you all and see if it's something that you might consider and if that's the case we'll put it on an agenda and talk about it. That way it's kind of in my lap right now to kind of do a concept paper on what that might look like. The advantages to the district of course are that they would have some assistance if we purchased some of the assets with their pending condemnation. The advantage to the County is it would provide

us with water rights and some flexibility and a larger system to work with without a whole lot of additional burden in the sense that we wouldn't have to send out a thousand utility bills and things like that. You'd only have one customer. And I haven't completely thought it out but that's kind of where the concept is at this point.

So the ball's in my court to get you something informally so we can put it on the agenda and talk about it.

CHAIRMAN ANAYA: So Steve you're saying instead of purchasing half you want to purchase the whole thing?

MR. ROSS: No, no. The idea was to purchase half. The main water distribution system, which is the water, wells, the tanks, the big lines, the smaller lines that supply a lot of customers. The County would run that and install like, say, a single master meter and sell water to the district. And then the district would take care of the day-to-day operations of things and send out bills, deal with the customers, set policy, things like that. It serves some of the objectives that we were struggling with the JPA was before you last month.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Steve, as you're drafting this concept paper I'm hoping you might be able to address an issue that was a concern to me and that was the liability exposure for the County. So please incorporate that into a white paper or concept paper, whatever it is.

MR. ROSS: Right.

CHAIRMAN ANAYA: So what does the Commission want to do? Do you want us to put it on?

COMMISSIONER SULLIVAN: I was just asking for a status report, Mr. Chairman. I know that the district is having I believe tomorrow evening, I think it's tomorrow evening, another public meeting as they've done before to discuss this concept with the Eldorado District residents. They of course had to go ahead and issue revenue bonds at a very high rate to have that ability to purchase the system. So we don't have the emergency that we had before but it's I think an idea that has had some merit and needs to be kind of thought out a little more and we'll see what the district comes back with and I think Commissioner Campos suggested this working paper or a concept paper that would give us the idea similar to those that we had on the Buckman Direct Diversion. So we had a concept paper to work with before we jumped into a 20-page legal document, something easier to digest. Of course if the Commission has other ideas I think now is the time to talk to Steve about them and any concerns you have, whether they're legal concerns, liability concerns, financial concerns, policy concerns, I would discuss them with me, discuss them with the Eldorado members or with Steve. We're open to some innovative thinking here.

CHAIRMAN ANAYA: Okay. Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, as I understood the process, we would get a sketch or a concept plan. It would be circulated. If there's consensus then

we would bring it up to the County Commission as a whole for discussion. I think that's where it lies, right? So when do you think we may get this concept paper?

MR. ROSS: It's rising to the top of the heap, because of the time that's elapsed if for nothing else. I had hoped to get it put together before now, actually, and a lot of other urgent matters have taken their place, but I think I can put it together pretty quickly and I will try and do that.

COMMISSIONER CAMPOS: Okay. Thank you very much. Appreciate it.

CHAIRMAN ANAYA: Keep that road thing on the top of the list.

MR. ROSS: Always.

CHAIRMAN ANAYA: Any other Commissioner want to speak on Matters from the Commission?

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: I'd like to get an update on where we are on obtaining an underwriter for the bonds that we have so we start selling.

MR. ABEYTA: Mr. Chairman, Commissioner Montoya, our Finance Director, I don't see her but I know she is now working on getting, now that we have the plans that we're approved, we're working on contracting with a financial advisor to help put this together. And we already do have the legal side of it, a financial attorney in place. Now we need the advisor and we hope to come to the Commission with a bond sale resolution, either in the first meeting, the first meeting in May is when we'd like to come back to the board with that. The first meeting.

COMMISSIONER MONTOYA: Do we need an advisor?

MR. ABEYTA: Our bond counsel is saying yes, we do. We need an advisor to help put this together.

COMMISSIONER MONTOYA: Prior to doing the underwriting?

MR. ABEYTA: Yes.

COMMISSIONER MONTOYA: Okay.

MR. ABEYTA: So we're proceeding with that.

COMMISSIONER MONTOYA: So hopefully, the beginning of May.

MR. ABEYTA: Yes.

COMMISSIONER MONTOYA: So if we're lucky we may get some projects, some roads done by October.

MR. ABEYTA: Hopefully sooner than that. We'll get the money in place. According to our bond counsel we may be able to get it in place within 60 to 90 days, so we're looking at probably August, September to start, hopefully.

COMMISSIONER MONTOYA: Okay. I hope it's in that time line. I just hope I'm wrong and it's not going to be October because then nothing will be getting done, which I would hate to see. There's so many needs out there that I have in my district, and I'm speaking selfishly and I'm sure everyone has those needs, but I really need to see some things getting done out there.

The other, we attended the Association of Counties board meeting. I just wanted to update the Commissioners regarding what was discussed and primarily it was an administrative meeting where the budget was reviewed, the budget being proposed, and the next meeting on May 7 we'll be approving the budget for the New Mexico Association of Counties.

The other thing that is, and we need to act on is the election of a representative for Santa Fe County on the Association of Counties board of directors. I'm currently in that position and if nobody else wants to do it I'll do it again. But we have to actually have an election through the Clerk. Have they contacted you. Valerie?

VALERIE ESPINOZA (County Clerk): No, not so far. There might be others interested.

COMMISSIONER MONTROYA: It's something that usually the Clerk will do. But we do have to elect a new representative. Or the same one. That's all I have, Mr. Chairman. Thank you.

CHAIRMAN ANAYA: Anybody else? We did pass the two resolutions that this board passed and the CDBG was also passed at the New Mexico Association of Counties. Now those two resolutions are going to the state central committee in two weeks in Socorro. Any other comments?

XII. C. Matters from the County Attorney

1. Executive session

- a. Discussion of pending or threatened litigation**
- b. Discussion of possible purchase, acquisition or disposal of real property or water rights**

Commissioner Montoya moved to go into executive session pursuant to NMSA Section 10-15-1-H (7, 2, and 8) to discuss the matters delineated above.

Commissioner Vigil seconded the motion which passed upon unanimous roll call vote with Commissioners Campos, Montoya, Sullivan, Vigil and Anaya all voting in the affirmative.

[The Commission met in executive session from 5:05 to 6:00.]

Commissioner Campos moved to come out of executive session having discussed only the matters outlined in the agenda, and Commissioner Montoya seconded. The motion passed by unanimous voice vote.

XIII. Public Hearings

A. Land Use Department

2. Request Authorization to Publish Title And General Summary of An Ordinance Requiring Installation of Hot Water Recirculation Systems Within New Homes

MR. DALTON: Thank you, Mr. Chairman, Commissioners. On March 29, 2005, the Board of County Commissioners directed staff to prepare an ordinance that would require the installation of hot water recirculation systems within new homes. Staff is in the process of preparing this ordinance and will forward the proposed ordinance to CDRC in April for recommendation and to the BCC in May and June for adoption. This ordinance will apply only to new construction. Staff is requesting authorization to publish title and general summary of said ordinance.

CHAIRMAN ANAYA: Any comments? Commissioner Campos.

COMMISSIONER CAMPOS: Let me ask you a question, Mr. Dalton. What if a system breaks down and you need a new circulating pump. A new pump. Wouldn't that be a point in time that you could require that they add a recirculating pump?

MR. DALTON: Mr. Chairman, Commissioner Campos, I'm not too familiar with these systems at this time. I have called around to different plumbing supply stores and I don't know the answer to that question but I can find it out for you.

COMMISSIONER CAMPOS: It seems to me these are simply pumps that move the water around.

MR. DALTON: That's correct. They're recycling pumps is what they are.

COMMISSIONER CAMPOS: When your pump breaks down you need to replace it, right?

MR. DALTON: That's correct.

COMMISSIONER CAMPOS: They need to be replaced every four or five years, I would guess.

CHAIRMAN ANAYA: What was the question? What do you do after they break?

COMMISSIONER CAMPOS: You've got to replace a circulating pump. So he's saying that this legislation would apply only to new construction. I'm asking, maybe it should apply when a time for replacement occurs. We may want to think about that.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: The pump that's used is not their well pump. Are you talking about if your well pump breaks down?

COMMISSIONER CAMPOS: The well pump? The circulating pump. The pump that circulates hot water that attaches to your bathroom. When that breaks down at that point you could replace it with a pump that circulates hot water all the time.

COMMISSIONER SULLIVAN: Oh, I see what you're saying. It takes more

than just the pump. It takes a return line in the system as you have in your house. That's why it's really applicable to new construction, when they can get that return line in. The only difference is it makes a series system out of the hot water piping in your house instead of it going from faucet A to B to C and ending at the furthest point in your house, you just pick up that line and run it back to your hot water heater where this very small pump circulates it in that closed loop. So it would be more expensive to require someone to retrofit.

COMMISSIONER CAMPOS: So it would require a substantial retrofit is what you're saying?

COMMISSIONER SULLIVAN: Yes. Just for that return line. It's easy to put the pump on. That's easy because that just attaches next to your hot water heater. But the return line is what would be difficult for -

COMMISSIONER CAMPOS: Especially on slab construction.

COMMISSIONER SULLIVAN: Especially on slab construction. You'd have to insulate it and put it in the attic.

COMMISSIONER CAMPOS: Okay. That makes sense.

CHAIRMAN ANAYA: Okay, so the main concern about this whole discussion is about wasting water.

COMMISSIONER SULLIVAN: Correct.

CHAIRMAN ANAYA: You're waiting for the hot water to get to the shower and you're turning it on. With a circulating pump it circulates it. You can put it on a timer and you can set it from four to eight and then it circulates the water and then when you go to take a shower the hot water's there. Then the circulating pump will turn off and the next morning it will come on. So are you understanding that?

COMMISSIONER CAMPOS: Yes, sir.

MR. DALTON: And Mr. Chairman, if I could get some direction from the Board. Staff is drafting this as a stand-alone ordinance and my question to you is do you want some language inserted in the Water Conservation Ordinance also, under indoor conservation, to require this hot water recirculation system. Or do you think it's sufficient just to have it as its own ordinance.

CHAIRMAN ANAYA: I think it's under conservation. That's what I think. Under conservation.

COMMISSIONER VIGIL: It seems that you want your conservation issues in one place so you look in one place as opposed to looking in two or three. That makes sense. As long as we get it down.

COMMISSIONER SULLIVAN: Yes. Wherever it's more applicable in legal terms and you're comfortable with, Mr. Chairman. That would be my suggestion. That would seem the logical place to look for it when you're looking for conservation ordinances.

CHAIRMAN ANAYA: Any other comments?

COMMISSIONER SULLIVAN: I'd move to publish title and general

summary of the hot water recirculation ordinance, Mr. Chairman.

COMMISSIONER CAMPOS: Second.

CHAIRMAN ANAYA: There's a motion by Commissioner Sullivan, second by Commissioner Campos. Any more discussion?

COMMISSIONER VIGIL: Mr. Chairman, Wayne, is it possible for you to get some information with regard to other communities who have incorporated this kind of an ordinance or any kind of legislation from municipalities also who have incorporated this when you bring this back to us?

MR. DALTON: Mr. Chairman, Commissioner Vigil, I can do that.

COMMISSIONER VIGIL: Thank you.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos,

COMMISSIONER CAMPOS: The other issue the Commissioner Sullivan did introduce some documents that suggested that you'd save a lot of water. I don't know who put that publication out, but there's data out there indicating how much water you would save by having such a system. Perhaps you could research it and make it available to us at the public hearing. Prepare the package again.

MR. DALTON: Mr. Chairman, Commissioner Campos, I will do that.

CHAIRMAN ANAYA: And possibly what the costs would be. I don't think it would be that much.

MR. DALTON: Mr. Chairman, I did call around like I say and the cost of a basic pump, it was the basic pump, the timer and what they call an aquastat - it's pretty much a thermostat, runs about \$185.

CHAIRMAN ANAYA: Okay. And we'll tell the contractors not to mark it up when they put it in.

COMMISSIONER SULLIVAN: And Mr. Chairman, some of the places you can look, they are being used here in Santa Fe but I believe they're required in Scottsdale, for all homes in Scottsdale. So you might look at Scottsdale's ordinance.

CHAIRMAN ANAYA: There's a motion and a second.

The motion to authorize publication of title and general summary for a hot water recirculation ordinance passed by unanimous [4-0] voice vote. [Commissioner Montoya was not present for this action.]

XIII. A. 3. Ordinance 2005-2. An Ordinance Amending Ordinance 2003-2, Article V, Section 5.2.2.g 8 and Section 5.2.2.g 9 (Master Plan Procedures), and Ordinance 1996-10, Article V, Section 5.3.2 (Final Plat Submittals), and Article VII, Section 6.4 (Water Availability Assessments) of the Land Development Code to Specify at What Stage Water Rights are Required to be Transferred. Wayne Dalton (SECOND PUBLIC HEARING)

MR. DALTON: Thank you, Mr. Chairman. On February 17th the CDRC met and acted on this ordinance. The decision of the CDRC was to recommend approval of this ordinance. On March 10, 2005 this ordinance was heard by the BCC. This ordinance is coming forward for a second public hearing in order for the BCC to make a decision regarding this ordinance. Staff recommends approval of this ordinance. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Thank you, Wayne. Any discussion? No discussion. Is there anybody from the public who would like to speak on behalf of this? Hearing none, what's the pleasure of the Board.

COMMISSIONER VIGIL: Move to approve.

CHAIRMAN ANAYA: There's a motion.

COMMISSIONER CAMPOS: Second.

CHAIRMAN ANAYA: And a second by Commissioner Campos.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: The only thing I'd like to ask staff about is since we're not at this point now or any more requiring that they have actual permits in phase 2 and we're just essentially setting out kind of a road map of the kind of documents we want to see and understanding where the water is going to be coming from at the master plan stage. I think it's appropriate - we've got the old language in there that relates to the type of subdivision. Let me point out where that it to you. If you look on page 2 in the first bullet, on the third line, and this is language that's not bolded. When we adopted this ordinance before, and this language is from the existing ordinance, we left out Type III subdivisions and a Type III subdivision is a subdivision with five to 24 homes. And we left it out because the feeling of the majority of the Commission - well, we left it out because we had to leave it out in order to get the ordinance passed. But the other reason we left it out was that the majority of the Commission felt that for a smaller subdivision getting a water permit at a master plan stage was too burdensome on smaller subdivisions up to 24 units.

Now we're only talking about the kind of documents that they're needing to show. They're not having to get permits. So I think it's important for the public to know where the water is coming from for a 24-unit subdivision as well as a larger subdivision. All of these Type I, IIs and IVs are larger subdivisions or they're smaller subdivisions with

smaller lots.

CHAIRMAN ANAYA: So you want to add III to the –

COMMISSIONER SULLIVAN: So my suggestion is to add III in there.

CHAIRMAN ANAYA: Any comments from the Commissioners?

COMMISSIONER VIGIL: I'd just like to hear Dolores' response to that request.

DOLORES VIGIL (Land Use Administrator): Mr. Chairman, Commissioner Sullivan, Commissioner Vigil, Commissioner Sullivan has stated that this type of subdivision was excluded in the original drafting of the ordinance because it would also include the type five lots or more. It was seen that that type of subdivision would be an extra burden so we recommended, staff recommends that it not be included.

COMMISSIONER SULLIVAN: I guess the feeling, Commissioner Vigil, I think we've reduced the burden here substantially when we don't require a permit. We're simply requiring them to document their water and a series of 24-lot subdivisions can add up very quickly and I think it's not that much of a burden on the developer to disclose where the water is coming from. So I wanted to point that out and ask if you all would consider in the motion and in the second including the Type III subdivisions as well.

CHAIRMAN ANAYA: Go ahead.

MS. VIGIL: Mr. Chairman, I'd like to also state for this Type III subdivision a master plan is not required, so to keep it more standard within the ordinance, that is why we did not include a Type III. Because this does talk about the master plan procedures.

CHAIRMAN ANAYA: So if we throw this in –

MS. VIGIL: We might have to reconsider that a Type III subdivision would require a master plan approval.

CHAIRMAN ANAYA: Okay. Any other comments? Hearing none, we have a motion and second for approval. Roll call.

COMMISSIONER VIGIL: Mr. Chairman, just to clarify, the motion does not include the inclusion of the Type III. The motion that I made was to accept the recommended changes as our in our packet.

CHAIRMAN ANAYA: That's right. The seconder, do you agree?

The motion to approve Ordinance 2005-2 passed by unanimous [5-0] roll call vote, with Commissioners Anaya, Campos, Montoya, Sullivan and Vigil all voting in the affirmative.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: I'd just like to say that I think it's difficult to consider significant amendments at the second public hearing. I think there may be a notice issue.

CHAIRMAN ANAYA: Good point. Thank you.

- XIII. A. 4. **CDRC Case #V/Z 04-5490 Alfonz Vizolay Variance and Master Plan. Alfonz Vizolay, Applicant Requests a Variance of Article III, Section 4.1 and 4.2 (Types and Locations of Commercial Districts) of the Land Development Code for the Eligibility for Commercial Zoning Outside of a Commercial District. The Applicant is also Requesting Master Plan and Preliminary and Final Development Plan Approval for an 8,510 sq. ft. Warehouse and Office. The Property is Located Within the Santa Fe Metro Highway Corridor in the Commercial Gateway at 4 Reata Road, Within the Remuda Ridge Subdivision, Within Section 24, Township 16 North, Range 8 East (Commission District 3)**

VICENTE ARCHULETA (Review Specialist): On March 10, 2005 the Board of County Commissioners tabled this request to allow the applicant an opportunity to address relevant issues as discussed with the BCC, including consideration of another site and if the property has legal non-conforming status for commercial use.

There is a 1,861 square foot building being occupied as office and equipment storage at this time. Staff has determined that this property has a legal non-conforming status for commercial use based on a 1986 zoning approval granted by the EZA for a convenience store that never did open for business, as well as occupancy of the property by Travel Town, a recreational vehicle sales and Santa Fe County Animal Control for a satellite office. (See 1986 EZA meeting minutes as Exhibit K.)

An expansion or change of use for a legal non-conforming commercial site is subject to BCC approval. Mr. Chairman, would you like for me to continue with the staff report? This case was heard last month.

CHAIRMAN ANAYA: What was staff's recommendation?

MR. ARCHULETA: Staff's recommendation is denial of the variance and the proposed master plan is in accordance with all other procedures and submittals for master plan set forth in Article V, Section 5 of the County Land Development Code. If the decision of the BCC is to recommend approval of the variance staff recommends master plan zoning with preliminary development plan approval subject to the following conditions, and final development plan subject to approval by staff.

[The conditions are as follows:]

1. Compliance with applicable review comments from the following:
 - a. State Engineer
 - b. State Environment Department
 - c. State Department of Transportation
 - d. County Hydrologist

- e. Development Review Director
 - f. County Public Works
 - g. County Technical Review Division
 - h. County Fire Marshal
2. Master plan with appropriate signatures shall be recorded with the Office of the County Clerk.
 3. All staff redlines will be addressed. Original redlines will be returned with final plans.
 4. The applicant shall comply with water harvesting requirements of Ordinance 2003-6. A water harvesting plan shall be submitted with the final development plan application.
 5. The applicant shall submit a liquid waste permit from the Environmental Department with the development plan.
 6. The applicant shall comply with all Fire Marshal requirements. The applicant will request a final fire inspection prior to occupancy of the building.
 7. The applicant shall pay a fire review fee in the amount determined by the Fire Marshal in accordance with Santa Fe County Resolution 2001-114 prior to recordation of the final development plan.
 8. All outside lighting on the property shall be shielded.
 9. The applicant shall submit a cost estimate and financial guarantee for completion of the required improvements as approved by staff, or other method acceptable to staff.
 10. Landscape plan shall include but not be limited to the following:
 - a. The applicant shall submit a landscape plan consisting of trees and shrubs for road frontage landscape buffer, front of building and west property line in conformance with minimum size standards.
 - b. Landscaping for road frontage shall also be located in front of fence.
 - c. All landscaping shall be of drought tolerant varieties and shall utilize a drip irrigation system.
 - d. Provide 50 percent evergreen trees/shrubs.
 11. Applicant shall contact NMED about existing septic permit and apply for new septic permit for the proposed development.
 12. Applicant shall contact the Drinking Water Bureau to inquire about water quality testing.
 13. The applicant shall contract with a licensed solid waste disposal service for trash pick-up.
 14. The applicant must address all minor corrections by the County Subdivision Engineer as shown on the plat of survey and terrain management plan. These plans may be picked up from Vicente Archuleta, Development Review Specialist within the Land Use Department. These plans must be resubmitted with the mylar prior to recordation.
 15. Approval of rural address.

16. Applicant shall obtain a business registration prior to occupancy.

CHAIRMAN ANAYA: We heard this case, what, a month ago? The applicant was going to work with staff to come up with something. Refresh my memory.

MR. ARCHULETA: Mr. Chairman, last month this case was heard and the Commission recommended that this case be tabled so Mr. Vizsolay could speak with his family and see if he could find another location.

CHAIRMAN ANAYA: Okay. So nothing has changed other than him going back to speak with his family to find another location and it looks like they haven't and that's why he's back before us?

MR. ARCHULETA: Mr. Chairman, there was a change. We found that this property does have legal - well, it has zoning for - it was zoned in 1986 for a convenience store.

CHAIRMAN ANAYA: Okay and at the last meeting we had no zoning?

MR. ARCHULETA: We didn't have the exact date of zoning and that information.

CHAIRMAN ANAYA: So you found the document. Is it in the packet?

MR. ARCHULETA: Mr. Chairman, it's Exhibit K.

CHAIRMAN ANAYA: Okay.

COMMISSIONER CAMPOS: Mr. Chairman, I have a question of Mr. Archuleta.

CHAIRMAN ANAYA: Sure.

COMMISSIONER CAMPOS: Mr. Archuleta, what is the significance of this finding of an '86 zoning as a convenience store to this case right now?

MR. ARCHULETA: Mr. Chairman, Commissioner Campos, it just goes to prove that this does have zoning for a non-conforming status.

COMMISSIONER CAMPOS: For a convenience store, which is different from what's being proposed. And if you look at legal non-conforming, aren't you limited to maintaining the non-conforming? You can't expand it? Isn't that an issue?

MR. ARCHULETA: Mr. Chairman, maybe Joe can answer that question. I'm not too sure.

JOE CATANACH (Review Division Director): Mr. Chairman, I heard part of that question. Let me see if I understood the question.

COMMISSIONER CAMPOS: Do you want me to repeat it? The question was what is the significance of the finding that there was a 1986 zoning for a convenience store? Mr. Archuleta has characterized as being non-conforming so there's always that issue of intensity and expansion of a non-conforming use.

MR. CATANACH: Yes, Mr. Chairman, Commissioner Campos. In making the determination that the property had legal non-conforming status based on a 1986 zoning approval by the EZA we went back to the section of the County Code that addresses non-conforming uses and what that says, I'm going to paraphrase this, but it talks about that there

can be expansions of non-conforming uses provided that the expansion does not increase the intensity of development or alter the character of the non-conforming use on the site, according to any limitations set by the Code relating to development standards for lot coverage, height, waste disposal, water use, setbacks, traffic generation, parking needs, landscaping, buffering, outdoor lighting, access or signage.

So what this is telling us is that there can be expansions of non-conforming use. Generally though, if you're not increasing the intensity of what was previously the zoning on this property, and that really, that would be something that we probably wouldn't want to determine administratively. I can tell you that we have reviewed this application and as far as complying with standards for lot coverage, height, waste disposal, water use, setbacks, traffic generation, parking needs, landscaping, buffering, outdoor lighting, that it's in compliance with those things but it's the part of the sentence that talks about you cannot expand non-conforming uses if it alters the character of the non-conforming use. Certainly that would be something that we would want to present to the Board in a public hearing.

Changing from what was zoned as a convenience store that never opened, that then there was some casual commercial activities that occurred on this property. Travel Town used this property for at least a year. They had RV sales and service for about a year. So this property was full of RV trailers at one time. That request to allow the property to be used by Travel Town, I think that went to the EZA, I can't remember if it went to the EZA or the Board of County Commissioners but there was action by the governing body to allow Travel Town to use the property. And then I guess some time after that, a year after that the County used the property for an animal shelter. So I would be - we were not comfortable in just saying that we can change the use and allow this building expansion and that's not going to change the character of the property. That's why it's presented in the format that it's being presented, as a variance.

Certainly some of the discussions we've had is that is this a variance? The variance that's being presented is a variance of the zoning criteria for location. This property is not located at a qualifying road intersection. However, under Highway Corridor Plan it is located within the Gateway Commercial District. So you have an existing County Code that it does not meet the zoning criteria for location at a qualifying road intersection, but you have a Highway Corridor Plan that says this is a Gateway Commercial District.

COMMISSIONER CAMPOS: That's only a plan.

MR. CATANACH: That's only a plan.

COMMISSIONER CAMPOS: How can you compare a plan with an ordinance?

MR. CATANACH: I just bring that up as information, again, so that we're all talking about the same things. And even in that plan it did not designate that property as red commercial; it designated it as yellow residential. Certainly though we talked to Judy McGowan that was the staff that was involved with the Highway Corridor Plan and she did state that when the Highway Corridor Plan was put together, they did not do a lot of detailed review on legal non-conforming uses.

So where does that bring us? It brings us to the request that's before the Board which is

a variance of zoning criteria for location not being at a qualifying intersection and it brings us to the Code language that states that there shall not be expansion, the expansion does not increase the intensity or alter the character of the non-conforming use. That's really the two issues we're dealing with is the presented variance. Because obviously, putting 8,000+ square feet of building is going to change the character of the use. And that's why it's being presented as a variance of locational criteria. That's where we're at. And again, I think as far as the significance of the language in the County Code and where that brings us is that certainly, generally in zoning matters, the Board has some discretion to look at this and say, well, certainly there's going to be a larger building on here but there's not going to be nearly the amount of activity that would have occurred with a convenience store as far as traffic and customers coming to the property and all of that. So you have a proposal that's going to be more building intensive than what the non-conforming status of this property is.

Then in looking at the other uses that have occupied this property, like I say, Travel Town used this property for a year, year and a half and this property was full of recreational trailers. So again, I would state that certainly the Board has the discretion to look at this expansion, this request for variance and essentially a change of use and an expansion and determine whether it's compatible.

COMMISSIONER CAMPOS: I think Mr. Catanach, one issue here is that you create a larger structure, you're inviting in the future more intense use. It's the potential for intense use that this applicant does not compare to what has occurred there before but because of the scale of the structure you're almost inviting in the future at some point a lot of increased economic activity on that site.

MR. CATANACH: And certainly staff has recommended to address that that any other expansion or change of use would be subject to Board, BCC approval.

COMMISSIONER CAMPOS: Okay. Thank you.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Joe, at the last hearing we had I heard that the Highway Corridor Plan had designated this a residential area. Now, am I to understand that through your research you have identified it as a legal non-conforming.

MR. CATANACH: Yes.

COMMISSIONER VIGIL: And yet the Highway Gateway Corridor is saying it is a commercial use. Those are all conflicting for me. Could you negotiate that?

MR. CATANACH: Mr. Chairman, Commissioner Vigil, I believe what I intended was that we have a Highway Corridor Plan that designates this area as a commercial Gateway District. We're talking about a pretty large area. We're talking about the interchange of I-25 and Cerrillos Road and other surrounding areas. But certainly you still have residential uses within that commercial gateway. I guess the point I was making though is that you have a plan and certainly that plan is not all conclusive of everything that's going to happen in this huge commercial gateway. I guess the point I was making is that the Board would have discretion to say, well, the Highway Corridor Plan is in place. This is a commercial Gateway

District and the Board would have discretion to say that certain property that may have been designated residential would be more appropriately designated commercial.

COMMISSIONER VIGIL: Mr. Chairman, staff is recommending denial? Could you explain that for me more?

MR. CATANACH: Mr. Chairman, Commissioner Vigil, staff is recommending denial because of what's before us. A County Code that requires commercial uses to locate at a qualifying road intersection which this does not, and a Highway Corridor Plan that designates this as yellow residential but I guess there could be some discrepancies, like I say. A Highway Corridor Plan is not going to take into account every situation of every property that's within this commercial gateway. So we really didn't have anything to base our recommendation of approval on. But again, looking at this realistically and what's out there and the location of this property, again I think that certainly the Board would have some discretion to make a determination of certain properties within this commercial gateway being appropriate for commercial use.

COMMISSIONER VIGIL: When you're in that position of a conflict, do you all look to, particularly in this case, perhaps some federal guidelines, like the Highway Beautification Act? Those kinds of things that might be able to enter into your decision? Or do you really rely strictly on the Code?

COMMISSIONER VIGIL: We mostly rely on the Code and hopefully we would rely on the Code that the Code has adequate standards to address the way the property is going to look from the highway, regarding landscaping and sign standards and lighting and outdoor storage and that sort of thing.

COMMISSIONER VIGIL: Thank you, Mr. Chairman. Thank you, Joe.

CHAIRMAN ANAYA: Are you done with your presentation, Vicente? Any other questions of Vicente or staff? Is the applicant here? Could you come forward?

[Duly sworn, Alfonz Vizsolay testified as follows:]

ALFONZ VISZOLAY: Mr. Chairman, Commissioners, my name is Alfonz Vizsolay. I'm the owner of the property on #2 Reata Road.

CHAIRMAN ANAYA: You don't have to go into a whole presentation. We've heard it. Is there anything different that you want to add to the presentation?

MR. VISZOLAY: Well, one thing I would like to mention, Commissioner Campos, you asked me a question the last time I was here regarding to the plan that was put together. I just want to tell you something. I will abide by that Code. I will exactly tell exactly what's in the Code for the plan that we put together for you. I would not deviate from that. And the building that we would put up is, I would discuss it with all the neighbors and I would show them pictures and drawings that I feel that it would actually bring enhancement to the property and to the Highway Corridor from the freeway that aesthetically would be pleasing. It wouldn't be some ugly industrial building that we would put up. It would be built in the Santa Fe style and it wouldn't necessarily be like an industrial building. This particular building is going to be used as an office, engineering offices. We're going to have some testing equipment and all those containers that we have on site, there will be no outside storage whatever. This is

light industry. It's going to be used for offices and engineering and some storage for some lab equipment. Because this property is not big enough to use any kind of a heavy industry. It would be ridiculous.

I'm willing to work with my neighbors and I understand the resentment they have and I think we're getting some dialogue now and I think it would be really important to see exactly what I do there. There was some misconception that I have contaminated waste on this property. I would never get into that. It's extremely difficult to use that, really liable and I am not involved. I'm involved with cleaning water and mostly water treatment I build is on site for the customer and they deal with their own waste. I will not have no chemicals or any type of a waste on this property. As a matter of fact, if you look at my building that I have in Rancho Santa Margarita, I didn't even allow changing oil in the trucks that I had, to put any kind of an oil on the ground, because I am an environmentalist and I understand what that would do to the soil, the groundwater. So I'm totally aware of that. I live it. I just don't talk about it; I don't preach it. I live the environmental project.

CHAIRMAN ANAYA: Okay, Mr. Vizsolay, does that conclude your -

MR. VISZOLAY: There were some questions regarding what I'm going to build on this property if you would like to know and the procedure. *Exhibit 3*] I'm going to build equipment. It would usually be, I'm going to have a customer, let's say Los Alamos. I will go on site, look at it, discuss it with their environmental people and if we build the equipment, if we build some tanks we will not build it on site. The tank manufacturer builds the tank. I will ship it directly to Los Alamos and we're going to erect it. The only think we might be building on this property is some electrical control systems which is about the size of a closet door and we will build all of the programmable controllers. But we will not build any heavy-duty equipment on site.

CHAIRMAN ANAYA: Okay. Thank you. Are there any questions of Mr. Vizsolay?

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Vizsolay, I've received a couple of phone calls with regard to the contamination issue. This is the concerns that have been expressed. You have equipment that is currently stored in bins right now. The purpose of this request before the Board of County Commission is for you to build a building so that you could store that equipment. Now, that equipment in the bins is specifically used for what?

MR. VISZOLAY: There is office equipment in there. There is storage, we have some bolts and nuts. There's some drill presses in there. There's a lathe. I'm willing to open up these containers for the residents to see exactly what I have, and I express their opinion because there are misconceptions that I have some chemicals in there. I am willing to open to any of you Commissioners to come and look. As a matter of fact, one of the containers is already open because we donated some of the office equipment to one of the schools. So I'm going to sort of minimize what's in there and when I moved, I moved in a hurry and I didn't have time to throw things away. I have some files, which I didn't know if you realize, it takes a long time to

throw away paperwork. Especially when you're in business for four years.

COMMISSIONER VIGIL: So you would testify that no equipment that you use for your environmental remuneration process is in any of those bins?

MR. VISZOLAY: No, ma'am. There is no - just basically equipment. There is no process equipment. Anything that I do on a skid is on the outside right now that [inaudible] manufactured. If you were going to put that to Intel. I just had to move it in a hurry because I didn't have time to get rid of it. But there is not going to be outside storage like that. It's an ugly sight. I know it, and I want to get rid of that because it's temporary storage.

COMMISSIONER VIGIL: No further questions at this point, Mr. Chairman.

CHAIRMAN ANAYA: Okay, thank you.

MR. VISZOLAY: There is one thing I would like to say. I listened to this dialogue here and this discussion regarding to this property. I would like you to be in my shoes. I'm really having a hard time understanding a lot of this. I came to buy this property as commercial and I hope you understand, I'm not trying to change anything here. I just bought something that I thoroughly understood was commercial, and I would never try to hurt my neighbors to come in here and do this without their approval but right now I have no choice. I have to try to go through with this.

CHAIRMAN ANAYA: Okay, thank you Mr. Vizsolay. This is a public hearing. Is there anybody in this audience that would like to speak in favor of this case? If you are favor, go ahead and come forward. Okay, hearing none. Is there anybody in the audience that would like to speak against this case? Come forward. Go ahead, Chuck.

[Duly sworn, Charles Vigil testified as follows:]

CHARLES VIGIL: My name is Charles Vigil. I live at 31 Reata Road and Mr. Vizsolay, I can see where he's coming from. Somebody told him it was commercial and he bought it. And it wasn't. It was mentioned several times, they had a temporary permit so they could get their property across the interstate to move these trailers in. They only had a temporary permit to sell there. Animal control also had a temporary permit to put their little office there. They never bought the property; it was never zoned as commercial. They just rented it for a year.

None of these other commercial entities that were in there had permanent commercial status. Now, this is the third time I've been before the Commission. Third different piece of property that people have tried to get variances for. The first one was an awning place and they sold him the property saying it was commercial also. And he believed it and went to the CDRC and they denied his variance. Another one came across the road from Mr. Vizsolay and it came all the way up to the Commission and that was denied.

My biggest problem is if you allow this what's going to keep these other people from coming back? We're going to open up the door, Pandora's box. We've already had, the commercial entities that are there now, they're - they have burned us. They're dumps. They're junkyards. There's nothing you can say that's nice about any commercial property entity that's in that neighborhood now. Originally it was a residential neighborhood. These people came in back in the early 70s and there was not that much control. And they're in there

now. I'm sure quite a few Commissioners have gone and seen what this looks like, the neighborhood. We're trying to clean it up and I'm just afraid that if we allow a variance like this of two different codes that it's going to open up Pandora's box and it's just – the commercial entities that are there now have already dropped my property values from \$75,000 to \$100,000. A [inaudible] goes through there every single day of the year, 365 days of the year.

The residents are the ones that are going to get hurt by this. Mr. Vizsolay, it's the third time he's been up before the Commission, CDRC and then twice, and yet we still do not know what his home residence is, his address. He has never given it. Thank you.

CHAIRMAN ANAYA: Thank you, Chuck. Anybody else like to come forward?

[Duly sworn, Art Schwack testified as follows:]

ART SCHWACK: My name is Art Schwack. And I would just like to reiterate what I said last month while I was here, I was always under the impression for the whole 16 years I've lived out there that that entrance to the community was a residential property and I'm against it being commercial. Mr. Vizsolay is a very nice gentleman. His plans look very nice and everything, but that would be if I was on the side of having it be a commercial place and I'm not. I'm for having it stay residential and I'm not here to hurt anybody's feelings of course. I'm just here to state what I feel and what I know about the community.

In the community most of the people that I've talked to don't want any more business in there no matter how nice it is because we really don't know what might happen a year or two from now or if he was to sell it and something else were to come in, who knows what, and we also don't know what might go in right across the street where there's also a vacant lot there. So that's where I stand and I thank you.

CHAIRMAN ANAYA: Thank you, Art. Anybody else?

[Duly sworn, Steve Borman testified as follows:]

STEVE BORMAN: I'm Steve Borman from 29 Reata Road. Okay, it's really, everything they've said is exactly what I was thinking. It's the precedent that this is going to open the door to something that we're not going to be able to stop and we can stop it now, but we cannot stop it once that door is open. Secondly, I did mention last time I was here was property values. It's the truth. One of these days I may consider moving out of there and I'm going to be left with an investment that I thought I had from many years ago. It's not going to be the investment I thought I had. That's another reason why I don't want this door open. And also across the street from me, there was a fellow that bought property thinking he was buying commercial. It was denied, but his idea was to have a – live on the property with a little awning shop there. Now it turns out that he has a house that was being built in another location and he was actually going to vacate the premises and leave his awning shop behind. So things aren't always as they seem.

So what I'm getting at is that we open this door and it's open. So that's all I have to say.

CHAIRMAN ANAYA: Thank you, Steve. Anybody else?

[Duly sworn, Joe Trujillo testified as follows:]

JOE TRUJILLO: I'm Joe Trujillo, 30 Reata Road. Mr. Chairman, members of the Commission, thank you first of all for the opportunity again to be here before you to present our concerns. I would like to start out by saying that one of the neighbors that was here at the last meeting, Mr. Dan Williams, was not able to attend, but I would like to reiterate his opening comments last month. When he addressed this Commission it was very direct and he said, Commissioners, your decision here tonight will determine whether Remuda Ridge becomes an industrial zone or remains residential.

With that in mind, I'm going to be brief. I would like to respond to some of the staff comments regarding the commercial history of this particular lot. There was a travel trailer and they had probably 100 or so trailers on this property. This was a temporary use because they were building across the highway. There is an industrial park across the highway south on I-25 and there was space available in that industrial park. Santa Fe County Animal Control also moved in shortly thereafter. They were there, I don't know, maybe a year, year and a half or so. Thereafter it remained vacant for a while and then there was a trucking company that moved in equipment, vehicles that remained on the premises, for, oh, several months.

All of these commercial uses were not only non-conforming but in my opinion, illegal. Going back to 1986 when this lot was rezoned to commercial the intent was for a convenience store. There were numerous conditions imposed on this commercial zoning. None of the conditions were met. Some to my recollection was that the metal building was to be stuccoed, no outdoor storage, no expansion, no parking on Reata Road, because this particular building was five feet from the roadway. It did not even meet the setback requirements. At that time I believe they were about 15 feet from the frontage. There were numerous other conditions imposed none of which were met. When the property was rezoned shortly after the property was sold the applicant moved out of town and we were saddled with a metal building which has since been used for commercial purposes.

It is my contention that this application before you is referred to as commercial. We see it as industrial and perhaps even industrial manufacturing. The subject property is also in the Remuda Ridge Subdivision. It is not in the highway corridor. It is not commercial. It is in the residential zone. We have approximately 82 residential lots. There are several of them, I think as many as six, that are being used for commercial purposes but that usage does not mean that they are legally entitled to operate as commercial entities. You've already heard from staff that the 1986 commercial zoning does not allow for expansion, particularly if it will alter the character of the premises. There was a small building, a metal building that was intended for use as a convenience store and what is proposed here, this application in no way resembles what is there today.

Addressing the highway corridor, the Commercial Gateway, it is staff's opinion because there is a plan of some sort in the making that this particular lot would fall within the purview of the Commercial Gateway. Again, I would reiterate that this is a residential lot and it is within the boundaries of a residential subdivision. It is not in the highway corridor. It is also within a couple of hundred feet of the highway, I-25. There is a Highway Beautification Act that also

SFC CLERK RECORDED 05/13/2005

addresses commercial entities that would distract from the Beautification Act. In my opinion this would not be allowed under the provisions of the Highway Beautification Act.

In closing I would just like to reiterate staff comments that this application is prohibited under Article III of the Land Use Code, specifically under Section 4.1 and 4.3. And finally, Commissioners, we are little people. There are big people that have lots of dollars to defend themselves and to take care of themselves. We do not have those type of resources. We have to rely on you to protect us. Some of us have 20, 30 years invested out there. There is a clean-up effort by the County at this point trying to turn back what should have never happened in the first place. By allowing this application to proceed it would just disrupt the entire clean-up enforcement effort that's being conducted out there right now. It would also turn the Southwest Sector into an industrial area and in particular Remuda Ridge. We ask for your help. Thank you.

CHAIRMAN ANAYA: Hold on one second, Joe. Staff could you address the 4.1 and 4.3 that he talked about? What was it, Article -

MR. TRUJILLO: Article III.

MR. CATANACH: That's what the applicant is requesting a variance for.

CHAIRMAN ANAYA: And we're not sure if it's residential or commercial at this point. It's been used as commercial but yet it says residential on the plat or what?

MR. CATANACH: The Highway Corridor Plan shows the property as a yellow designation which is residential but as I had mentioned we talked with Judy McGowan, the staff that worked on the Highway Corridor Plan and she said that they did not do, there was not a lot of detailed review regarding legal non-conforming properties.

CHAIRMAN ANAYA: Okay. Thank you, Joe.

MR. TRUJILLO: Thank you.

COMMISSIONER VIGIL: Mr. Chairman, Joe, I have a question. One of the issues that we struggle with here is what the neighborhood associations or neighbors want and what's happening with a particular applicant. Is there any possible way that Mr. Vizsolay might be able to meet with you as neighbors to address some of the particular issues that you may have or not?

MR. TRUJILLO: Mr. Chairman, Commissioner, the one big dilemma, we like the applicant, Mr. Vizsolay. He is just a real jewel, he really is. And the one dilemma that we have is that to allow this to continue successfully it would open Remuda Ridge, it would open it up for more applications of commercial and industrial use. Two have been denied within the past year and there was one, I happened to note when I was outdoors, there is another application before the CDRC for a commercial building and that is to be heard in two weeks. So the big concern is not so much what Mr. Vizsolay intends to bring in, because he has done a very good job already of cleaning up. Our concern is what will happen with the next application that perhaps is not as neat as this one? In other words, where does it stop? We've been there 20, 30 years and it appears that he may have made a bad investment but there are many of us who have there for many years that also have an investment.

COMMISSIONER VIGIL: Thank you, Mr. Chairman. That brings me to a question for staff. Is Remuda Ridge identified as a residential area except for those properties

that have been grandfathered in as commercial. It's a three-part question. And the properties that Mr. Trujillo references that have been denied, are they coming in for variances from residential to commercial based on the fact that that entire area has now been zoned residential, save for the grandfathering in. That might be too broad a question.

MR. CATANACH: Mr. Chairman, Commissioner Vigil, the properties that Mr. Trujillo is referring to, the request to manufacture awnings, went before the CDRC, that's an internal lot to the subdivision, so I think that needs to be understood. That is an internal lot to the subdivision and staff would in no way support that request to zone that from residential to commercial. That's an internal lot. The application he referred to that's on the CDRC agenda in two weeks, that's an internal lot to the subdivision. Again, the staff would maintain that it's not appropriate at all to convert those residential areas to commercial. This particular property is a perimeter lot. I don't know if that answers your question but that gives a little bit more information as to how that might fit into this whole big picture as far as the other applications that have come forward or that are in the process.

COMMISSIONER VIGIL: That's shed some light. Thank you.

MR. TRUJILLO: Mr. Chairman, if I may, a point of clarification here. The one lot was internal, the second one that was denied is right across the street from this application and it's a vacant lot. And that one came in with a request for commercial zoning.

COMMISSIONER VIGIL: So that would have been a perimeter lot?

MR. TRUJILLO: That's right across the road.

MR. CATANACH: And I'm sorry, Joe, I can't remember. Did it come all the way to the Board or did it stop at the CDRC?

MR. TRUJILLO: No, it came all the way to the Board. It went to CDRC and then via the Board.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Thank you, Mr. Chairman. Mr. Ross, Steve, regarding the document we have in here dated January 27, 1986 where there was a request and a granting of a special exception and a setback variance for a small-scale commercial use, where did that throw what we're looking at here today? What significance does that have regarding this case?

MR. ROSS: Mr. Chairman, Commissioner Montoya, I think that's what Mr. Catanach was referring to earlier when he talked about the fact that the property has a legal non-conforming use granted by it appears the Extraterritorial Zoning Commission and the Authority some years ago. That's not the request that's before the Board right now. Certainly this application could have been brought forward to you as a request for an expansion of that previously approved use, in which case then the ordinance has limitations on the degree to which the prior use can be expanded. The request here today is for a variance, which may not be quite as much to expand previously existing use.

COMMISSIONER MONTOYA: Okay. And this is for the applicant. Is there a residence on there now? No? Okay. And then maybe a question for any of the ones that are in opposition to this. Would you put a residence in that lot or on that lot, should you own the

property?

yes. Okay.

Chairman.

MR. TRUJILLO: Mr. Chairman, Commissioners, there is no doubt. Yes, yes,

COMMISSIONER MONTOYA: Okay. Thank you. That's all I had, Mr.

CHAIRMAN ANAYA: Any other comments? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, I think on the issue of the perimeter lots. I find that staff is recommending denial then they seem to be testifying in favor of the applicant here so I find that a little interesting. On the perimeter lots, when you drive by and around this property, the entrance to the property is off Remuda Ridge. The entrance to the property is not off the frontage road. So I consider it an interior lot because that's how you have to get on Remuda Ridge to get to the lot. So that would be one thing that I think would need to be considered and the other is I've heard before people saying, well, there's commercial along the frontage road so nobody would want to live there so let's make it all commercial. Well, if you go down the road just a few yards there's three homes that front on the frontage road right after this subdivision and after those three homes there's a mobile home trailer subdivision that also fronts on the frontage road.

So the fact that you're on the frontage road doesn't mean that you can't be residential and in fact they are residential in the area. I really think what we've got here is a community of 80 families who are struggling to maintain their identity, and in fact they're trying to improve their area as well and to upgrade their community. And I think that's important. When you go back and Commissioner Montoya mentioned to that 1986 action by the EZA, in looking at the letter that was proposed by Mr. Gallegos at that time, he said the buildings and use will be a convenience store serving the immediate area of Remuda Ridge Subdivision. The amount of traffic generated by the project will in no way impede traffic flow or cause public roads to operate at over-capacity. Those persons patronizing the store will be from the immediate area, therefore any increase in traffic flow will be insignificant. And they go on to say that there's no such facility within five miles of the community, so it will be a real benefit to the community to have this convenience store close by.

Well, I would have, I think been in favor of that back in 1986. It seems like it would have been a good facility and eliminated the need for people to drive back and forth to the mall and so forth, just to get a tube of toothpaste. But that's not the case now. That's not what's being proposed. Now an 8,000 square foot structure is being proposed and I was looking at the conditions and those conditions were that that building was to be stuccoed and there was to be no off-street parking and that building is not stuccoed. It's a tin building, it's a metal building.

So as Mr. Trujillo testified, those conditions were ignored as often happens. Now, I'm not saying that this applicant would ignore those conditions but I can understand the sense of fear and concern of the residents because of that. I think we should allow this community to do what it wants to do, which is better itself. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Any other comments? Was there any body else that wanted to speak?

MR. TRUJILLO: Mr. Chairman, may I disclose on thing that I neglected here. I apologize to the Commission here.

CHAIRMAN ANAYA: Go ahead.

MR. TRUJILLO: I operate a septic tank business. I drive a septic tank truck in and out of my property every day. I have two employees. They come in, each one drives a pick-up. They come in in the morning and they leave in the afternoon. We drive out in the morning, drive in in the afternoon with the septic truck. I do not have any operation on my property. Just the driving in, driving out and I apologize. I failed to disclose that earlier.

CHAIRMAN ANAYA: Thank you, Joe. Was there anybody else who would like to speak against this case? Okay, would the applicant like to rebut? Mr. Vizsolay, would you like to comment on anything that was said?

MR. VIZSOLAY: Mr. Chairman, I would like to mention that we had about 28 people here last time and I didn't want to bother them to come here. I didn't know if you need them or not. And also regarding to improve that property, some of these people are objecting that it's going to be a junkyard and if you look at that property, I'm not commenting on what's there but you have to drive there yourself. Because of the customers I have I have to have a certain image of this building, what I would try to put up. It has to be aesthetically pleasing. I deal with Lockheed. I deal with National Lab, Los Alamos, and the customers that walk in I have to have a certain representative office. And believe me I would never have my property somewhat in disarray as some of the other ones.

And I agree with these people. If they would really understand what I'm trying to do, I feel that it would enhance their property and their value would go up if I were allowed to do this building there. And I would show them the plan and how it would look. Right now, this property before I bought it, it was basically a dump. Everybody threw bottles in there. And you see they mentioned that I've improved the property. I did put in about \$50,000 so far just cleaning it up and putting a fence up and I stopped because I was going to put additional fences in and clean up and I don't like that metal building there either. I'm going to take that down. So it's not going to be there once I build my building. And it would be similar to what it would be actually enhance itself into that particular landscape. There's a church next to me. There is Fedex. There is a trucking company. And all around this property businesses existing that are not going to move. I asked them and they do not want to move. And I'm sort of in the middle of it.

And trying to build a house there, no, that's questionable, I want to mention. I wouldn't want to build a house there because – and I feel sorry for the Fedex trucks there, every day, back and forth on that street. There is a lot of traffic of trucking and there is other trucking companies that drive by that property. And I wouldn't understand why anybody would build in the middle of an industrial complex like that a house. There are people that maybe would but it's – I don't think it would be really a – you couldn't sell it, I don't think. Anyway, thank you for your time, ladies and gentlemen.

CHAIRMAN ANAYA: Thank you, Mr. Vizsolay. Let me ask you a question. Did you meet with the individuals that spoke before us today in opposition? Have you met with

them individually or as a group?

MR. VISZOLAY: No. I finally got a hold of Mr. Joe Trujillo. And another thing I want to mention to you. These people are really great, some of them I talked to and I talked with Mr. Trujillo just today, and he's very cordial and he understands my position. I'm in a really difficult place here. If they want to buy that property back, I move out of there. If somebody buys that property from me tomorrow, I move out. But I have no choice right now. I already invested into this. In looking for some other property, I like the area. I like the neighborhood. I have businesses around me and I, just by intuitively I look at Santa Fe newspaper, the *New Mexican*, and then there is a tobacco company, and there is also all the business around me. There is a trailer park and there is housing but people in the backyard have businesses that they run. For example, Enchantment Services that works on police cars, and it's a house but he has a 5,000 square foot shop in the back.

It's very confusing to me and I really hate to be in this position.

CHAIRMAN ANAYA: Okay. Thank you, Mr. Vizsolay. Any more discussion? What's the pleasure of the Board? I want to make a few comments and then maybe the Board will have a motion or not. I've met with the property owners in the subdivision that we're speaking about and they came to me and asked me if I would help them clean up their subdivision and we sent out notices for the residents and the landowners and the business owners to start cleaning up their areas. We took a tour out there. There was probably about 20 of us that drove around and looked at the area. And since we did that it has improved but it still needs more improvement.

After seeing what Mr. Vizsolay has done to the property, I have no doubt that him wanting to fix that area up and clean it up and make a good business there. And I was hoping that Mr. Vizsolay and the residents could sit down and work this out. I looked in the audience today and I thought, well, maybe, just maybe that the residents did sit down with him and they're going to speak in favor of this, because I think it's a good project. But I was elected by the constituents in that area and they do not want this to go in. And I listen to my constituents. And last, you're probably thinking well, why - you said something different last time you talked. Well, it was tabled and I was hoping that the constituents would meet with Mr. Vizsolay and talk about it and work it out. But that's not the case.

I guess what I'm hearing is that when somebody wants to come put some residence in that area that the constituents in that area will be coming up here in support of that. Mr. Vizsolay, I know you mean well and I know your project, it seems like a good project and I hope you can find some other property. I don't know how this Board's going to do this case but I'm going to have to stick behind my constituents in that area and hopefully your project, maybe you could put your project in the business park and Santa Fe County would be happy to have you. The water clean-up, water quality, I think that's a great thing that we need here in Santa Fe County. So I hope you don't go away. But with that, I'll go ahead and motion to deny.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN ANAYA: There's a motion and a second. Any other discussion?

The motion to deny CDRC Case #V/Z 04-5490 passed by unanimous [5-0] voice vote.

XIII. A. 6. LCDRC Case #V 04-5780 Viola Chaverri Variance. Viola Chaverri, Applicant, is Requesting a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow the Placement of a Second Home on 2.5 Acres. The Property is Located at 100 Camino Montoya Within the Traditional Historic Community of La Cienega/LaCieneguilla, Within Section 20, Township 16 North, Range 8 East (Commission District 3)

JOHN SALAZAR (Review Specialist): Thank you, Mr. Chairman. Thank you, Commissioners. On March 3, 2005 with all seven members present the LCDRC met and acted on this case. The decision of the LCDRC was to recommend approval of the variance. On February 3, 2005, the LCDRC met and acted on this case with only six members present. The motion ended in a tie vote. The applicant is requesting a variance of the lot size/density requirements of the Land Development Code in order to allow two homes on 2.5 acres.

The property is located within the Basin Hydrologic Zone in the traditional historic community of La Cienega/La Cieneguilla. Article XIV, Section 6.4.2 of the Land Development Code states that the maximum density states that the maximum density in this area is 10 acres per dwelling unit. However, maximum density may be increased to one dwelling unit per 2.5 acres with proof of 100-year water supply through a geo-hydrological reconnaissance report and adoption of water covenants. There is currently one home and one septic system on the property. The property is served by an onsite well which serves the existing home. The proposed second dwelling unit will share the existing well and septic system.

Staff recommends denial of the variance based on Article XIV, Section 6.4.2 of the Land Development Code which states that the minimum lot size in this area is 10 acres or 2.5 acres per dwelling unit with proven 100-year water supply and water covenants. The decision of the LCDRC was to recommend approval of the request for a variance, subject to the following conditions. Mr. Chairman, may I enter the conditions into the record?

CHAIRMAN ANAYA: You may.

[The conditions are as follows:]

1. Water use shall be restricted to .25 acre-feet per dwelling. A water meter shall be installed for both homes. Annual water meter readings shall be submitted to the County Hydrologist by July 31st of each year. Water restrictions shall be recorded in the County Clerk's office. Installation of meters for existing residential units prior to issuing development permits.
2. No additional dwelling units will be allowed on the property.

3. Address onsite retention/detention for drainage from the existing and proposed residential units
4. The existing driveway shall serve both residences.
5. An approved septic permit be obtained from NMED
6. An approved well permit must be obtained from the Office of the State Engineer.
7. Failure to comply with any of these conditions shall result in administrative revocation of the variance.

CHAIRMAN ANAYA: Any questions of John? Is the applicant here? Go ahead and come forward, ma'am.

[Duly sworn, Viola Chaverri testified as follows:]

VIOLA CHAVERRI: Viola Chaverri, La Cieneguilla.

CHAIRMAN ANAYA: Viola, do you have anything you want to add, or do you want to just kind of brief the Commission on why you want a second dwelling?

MS. CHAVERRI: Well, I just want my mother to come from California and live with me. She's 88 years old going on 40. She's very healthy. She's never had an operation or anything but I'd like to keep her closer to me. I want to take care of her.

CHAIRMAN ANAYA: Okay. Is there any questions of Viola? I have a question. So, staff, did she pull the permit already and is there a second home on the property?

MR. SALAZAR: Mr. Chairman, there is a modular home. The condition on the accessory structure was that if she were denied here she would have to take the kitchen out.

CHAIRMAN ANAYA: So there's a modular home?

MR. SALAZAR: Yes.

CHAIRMAN ANAYA: Okay. And is there a septic permit pulled for that?

MR. SALAZAR: We have the septic permit for the original home. Her intent was to tie into that one.

CHAIRMAN ANAYA: And was ED going to let them?

MR. SALAZAR: We don't have an updated permit unless she happened to bring that in.

CHAIRMAN ANAYA: Do you want to add anything else, Viola? You just want your 40-year old mother to live next to you so she can take care of you? Okay. Any other questions or comments? Okay, this is a public hearing. Is there anybody in the audience that would like to speak against this case? For this case? Hearing none, what's the pleasure of the Board?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: A question I had for staff was when the CDRC approved it, was that unanimous?

MR. SALAZAR: Mr. Chairman, it was four to three.

COMMISSIONER SULLIVAN: Four to three. Okay. And then there's the petition of neighbors who are not in favor of this that's included in our packet. None of those

neighbors are here tonight. Did the applicant do something to make them feel better about this or were they not aware of the meeting or –

MS. CHAVERRI: Yes, I sent letters to my neighbors that I was supposed to. I did everything that I was supposed to do. They just didn't want to come, I guess. They know.

COMMISSIONER SULLIVAN: Okay. Thank you very much.

COMMISSIONER MONTOYA: Mr. Chairman, are they in favor of it?

COMMISSIONER SULLIVAN: No, they were – did you say there in favor? Did you say your neighbors were in favor of it?

MS. CHAVERRI: No, I didn't say.

COMMISSIONER SULLIVAN: The petition said they wanted the committee to disapprove it.

CHAIRMAN ANAYA: So there's a Vista Land Homeowners petition and there's probably 20 signatures on here. Have you seen this?

MS. CHAVERRI: Yes, sir. I've seen it, but that petition has got multiple names, so I don't know exactly how many names there is there.

COMMISSIONER SULLIVAN: There's a Peter C. Rios and a Pete C. Rios. So they're probably the same person.

MS. CHAVERRI: Yes, and then there's David Silva, three times.

COMMISSIONER SULLIVAN: So there may be 15 or so.

MS. CHAVERRI: Yes, they got their brother, their mother, their sister and their dog and their cat.

COMMISSIONER SULLIVAN: But, Mr. Chairman, let me ask the follow-up question to staff. Number one, how do we get ourselves into this situation and number two, if we have a modular storage structure, that's what's on the site now, as characterized. Is that correct?

MR. SALAZAR: It would be considered a modular home, the type that's trucked into the property and placed on a permanent foundation.

COMMISSIONER SULLIVAN: And how is that permitted to be on that property?

MR. SALAZAR: There was a condition when she came in for the accessory structure. She had bought this home, she had purchased this home, she had come to the permit desk with this predicament. She told staff at the permit desk that she had this modular home. They let her know that she didn't have the density for it. I guess she was given a permit to have an accessory structure. However, a condition was that she would have to come before the CDRC and the BCC in order to keep it as a dwelling unit. Otherwise she would have to tear out the kitchen and that would make it an accessory structure.

COMMISSIONER SULLIVAN: I'm not understanding the procedure that the County would issue a permit and put her to the expense of putting a modular home out there with a kitchen in it and then put the CDRC and the BCC in the position of saying, after it's already out there, Gee, if it's denied you're going to have to tear out the kitchen. So your mother can still live there because you have a permit. We just now made it harder for her and

she's 88 years old, we're going to tear out the kitchen. What am I missing here? Something's not tracking, that we're issuing permits and then saying, Go do it and come in after the fact and lay it on the desk of the BCC. Is there something that I've missed here? Dolores, can you respond?

MS. VIGIL: Yes, I just spoke to Roman and she did not come for a permit for that second dwelling. So she was permitted for the first dwelling unit, but the second dwelling unit on her own accord, without a permit from us. She doesn't meet density so she has to come before this Board to get the approval for that density and that's why we're here after the fact.

COMMISSIONER SULLIVAN: So the permit that was pulled was for her first home and septic tank, that she herself lives in.

CHAIRMAN ANAYA: No. That permit -- what happened was I think the house was put on the property. Then somebody called in, inspectors went out the and told her she had to come in and get a permit if she wants that house. So she came in and apparently they issued her, not a temporary --

MS. VIGIL: Mr. Chairman, it was an accessory structure.

CHAIRMAN ANAYA: A structure permit and told her that she'd probably have to take the kitchen out if she wants to keep the house there. I think that's the way it was.

COMMISSIONER SULLIVAN: Okay, so that sounds a little more understandable although not particular good that this structure was placed without a permit initially.

MR. SALAZAR: Mr. Chairman, Commissioner Sullivan, I believe the modular home was brought into the property before she got the permit. I had my facts mixed up there.

COMMISSIONER SULLIVAN: Okay, the modular home was brought in and set up and the neighbors complained or somebody complained. It was brought on. And then Code Enforcement, one way or another got wind of it and advised her that if she was going to occupy that trailer that a permit would be needed.

MR. SALAZAR: That's it.

CHAIRMAN ANAYA: Hold on. Let's hear what she says.

MS. CHAVERRI: Okay. I bought this house. In fact it was on Airport Road and it was a building. And my mom and I had been talking back and forth and I wanted her to come. So I went and I bought that because I thought that I could put a guesthouse. So I bought it and I took it to the house and I left it there until I got all my permits. So they gave me a permit for -- what is it?

COMMISSIONER SULLIVAN: Accessory structure.

MS. CHAVERRI: No, they didn't call it that. What is it? A studio. So they gave me a permit for the studio.

CHAIRMAN ANAYA: Your mom's an artist.

MS. CHAVERRI: Exactly. So they gave me a permit for the studio, but I couldn't have a kitchen. And how's she going to make her tortillas and her oatmeal and her -- in the cold. So I thought, no, I want a kitchen for her, so that's why I went to a variance. Did I explain it?

CHAIRMAN ANAYA: Yes. Any other questions, Commissioners?

COMMISSIONER SULLIVAN: Not here.

CHAIRMAN ANAYA: This is a public hearing. Is there anybody who would like to speak for or against this? Or did I already ask that? Hearing none, what's the pleasure of the Board.

COMMISSIONER VIGIL: I have a question, Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: For staff. Does this at all qualify for a family transfer in any way? Can that be incorporated in this? Was this case evaluated for that?

MR. SALAZAR: Mr. Chairman, Commissioner Vigil, it was brought to her attention during the CDRC meeting. However, she felt she would have to refinance her current home was the lot split was in. She didn't feel it was feasible.

CHAIRMAN ANAYA: Say that again. Would you have to refinance?

MR. SALAZAR: I believe you would. You're changing the acres on the property.

CHAIRMAN ANAYA: Okay. Are you done, Commissioner?

COMMISSIONER VIGIL: I am.

CHAIRMAN ANAYA: I've got a question. Would you be willing - I didn't see it in the conditions, but you said this was a modular home, this is a permanent foundation. Would you be willing to do a temporary permit of two years? We usually do that in some cases where they want to take care of their family member. Would you be willing to do a temporary permit for two years and then when you don't need that any more then you'd be willing to tear the kitchen out?

MS. CHAVERRI: That would be very costly. Why would I have to tear it out? If you give me the permit for the kitchen, why would I? My mom is very healthy. My mom is going to outlive all of us.

CHAIRMAN ANAYA: No, I'm not saying that. I'm just saying we usually - sometimes we do this. We've got residents in this area that signed this petition. I know some of them signed it twice, so they're concerned, the Commission is concerned, but I just thought I'd throw that out. I know you don't want to but that's another option.

MS. CHAVERRI: Well, I don't want to. I guess I would.

CHAIRMAN ANAYA: Just threw it out there to see. What's the pleasure of the Board?

COMMISSIONER SULLIVAN: Mr. Chairman, let me add another alternative to that motion or that idea. And rather than keeping - the problem we have with these temporary renewable permits is that eventually the home just stays there and then they come in for a variance and eventually it happens. I think what Ms. Chaverri's concern is that after two years she'd have to tear out her kitchen and then her mother wouldn't have a kitchen after she's been there for two years making tortillas.

CHAIRMAN ANAYA: She could always come back.

COMMISSIONER SULLIVAN: Well, I think maybe didn't understand that.

CHAIRMAN ANAYA: After two years you could always come back.

COMMISSIONER SULLIVAN: What the chair was saying is that after two years you could come back. If the conditions were the same, that is to say your mother was still living there and still required your care. And that you could come back after two years and renew that temporary permit. But at the end of the temporary permit I think then the structure should be removed, sold and removed after she no longer uses it, as opposed to simply saying tear the kitchen out. Because that invites – our Code Enforcement would have to go in and monitor whether the kitchen was put back in and so forth.

CHAIRMAN ANAYA: Okay.

COMMISSIONER SULLIVAN: So I'd throw that out.

CHAIRMAN ANAYA: Do you guys want to flip for it?

COMMISSIONER MONTOYA: Mr. Chairman, can that be done administratively or does it have to come back to the BCC, in terms of the renewal of the two-year?

MR. CATANACH: In terms of Commissioner Montoya's question, this is not a manufactured mobile home with an axle and wheels. This is a modular home that's going to be set on a permanent foundation. I think it needs to be understood that we're talking about temporary status here and this is not a manufactured home with axles and wheels.

CHAIRMAN ANAYA: How many square feet is it? Do you know?

MS. CHAVERRI: It's 900 square feet.

COMMISSIONER MONTOYA: So that didn't answer my question.

MS. VIGIL: Mr. Chairman, Commissioner Montoya, the answer to that is we could issue a temporary permit but in this case because it would be a permanent structure it would be difficult for her to move the structure at a later date, whether it be two years or whatever time that you want to put the limitation on. But I also want to point out that there is another alternative to this. She does meet minimum lot size for a family transfer. That was discussed in the LCDRC meeting. So she could come back for, or do an administrative lot split approval and put each structure on two separate lots and it would be from daughter to mother which I think is legal according to the definition of a family transfer. So she could do that. I'm not sure but I believe that in the minutes she states that she was not willing to do that because of financial reasons.

COMMISSIONER MONTOYA: The mortgage.

MS. VIGIL: But that would be a clean way of dealing with this situation.

COMMISSIONER MONTOYA: So let me ask my question again. Can this be done with it going through an administrative process in two years, or does it have to come back to the BCC?

MR. SALAZAR: Mr. Chairman, Commissioner Montoya, it would have to go through the LCDRC for renewal.

COMMISSIONER MONTOYA: And then back here to the BCC?

MR. SALAZAR: It would end at the LCDRC I believe.

CHAIRMAN ANAYA: Would somebody answer his question?

MR. CATANACH: The extension would be subject to committee approval, whether it's both the La Cienega committee and the Board or just the La Cienega committee. It would be subject to committee approval. There cannot be – any extension of temporary status cannot be done administratively.

COMMISSIONER MONTOYA: Okay.

CHAIRMAN ANAYA: So what board? Would it go through LCDRC and then come to us? Or just stay at –

MR. CATANACH: As a matter of procedure I would think it should just actually straight back to the Board of County Commissioners.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chairman, I think the applicant has some options that aren't real clear or frankly to the Board of County Commission that are far more palatable, I guess I would say, to me, and it is a family transfer. What I believe we're being asked to do at this point in time and we're trying to create a resolution by providing a temporary solution is to approve for more density in an area that does not want more density. I have a real difficult time moving forth with that because at some point in time as we did with the previous case we have to make decisions that comply with the Code. This doesn't comply with the Code but you do have an option that might comply with the Code and I'm giving you an opportunity to create a resolution for you and your mother and that's through a family transfer. I don't know that all the options are real clear unless the Board has other intentions. I'd like to be able to consider that we move to table this case and have staff work with the applicant with regard to the options on a family transfer and come back to the Commission at our next land use meeting.

CHAIRMAN ANAYA: There's a motion to table by Commissioner Vigil. Is there a second? Motion dies for lack of a second.

COMMISSIONER SULLIVAN: Mr. Chairman, the only problem I have with tabling is that if it comes back, and I see where Commissioner Vigil is coming from, if it comes back it can't come back under this notice for a family transfer. It's got to go back to the CDRC then back to the BCC. So we couldn't – I know you're doing it to try to make it more convenient to the applicant which I understand, but we couldn't do that. It would have to come back as a new case to the CDRC.

CHAIRMAN ANAYA: So would you like to restate?

COMMISSIONER VIGIL: I would motion to table to have the applicant reconsider the other options that she might have through our land development review process, and come back to the Commission knowing what those options are, inclusive of the family transfer.

CHAIRMAN ANAYA: Motion to table. Is there a second?

CHAIRMAN ANAYA: I'll second that. There's been a motion and a second.

The motion to table to allow the applicant to review her options failed [2-3] voice vote with Commissioners Anaya and Vigil voting in favor.

CHAIRMAN ANAYA: Okay, what's the motion? We need another motion.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: A question for our attorney. This is up for a request for a variance. If there is no motion for a variance, does the variance just simply die?

MR. ROSS: Mr. Chairman, Commissioner Campos, if there's no motion for a variance, does the request die? Is that the question?

COMMISSIONER CAMPOS: Yes.

MR. ROSS: If there's no motion or a motion fails, the application doesn't move forward.

COMMISSIONER CAMPOS: The motion to grant the variance, okay.

CHAIRMAN ANAYA: Do you want to explain that to me?

COMMISSIONER CAMPOS: Well, if there's no motion to grant a variance the application for variance is rejected.

CHAIRMAN ANAYA: So what just happened now –

COMMISSIONER CAMPOS: There's no motion for variance right now so if there is no motion for variance –

CHAIRMAN ANAYA: I'm asking for another motion. Nobody wants to give one? Okay, I'll make a motion. I move that we approve this case. Is there a second? Okay, is this case denied then? Is that what you're saying?

MR. ROSS: That's correct, Mr. Chairman.

CHAIRMAN ANAYA: Sorry. We tried.

MS. CHAVERRI: So does that mean I can just stay with the studio then, right?

CHAIRMAN ANAYA: She can stay with the studio? No kitchen.

MS. CHAVERRI: Okay. Thank you.

- XIII. A. 8. CDRC Case # V 05-5010 Thomas Heine Variance. Thomas Heine, Applicant, Requests a Variance of Article III Section 10 (Lot Size Requirements) of the Land Development Code to Allow the Division of 2.50-Acres into Two Parcels for the Purpose of a Family transfer. The Property is Located at 03 East Trail and Barton Road, Within Section 30 Township 10 North, Range 7 East (Commission District 3)**

VICTORIA REYES (Review Specialist): Thank you, Mr. Chairman. On December 12, 2000 the Board of County Commissioners granted a variance of Article III, Section 10 of the Land Development Code to allow two homes on 2.5 acres due to health issues imposed on the applicant. On February 17, 2005 the County Development Review Committee recommended approval of a variance of Article III, Section 10 of the Land Development Code

to allow the division of 2.5 acres into two lots for the purpose of a family transfer. The applicant is now requesting a variance of Article III, Section 10 of the Land Development Code to allow the division of 2.5 acres into two lots for the purpose of a family transfer in order to give one acre to his daughter since she has been taking care of her father through difficult times.

The property is located within the Metro Basin Fringe Hydrologic Zone. Article III, Section 10 of the Land Development Code states that the minimum lot size in this area is 20 acres per dwelling unit. Lot size may be reduced to five acres with water restrictions or 2.5 acres with a community water system. Land divisions for small lot family transfers will allow minimum lot size of 1.25 acres. The property currently has two dwellings and utilizes separate septic systems and is served by Entranosa Water and Wastewater. Each dwelling monitors water use with individual meters.

Recommendation: The request is consistent with the density variance granted by the BCC on December 12, 2000. The division of 2.5 acres could be approved administratively by staff as a small lot family transfer if the minimum lot size of 1.25 acres could be met. However, the lot sizes as proposed could qualify as a density transfer. Staff recommends approval subject to the following condition:

1. Submit plat for division of property as a small lot family transfer subject to approval by staff.

CHAIRMAN ANAYA: Thank you. Any questions of Victoria? None. Is the applicant here?

COMMISSIONER SULLIVAN: Mr. Chairman, I have a question.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Could staff explain what it was the Commission did on December 12, 2000? Did it change the zoning or did it change the law about density variances?

MS. REYES: Mr. Chairman, Commissioner Sullivan, in 2000, the Board granted the variance that changed the density.

COMMISSIONER SULLIVAN: Of this particular property.

MS. REYES: Of this property, so right now the density is existing. There's two permanent homes on the property as per approval on December 12th by the Board.

COMMISSIONER SULLIVAN: And what did the Board do? Did they approve a permit for a second structure?

MS. REYES: Mr. Chairman, Commissioner Sullivan, it was they approved the structure as a permanent structure, not temporary.

COMMISSIONER SULLIVAN: Two permanent structures on the same lot.

MS. REYES: Two permanent structures.

COMMISSIONER SULLIVAN: So there are two permanent structures on there now.

MS. REYES: Yes, Mr. Chairman, and they are on community water. And there should be a letter in the packet.

COMMISSIONER SULLIVAN: So now they're requesting to divide it and the only problem is they're trying to divide it into 1.5 and 1 versus 1.25 and 1.25.

MS. REYES: Mr. Chairman, Commissioner Sullivan, that's correct.

COMMISSIONER CAMPOS: Say that again.

COMMISSIONER SULLIVAN: Well, they have to divide it in half. The minimum lot size on a family transfer is 1.25, but they're asking be one acre. So they're doing it 1.5 and 1, and that's their problem but I think what staff is saying is that it qualifies for a density transfer, and they're transferring, because they own 2.5 acres total. Is that correct?

MS. REYES: That's correct.

COMMISSIONER SULLIVAN: So they can transfer the density from one lot to the other.

MS. REYES: Mr. Chairman, that's correct.

COMMISSIONER SULLIVAN: And that requires that the plat have a note on it. Isn't that correct? That they've done that. In other words, they're borrowing from the 1.5 lot to make up for the one-acre lot, and there has to be some notification that that has happened, doesn't there on the plat?

MR. CATANACH: Mr. Chairman, Commissioner Sullivan, the proposal to split the property into a 1.5-acre lot and a one-acre lot could constitute a density transfer but I don't want to say it meets the exact qualifications for a density transfer. Generally, when you do a density transfer you can divide the property into the number of lots that allowed by the density and remaining property becomes permanent open space. So I don't want to tell you that it is exactly qualifying as a density transfer but essentially it's the same principle. I'm not sure what you're referring to as a note on the plat.

COMMISSIONER SULLIVAN: I was just referring to staff's comment that we could do a density transfer here and I was just wondering how any future buyer knows about that. Maybe what you can explain to me, your recommendation is submit the plat for division as a small lot family transfer subject to approval by staff. Now, is there anything - a small lot family transfer we require 1.25 acres, right?

MR. CATANACH: That's correct. That's why this is coming forward as a variance.

COMMISSIONER SULLIVAN: Okay, then what would staff be approving?

MR. CATANACH: If this variance is granted we would be approving a plat for a 1.5-acre lot and a one-acre lot.

COMMISSIONER SULLIVAN: Okay, so there's no density transfer, there's no nothing. They want to do a one-acre lot and a 1.5-acre lot as a variance to the family transfer required.

MR. CATANACH: Well, the number of lots is still two, whether it's two 1.25s or one and 1.5, it's still two lots.

COMMISSIONER SULLIVAN: I understand. But they already have Board approval for 1.25 density per lot.

MR. CATANACH: They have Board approval for a variance to allow a second unit and they're just wanting to create two separate lots consistent with that variance that was previously granted.

COMMISSIONER SULLIVAN: Okay. I see.

CHAIRMAN ANAYA: So if they wanted to go 1.25/1.25, they wouldn't be here today.

MR. CATANACH: We could have done this administratively.

CHAIRMAN ANAYA: Okay. And they knew that.

MR. CATANACH: Yes.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Staff is recommending approval, correct?

MS. REYES: Mr. Chairman, Commissioner Vigil, that's correct.

COMMISSIONER VIGIL: Mr. Chairman, with that I move we approve.

CHAIRMAN ANAYA: Hold on. Hold on. I wanted to get out of here at 8:00.

COMMISSIONER VIGIL: I'm trying to comply with your request.

CHAIRMAN ANAYA: Is the applicant here? Would you like to add anything to that? Go ahead and come forward.

[Duly sworn, Thomas Heine testified as follows:]

THOMAS HEINE: My name is Thomas Heine. I made a mistake and built my barn in the middle of this lot and I want to give half of it to my daughter. If we split 1.25/1.25 - we've done every way we could figure out to try to get this to the 1.25 and other than moving my pole barn I can't get there. I'm perfectly willing to do so because I love my daughter and I'd be willing to do it.

CHAIRMAN ANAYA: Could you make her do it?

MR. HEINE: Do you live with two women?

CHAIRMAN ANAYA: Looks like you're going to be doing it. Okay, did you want to add anything else other than that?

MR. HEINE: No, you could talk to your staff. We met the letter of the law on this every way we possibly can.

CHAIRMAN ANAYA: Okay. Thank you. Anybody in the audience want to speak for or against this? This is a public hearing. Hearing none, Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chairman, I move that we approve.

CHAIRMAN ANAYA: There's been a motion.

COMMISSIONER CAMPOS: With conditions.

COMMISSIONER MONTTOYA: Second.

CHAIRMAN ANAYA: And a second.

COMMISSIONER CAMPOS: With conditions.

CHAIRMAN ANAYA: With conditions.
COMMISSIONER VIGIL: With conditions.
CHAIRMAN ANAYA: Do you agree with the conditions?
MR. HEINE: Yes.

The motion to approve CDRC Case #V 05-5010 passed by unanimous [5-0] voice vote.

COMMISSIONER SULLIVAN: Let the record show that the applicant said yes in the audience. He wasn't at the podium. He agreed with the conditions.

CHAIRMAN ANAYA: Okay, you're set to go.

- XIII. A. 9. BCC Case #MIS 05-5030 Jose Villegas Reconsideration. Jose Villegas, Applicant, is Requesting a Reconsideration of a Previously Approved Condition on a Variance Request for an Attached Second Dwelling Unit to the Existing Residence in Order to Allow the Second Dwelling Unit to be a Separate Structure on 1.87 Acres. The Property is Located off of County Road 56 at 10 Camino Torcido Loop, Within Section 20, Township 16 North, Range 8 East (Commission District 3) [Exhibit 4: Opposition letter]**

MR. SALAZAR: Thank you, Mr. Chairman and Commissioners. On September 10, 1996 the Board of County Commissioners granted approval of a variance allowing two dwelling units on 2.5 acres with conditions. The applicant has returned asking the BCC to reconsider one of the conditions which requires the second dwelling unit to be attached to the existing residence by means of a common wall. The applicant states there have been many property owners within the La Cienega land grant that have received variances for detached second dwelling units that were not required to be attached to the main residence. The applicant would also like to be able to build a separate detached structure.

Recommendation: The applicant agreed to the condition of having the second unit attached as part of the approval of the variance request in 1996 in order to appease some of the neighbors' concerns. The variance was granted for a permanent structure. There is no provision written in the Code that would require the second unit to be attached to the main residence, regardless whether the second unit is attached or detached, it would still be defined in the Code as two dwelling units. If the decision of the BCC is to grant approval of the applicant's request, staff recommends all other conditions of the variance be complied with.

CHAIRMAN ANAYA: What did you recommend? Did you recommend something?

MR. SALAZAR: We just said it's going to be the same impact either way.

CHAIRMAN ANAYA: We're already approved for attached, we're just trying

SFC CLERK RECORDED 05/13/2005

to get it detached.

MR. SALAZAR: Yes, sir.

CHAIRMAN ANAYA: Thank you. Any questions of John?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Salazar, do you know what the reason was back in 1996 when they said one unit as opposed to divided unit? What was the reasoning?

MR. SALAZAR: The neighbors felt that Mr. Villegas would be less likely to use it as a rental if it were attached to his home.

COMMISSIONER CAMPOS: And was it a variance that he got back in 1996 as far as lot size?

MR. SALAZAR: Mr. Chairman, Commissioner Campos, yes.

COMMISSIONER CAMPOS: So he got a variance once in '96 to do what? To put that extra house attached. That was the variance. Two units on one DU.

ZMR. SALAZAR: Yes. On 1.8 acres.

COMMISSIONER CAMPOS: Which is a small - okay. Thank you.

CHAIRMAN ANAYA: Any other questions? Okay, thanks, John. Is the applicant here? Of course he's here. He's in front. Do you have anything to add?

[Duly sworn, José Villegas, Sr. testified as follows:]

JOE VILLEGAS, SR.: I don't swear but I promise. What I wanted to just say is that my whole intent from the beginning, 1996, when I came in front of the Board of County Commission was to build a second dwelling, a guesthouse for my mom. That's all there was to it. And I went backwards to work with my neighbors. To this day, I'm a good neighbor. I'm a good vecino. In fact, to this day I'm still trying. Even as chaplain it's really hard to try to turn a cheek now and then but you know you can't appease everyone. And I went through the appealing process in 1996, back and forth with this community and it was very difficult. Not only was it difficult but to keep my tolerance and my discipline at the highest, most professional, tactful, in this community was really hard. But I did. I pulled through it.

Right now, the only thing I'm asking is to separate - through years, since '96, the Land Use Code in this particular area variance-wise, the Board of County Commission has allowed homes or guesthouses to be approved without being attached to the primary home. And the only thing I'm asking is that I not comply with that condition. I already have a footing that was there in 1996, that was there from the get-go, from the beginning. From the beginning. When I came up I wanted to build my mom's house on that footing but because I wanted to appease the neighbors and make them happy I decided to go ahead and go with the conditions. Common wall, I'd build the house right there, just to make them happy.

But it was a hardship on me. I was even willing to go through a financial hardship just to appease my neighbor. To this day, thank God my mom is still here. I want to bring home my mom. I want to have her own little chance, her own little house, separate from my house. You know mothers want their own privacy too but why can't I have that. That's all I'm asking. I'm not there fighting with my neighbors. You see in your packet there's two letters from my

neighbors, the same neighbors, informativos, just like anything else, you find them everywhere. They're in my neighborhood too. But I'm being really good about it. I'm following the law. I haven't violated the law.

Look, I didn't have to come over here and go through this process. I could have just build this variance, this house that was approved by you guys in the first place without even coming to you guys, but I'm an honest person. That's all that's to it. That's all I'm asking is for my mother to have her separate house.

CHAIRMAN ANAYA: Any questions of Jose?

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Villegas, you haven't built this second structure then?

MR. VILLEGAS: I haven't built it yet because -

COMMISSIONER MONTOYA: The common wall?

MR. VILLEGAS: The common wall? No. The only reason why I haven't built this is because I didn't have the money. Now that I have the money to take care of the business, now I can do that.

COMMISSIONER CAMPOS: Mr. Chairman, a question really for Mr. Salazar on the minimum lot size. What's the minimum lot size out there?

MR. SALAZAR: In this area I believe it's 2.5.

COMMISSIONER CAMPOS: So you can put one house on 2.5. And in '96 the BCC gave Mr. Villegas kind of a special deal so he could put two houses on a 1.8 lot, right? So that's why they conditioned it to appease the neighbors, to satisfy the neighbors' concern. So I think Mr. Villegas you understand that. You don't have a legal right to have two dwelling units on this lot. You understand that? Okay.

CHAIRMAN ANAYA: Any other? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Let me understand from staff, Mr. Salazar. The applicant is requesting that one of the four conditions be waived. Is that correct? Which is the one regarding the attaching to the main residence.

MR. SALAZAR: Mr. Chairman, Commissioner Sullivan, that's correct.

COMMISSIONER SULLIVAN: I don't see the conditions in here but I see them in Mr. Villegas' letter, that the guesthouse cannot exceed the square footage of the main residence, the applicant may not rent or sell the guesthouse separately from the main residence, and the applicant must follow restrictive covenants requiring that quarterly meter readings be submitted to the County Hydrologist. Now, Mr. Villegas, are you in agreement with those conditions?

MR. VILLEGAS: Yes, I am, sir.

COMMISSIONER SULLIVAN: Now, the only thing, the quarterly meter readings, what is the purpose of that? Is the applicant restricted to a quarter acre-foot on this. I don't see any indication.

MR. SALAZAR: It doesn't look like it was required in this at the time.

COMMISSIONER SULLIVAN: Then what would be the purpose of submitting meter readings, unless he used more than three acre-feet for two houses, which would be impossible to do. I think this is going to be on one well. Is that correct, Mr. Villegas?

MR. VILLEGAS: Yes, sir. On the one well.

COMMISSIONER SULLIVAN: So I think what we've done in the past is in the past we've limited the water usage to a quarter acre-foot and that's what the meter readers were for.

COMMISSIONER CAMPOS: Per unit.

COMMISSIONER SULLIVAN: No, total, per lot.

COMMISSIONER CAMPOS: Per lot.

COMMISSIONER SULLIVAN: Yes. That's my recollection that we've done in most cases like this. Unless there were extenuating circumstances, horses or livestock or things like that. This is just your mother; it's not a family. Your mother is single. She's just one person. Is that right, Mr. Villegas?

MR. VILLEGAS: Yes, sir. On the issue of the water, we look at the minutes, the CDRC minutes, the BCC minutes, in 1996 we had an issue about the water rights in that area because of the *Anaya v. PNM* adjudication case. My property, I have six acre-feet of water because of the PNM/Anaya adjudication case. And it was very contentious and this is the reason why the BCC was looking to the metering because of that I have the access, legal right to use six acre-feet of water. Of course I'm not going to use six acre-feet of water, but by law, that's what I have.

COMMISSIONER SULLIVAN: You wouldn't lose those. You could still transfer those or sell them or whatever you wanted to do. With Santa Fe Basin rights they're getting more and more valuable as the clock ticks.

MR. VILLEGAS: But in terms of my mother, yes, she's single. She hasn't been married for the last 50 years.

COMMISSIONER SULLIVAN: Well, I think we would want to consider, if we considered approving this that there be some reasonable restriction on what the water usage would be, if he's going to report quarterly that that reporting is for some purpose and normally it's a quarter acre-foot per unit or a quarter acre-foot per lot when we go to these guesthouses. I don't know what the Commission's feeling is on that, but I just wanted to point that out.

CHAIRMAN ANAYA: So you're saying that he has six acre-feet of water and you want to restrict him to a half acre-foot of water.

COMMISSIONER SULLIVAN: What I'm saying is what we've done in the past is we've restricted these type of things to a quarter acre-foot when they're using the same well, when they're using one well for both properties.

CHAIRMAN ANAYA: My question to you is you want to restrict him to just a half-acre-foot of water for those two homes, a quarter-acre each?

COMMISSIONER SULLIVAN: That would be up to the Board. I wasn't making a suggestion. I was just saying what we've done in the past in some cases is we've restricted the two homes to a quarter acre-foot when they're on one well. When they have two

well permits and two wells then each one is restricted to a quarter. The Commission can do whatever it wants, obviously, but I just wanted to point that out.

CHAIRMAN ANAYA: How did you end up with six acre-feet of water? You bought them? Transferred them?

MR. VILLEGAS: It came along with the property. The *Anaya v. PNM* adjudication case is still pending. The initial process, if I would be in there talking with the State Engineer's Office it would be litigated now where people are actually getting their water rights adjudicated. This specific piece of property is part of the adjudication case.

CHAIRMAN ANAYA: And did you agree with what –

MR. VILLEGAS: No, I don't agree with it, but the thing is if the County's willing to pay me for the rest of my water rights, senior water rights, then so be it. But you do what you have to do with the water rights. It's my water right. I'm not going to just have the County just take it from me.

COMMISSIONER SULLIVAN: Mr. Chairman, I don't think that was the purpose. I recall numerous discussions about this in the past. For example, former Commissioner Trujillo would say, If we approve this second residence we're saving water because the applicant not only has three acre-feet and he or she is only agreeing to a quarter acre-foot or a half or whatever the case may be. And therefore we're not using that amount of water. If you have transferable water rights, as opposed to 72-12-1 water rights, water permit, then you can transfer them any way you want and no one's taking them or doing anything else with them. But what that accomplishes is a water conservation, which is what we're looking for all along. In particular if you were to sell the lot in the future those same conservation requirements would apply.

So it makes the second residence a little more palatable than it would have otherwise been. So that is my suggestion is that a condition like that be applied.

CHAIRMAN ANAYA: So are your water rights 72-12? Are they regular well water rights? Are the transferable water rights?

MR. VILLEGAS: It's 72-12 the for the first three and then the other three is part of when they shut down the Santa Fe River in 1978 that's when we had the issue about the adjudication of the whole entire Santa Fe River corridor.

CHAIRMAN ANAYA: So then those three acre-feet he could –

COMMISSIONER SULLIVAN: Would be restricted, yes.

CHAIRMAN ANAYA: He could sell those but then you'd want to restrict the other three acre-feet to a half acre-foot.

COMMISSIONER SULLIVAN: Or whatever number the Commission – that's what we've done in the past.

CHAIRMAN ANAYA: How do you feel about that?

MR. VILLEGAS: It's a really contentious thing when it comes to water rights in the La Cieneguilla and the land grant. I'm not the only one in La Cieneguilla that's into this adjudication case. You have all the farmers all along the whole corridor, Commissioner Sullivan. I don't know what to tell you, Commissioner Anaya, on this one. It's a really

contentious issue. It's still in the court litigation thing, and to be restricted. I can understand what he's saying about conservation. I'm not a water guzzler, you know. But the thing is it's a water right. It's a land grant. We're getting into a contentious situation here that I don't want to get into right now.

CHAIRMAN ANAYA: Okay. So any other questions? Does that conclude your

MR. VILLEGAS: Yes, sir.

CHAIRMAN ANAYA: Is there anybody in the audience that would like to speak in favor of this case? Come on up, ma'am.

[Duly sworn, Kathy Villegas testified as follows:]

KATHY VILLEGAS: Kathy Villegas. I'm Jose Villegas' wife and like he said we want to bring his mother over to live with us. My parents have died already and therefore I don't take care of them anymore, but at one point I did. We lived with my father for six year. Now that we don't have the responsibility and because his mother lives out of state we'd like to bring her here so that we don't have to move over there. We've been putting it off because of the barrier wall. She's a very playful woman and every time we tell her we're going to build you your house. It's going to be next door to us and she just doesn't want to put a burden on us. And I know for a fact that if it's separate and not connected then she's going to feel more like it's her home.

As far as us renting the dwelling because, yes, eventually she will probably pass away and who knows, we might even pass away before her. We have two children, one 20-year old who is going to college right now, and we have an 18-year old, which will be 18 in like four days, going on 25.

CHAIRMAN ANAYA: I have one of those.

MS. VILLEGAS: And they're both going to be going to school. And they need a place also to stay. Eventually, this is going to be their home. We have a home right now and eventually when my mom passes away then it's going to be for them. We never see it even being rented out, especially with the age. And I think that's basically the people that wrote against it is what they're against, that we're going to make a profit, and we're not. This is a family acres or whatever. This is going to be moved on generation to generation just as our parents gave it to us. So that's why we're asking for it.

I want to add as far as the water is concerned, I'm very against it because we do have the right to keep the water that was given to us. If we start giving our water away then our families are going to start dying. Okay? And that only comes from tradition. Our water is our life, and the water that we have is the life of our children. So for us to be held back from using less than what we have is really, I don't think it's a goal for me anyways. We can't use that much water, not even with a second dwelling can we use that much water. But eventually if we don't have any water, then we do have some water and we can give it up to our children and their children without even selling it to them. But that's what it is. To me the water is a part of our lifeline. So as far as it being taken away, of what you said we can use is - I don't even think it's legal to me.

CHAIRMAN ANAYA: Thank you, Kathy. Okay, anybody else want to speak in favor? Is there anybody that wants to speak against? Hearing none, what's the pleasure of the Board?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Just a comment. I don't want to be accused of taking anyone's water away. Let me make it very clear that what you have, according to your testimony is a permit for three acre-feet of water. You do not have a water right. You have a permit issued by the State Engineer. It now costs \$5; in the old days when you probably got it it was one dollar. That's what the three acre-feet is. It's not a right. You can't transfer it; it can't be moved. It is a permit that's required for the State Engineer to issue as a result of a state statute that says domestic wells can be permitted for that purpose.

You apparently have also another water right of three acre-feet as a result of a settlement of some litigation with PNM and I assume that water is transferable and you can do whatever you prefer with it. But I just want to be very clear that the state - no one has issued you under that domestic well permit a water right. You have a water right apparently to three acre-feet; you have a permit for three more acre-feet. So we don't want to take anyone's water away but we also want to, in the cases of guesthouses, to have the applicant come forward and compromise with us and say, yes, for an additional dwelling structure we're agreeable to conserving water and we're agreeable to reporting on that conserving water. That's been a pretty standard procedure that we've followed. I just was pointing out in this case that we didn't have any quantification of that conservation of water that we normally have so that when the staff gets the meter readings they know what to do with this. I just, Mr. Chairman, wanted to be extremely clear that we don't get into an argument over taking somebody's water rights. That's not my proposal.

CHAIRMAN ANAYA: When I was telling you that, I was just trying to clear up, because I heard two different types of water rights, I wasn't sure -

COMMISSIONER SULLIVAN: No, I understand. Your question was well placed.

CHAIRMAN ANAYA: Okay, so any more discussion? What's the pleasure of the Board? We have, I guess to sum it up we've got an applicant here that has a permit to build a second structure on the piece of property attached to the resident and all he's asking is to detach the residence from this residence. Correct?

COMMISSIONER VIGIL: Move to approve.

CHAIRMAN ANAYA: There's been a motion by Commissioner Vigil. Is there a second? I'll second it. Any discussion?

COMMISSIONER SULLIVAN: So what are we doing? Are we making any conditions with regard to the water the way we have done in the past? It just says the applicant must file restrictive covenants requiring that quarterly meter readings be submitted to the County Hydrologist. So are we just saying submit quarterly meter readings?

CHAIRMAN ANAYA: Is that what your motion was?

COMMISSIONER VIGIL: Yes, Mr. Chairman. I was going to include the recommendations of staff on this.

CHAIRMAN ANAYA: Okay. I second that.

COMMISSIONER CAMPOS: Could you restate the motion? The motion is to allow the detachment and as a condition -

CHAIRMAN ANAYA: And the existing conditions that were -

COMMISSIONER CAMPOS: And all other conditions. Any new conditions? Are you talking about any new conditions?

CHAIRMAN ANAYA: No, there's no new conditions.

COMMISSIONER CAMPOS: Okay.

The motion to approve BCC Case #MIS 05-5030 passed by unanimous [5-0] voice vote.

- XIII. A. 10. BCC Case #MIS 03-6001 Robert Pearson Master Plan Extension and Reconsideration. Robert Pearson, Applicant, is Requesting a Two Year Time Extension of the Vista Ltd. Master Plan and Reconsideration of Two Conditions on the Original Approval for a Provision Requiring the Developer to Acquire a Water Contract with the Santa Fe County Water Utility at the Time of Preliminary Development Plan Submittal and Prohibiting Wells on the Property. The Property is Located at the Intersection of I-25 and State Road 599, Within Section 26, Township 16 North, Range 8 East (Commission District 5) [Exhibit 5: Additional materials]**

MR. SALAZAR: Thank you, Mr. Chairman, Commissioners. On November 10, 1998 the Board of County Commissioners granted master plan zoning approval for a commercial development consisting of 60,000 square feet of office and 60,000 square feet of warehouse space on a 25-acre tract located at the intersection of I-25 and State Road 599.

On April 28, 2003 the BCC granted a two-year extension on the master plan. The applicant is requesting another two-year extension of the master plan. They also state that this request is due to no fault of the applicant. They have acquired 3.15 acre-feet of water rights and are awaiting the completion of the County geo-hydrological study to determine the best location to transfer said water rights.

The applicant is also asking the BCC to reconsider two conditions placed on the original approval having to do with water issues. The first condition is that the applicant must secure a water service agreement with the Santa Fe County Utility and transfer water rights they acquire to the County utility before they can go forward with preliminary development plan submittal. The applicant has obtained water rights and would like to proceed with the submittal for preliminary development plan approval while they are awaiting direction from the County as to

where the water rights should be transferred with the provision that a water service agreement is verified and approved by the BCC prior to the submittal of the final development plan.

The second condition prohibits wells on the property. The applicant is requesting that this condition be removed in order to allow the applicant to drill a well to service this project should an agreement with the County Utility not be secured and approved by the BCC within six months of this, the April 12, 2005 BCC public hearing.

Recommendation: It is staff's opinion that the applicant has followed up with the condition of the master plan by acquiring water rights for the development. They are now waiting on the County to complete their studies in order to transfer the water rights over and to be able to proceed with the development. Staff feels it is reasonable to grant the time extension on the master plan.

The applicant is requesting a change to a previously imposed condition in order to allow them to proceed with preliminary development plan application before a water service agreement is in place. Staff was originally recommending this condition not to be changed. However, the BCC approved an ordinance earlier this evening that would require a water service agreement prior to final development plan approval. Therefore, in accordance with that ordinance staff would support changing this condition.

In regards to the removal of the condition prohibiting wells, it is staff's position that the applicant agreed to this condition as a part of the master plan approval. If this condition were to be changed the appropriate mechanism would be through a master plan amendment, at which time a geo-hydrologic report would be required.

CHAIRMAN ANAYA: Thank you. Any questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Salazar, on the 3.15 acre-feet they have, these are water rights but they're not wet water, is that correct? They're not a part of the original 500 acre-foot wheeling agreement with the City.

MR. SALAZAR: Mr. Chairman, Commissioner Sullivan, I believe those are paper rights.

COMMISSIONER SULLIVAN: Maybe Doug could answer the question for us. I didn't see it on the list of the 500 acre-feet.

MR. SAYRE: Mr. Chairman, Commissioner Sullivan, they are not part of that. They are a separate water right that he owns and he wishes to transfer to the County when he can get a water service agreement.

COMMISSIONER SULLIVAN: Because he makes a comment about, well, maybe we can get some of the water from this temporary agreement that we negotiated with the City of Santa Fe as a possibility, but the Board hasn't acted on those yet. Okay. I understand. So he had a requirement placed on him by a prior Commission that he connect to the Santa Fe Utility Company, so he's gotten the water rights and he's said, now I'm ready to go but we're waiting for the geo-hydrological studies and so forth. Why doesn't he just transfer those water rights to the Buckman well? We've got a parking agreement negotiated with the City. Why doesn't he just move them over there?

MR. SAYRE: Mr. Chairman, Commissioner Sullivan, the problem with this

was previously, we didn't have an agreement with the City that he could transfer, that's why he held on it, and we got into this, What could we do and we didn't have an agreement with them to go ahead and move water rights there. The other part of this is that they're Santa Fe Basin rights. If we move them to the Buckman wells, we're going to get little or no use of the actual water because the only actual water that could be transferred would be the effect on the Rio Grande. So it's better that we transfer them somewhere in the basin because they're basically on Airport Road. Probably, logically if we could transfer them to the Hagerman well location, or to a proposed new well location that we have in that vicinity, would be a more logical place to put them.

COMMISSIONER SULLIVAN: Or they could transfer them to the public housing subdivision wells. On Route 14.

MR. SAYRE: Or they could look at transferring to Valle Vista, if that's what you mean?

COMMISSIONER SULLIVAN: Yes.

MR. SAYRE: That would be correct. Some well that we could designate.

COMMISSIONER SULLIVAN: So we've got several alternatives. And could they not park them at one of those wells too?

MR. SAYRE: Well, we could try to move them to the Valle Vista wells but since we don't have these other wells presently in our I guess portfolio, that's why we were holding to see where it would be most logical for him to move these rights.

COMMISSIONER SULLIVAN: Well, we've got the Hagerman well, right?

MR. SAYRE: Not totally in our hands. We purchased it - I think the total purchase has not gone through to where the County actually holds the ownership of that water right is the problem with the Hagerman well.

COMMISSIONER SULLIVAN: So all we have available then is the Valle Vista well.

MR. SAYRE: I would say that would be correct, Commissioner.

COMMISSIONER SULLIVAN: Now, could they move them temporarily to the Valle Vista well, and that's in the Santa Fe Basin, just the way it could be moved to the Buckman well?

MR. SAYRE: Mr. Chairman, Commissioner Sullivan, I'd say yes, we could do that. Originally I thought that was somewhat proposed but it was the directive by this Commission to consider moving them to the Buckman wells and then we got held up and had these other problems. We could look at that. I guess in discussions with the development at this time we were trying to wait to see where we thought the most logical place would be to probably locate these water rights.

COMMISSIONER SULLIVAN: And that makes sense. There's no sense spending the time and the money to move them to one when we're going to finish this study in December and we're going to have other locations that are going to be recommended.

MR. SAYRE: Correct, Commissioner.

COMMISSIONER SULLIVAN: I don't have any problem with the extension

with regard to that. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Okay, is the applicant here?

[Duly sworn, Scott Hoeft testified as follows:]

SCOTT HOEFT: Scott Hoeft, Santa Fe Planning Group. We concur with staff's opinion and the change on that second point that they mentioned. My only clarification is how I understand the ordinance that was presented tonight, it allows us to proceed with preliminary development plan and plat, and we need to get our water service agreement in play by the time we submit for final development plan. Is that correct? And if that's the case, then we concur with staff's opinion.

MS. LUCERO: That's correct.

MR. HOEFT: I have nothing further.

CHAIRMAN ANAYA: Okay. Thank you. Any questions? This is a public hearing. Is there anybody in the audience who would like to speak for or against this? There's nobody. What's the pleasure of the Board?

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Move for approval of the master plan extension.

CHAIRMAN ANAYA: Commissioner Montoya, motion.

COMMISSIONER CAMPOS: Second.

CHAIRMAN ANAYA: Commissioner Campos with a second.

COMMISSIONER CAMPOS: On the extension only, right?

COMMISSIONER MONTOYA: That's all this is.

CHAIRMAN ANAYA: Any discussion?

The motion to approve BCC Case #MIS 03-6001 passed by unanimous [5-0] voice vote.

COMMISSIONER CAMPOS: There's other issues, right?

MS. LUCERO: Mr. Chairman, yes. In addition to the extension they were also requesting reconsideration of the two of the conditions. One of those was that the condition that requires them to submit a water service agreement prior to preliminary development plan approval, they want to change that to prior to final development plan and plat approval, which staff was okay with that in accordance with the ordinance that was passed earlier tonight.

And the other condition was that they would be prohibited from using wells in this development. The applicant was requesting that that condition be changed and staff was opposed to that.

COMMISSIONER SULLIVAN: Excuse me, Mr. Chairman. They just testified they were in agreement with staff's recommendation.

COMMISSIONER MONTOYA: As to one.

COMMISSIONER SULLIVAN: As to the third one. As to the second one,

that's now under the - I don't want to - that's under the new ordinance now. The second condition. So they must comply with the new ordinance. I don't want to make a summary of that new ordinance as a condition. That ordinance should be the condition. So I think they're in agreement with the new ordinance. I don't want to make an opinion of what that ordinance says. It says what it says and if you have any questions you can contact Mr. Ross about that or Mr. Sayre. But I think the motion was only for, Vicki, was only for approving the variance which was -

COMMISSIONER CAMPOS: A two-year extension, which was the first condition.

CHAIRMAN ANAYA: Okay, so do we need to make a motion on the other two or we're done?

COMMISSIONER SULLIVAN: I think we're done, Mr. Chairman. That's what I was trying to clarify with Vicki.

MS. LUCERO: But, Mr. Chairman, as far as the wells, I don't know if the applicant was in agreement with - our recommendation was to leave the condition as was originally approved.

COMMISSIONER SULLIVAN: He said they were in agreement with staff conditions.

MR. HOEFT: Staff conditions how I understand them, Vicki, is that first you've approve the extension, second that we are now compliant with the new ordinance that was passed tonight. The third you denied the ability to use a well after a six-month period of time, of which I concurred. So one and two I agree with, the third I concur with staff.

CHAIRMAN ANAYA: So we're okay?

MS. LUCERO: We're okay.

MR. HOEFT: Provided that that motion is, one, the extension -

COMMISSIONER MONTOYA: Mr. Chairman, let me just clarify that my intention on the motion was for everything. I just stated what was on the caption here.

COMMISSIONER CAMPOS: I seconded based on the extension only and you agreed that it was the extension only. A two-year extension.

COMMISSIONER MONTOYA: Yes.

COMMISSIONER CAMPOS: So besides the two extension there's the condition re the well and the condition as to water, when you have water before you can proceed.

COMMISSIONER SULLIVAN: The condition of the well is not changed. They currently have a condition not allowing wells and they're agreeing that that condition will remain in place. Is that correct, Mr. Hoeft?

MR. HOEFT: That is correct, Commissioner.

COMMISSIONER SULLIVAN: Okay. And the second condition is no longer a concern because we now have changed the ordinance to loosed up that requirement.

MR. HOEFT: That is correct.

COMMISSIONER SULLIVAN: We've opened the floodgates. Here they

come. Stand ready.

MR. HOEFT: So the motion should state approval of the extension plus the approval, the agreement of the ordinance that was approved tonight.

COMMISSIONER SULLIVAN: Well, staff, we don't want to characterize the ordinance. The ordinance is the ordinance as it was approved. We don't want to make some – at least I don't, personally, want to make some motion that some attorney can pick apart and say, Well, you moved some change to that ordinance by the way you worded the motion. The ordinance is the ordinance. The staff worked very hard on that ordinance and they wordsmithed every little word of it. So I don't want to try to characterize that ordinance.

MR. HOEFT: Okay.

COMMISSIONER SULLIVAN: So if the staff feels that we need some other motion and maybe the right motion on that second request would be that the applicant comply with the ordinance.

MR. HOEFT: There you go.

CHAIRMAN ANAYA: Is there a second?

COMMISSIONER MONTOYA: Second.

COMMISSIONER SULLIVAN: Okay.

CHAIRMAN ANAYA: Any discussion? Any more?

The motion to require the applicant to comply with the ordinance as passed at this meeting passed by unanimous [5-0] voice vote.

CHAIRMAN ANAYA: Okay, now we're set. Thank you. I'd like to ask the Commission if we could go to XIII. A. 13. If we could move that one up because we have those individuals from the southern part and the other three are from here. So I'd like to see if we could move XII. A. 13 up if that's okay with the Commission.

COMMISSIONER CAMPOS: No objection.

- XIII. A. 13. CDRC Case # MP/DP 04-5730 Dale and Karen Lewis Development Plan Approval. Dale and Karen Lewis, Applicants, are Requesting the Creation of a Local/Village Center Commercial District at the Intersection of State Highway 41 and County Road 31A and Zoning and Preliminary Development Plan Approval to Permit an Automobile Repair Service Along with a Sales Lot and a Mobile Home on 10.00-Acres. Also, the Applicants are Requesting a Variance to the Size of Water Cistern Required. The Property is located at 3875 Highway 41 in the Traditional Community of Stanley within Section 27, Township 11 North, Range 9 East (Commission District 3)**

MS. LUCERO: Mr. Chairman, I'll be presenting for Jan until she gets here. At

its regularly scheduled meeting on March 17, 2005 the CDRC met and approved this case for master plan zoning and preliminary and final development plan to allow a small family owned and operating automobile and agricultural machinery repair garage and sales lot and a mobile home on ten acres. The applicant is requesting master plan zoning and preliminary development plan approval to allow a small, family-owned and operated automobile and agricultural machinery repair garage and sales lots, and a mobile home on ten acres.

The family business Circle L Garage is presently located in Moriarty and the applicants wish to build a new 60 by 100 foot shop with a sales lot in Stanley which would enable them to do business in the community in which they live. The applicants will repair and sell automobiles, trucks and agricultural machinery. Vehicles and machinery will be stored on the west and south side of the shop building within an enclosed solid fence. The property is currently vacant but has an existing stock water well. Also, the applicant are requesting a variance of the size of the required water cistern of 9,000 gallons to allow an 8,000 gallon tank because they already own an 8,000 gallon tank and would rather not have to buy another. This application was reviewed for surrounding development, access and roads, parking, terrain management, water, fire protection, liquid, solid and chemical waste, landscaping, signage, lighting and archeology.

Recommendation: This application is in accordance with Article V, Section 5.2, Master plan submittals and procedures, and Article III, Section 4.4, Development plan submittals of the Land Development Code. CDRC recommended master plan zoning approval with preliminary development plan approval and final development plan handled administratively, subject to the following conditions. Mr. Chairman, may I enter those conditions into the record?

CHAIRMAN ANAYA: You may.

[The conditions are as follows:]

1. If the water budget exceeds 0.25 acre-feet per year, a geo-hydrologic study will be required. Water use for the commercial development will be restricted to 0.25 acre-feet per year unless a geo-hydrologic report approved by the County Hydrologist demonstrates additional water.
2. All new commercial development shall be required to connect to a community water system when a system is extended to within 200 feet of the property line, provided that adequate capacity exists in the system and water taps are available.
3. All outside lighting shall be shielded and in conformance with County Code requirements; cut sheets shall be submitted for all lighting prior Final Development Plan approval.
4. Submit a fire protection plan as required by the County Fire Marshal's Office
5. All redline comments will be addressed.
6. The development plan shall be recorded with the County Clerks Office.
7. Building plans are subject to approval by County Fire Department.
8. Submit landscaping plan in conformance with minimum standards. All trees shall be a minimum of 6 feet in height, 1.5-inch caliper at planting. All landscaping shall

- require only low to moderate water use as per county code.
9. Compliance with the applicable review comments from the following:
 - A. State Engineer's Office
 - B. State Environment Department
 - C. County Hydrologist
 - D. County Fire Marshal
 - E. County Public Works
 - F. Development Review Director/Technical Review
 - G. State Department of Transportation
 10. The applicant shall comply with Ordinance 2003-6 for rainwater harvesting.
 11. The proposed signs shall be in conformance with minimum standards set forth in the Land Development Code.
 12. A detailed grading and drainage plan must be submitted for review and approval prior to issuance of a Development Permit.
 13. A business registration is required prior to occupancy.
 14. An updated well permit from the State Engineer's Office will be required for the change of use from agricultural to commercial, and the well must be metered. An annual meter reading must be submitted to the Land Use Administrator every year.
 15. An updated well permit from the State Engineer's Office will be required for the change of use from agricultural to commercial, and the well must be metered. An annual meter reading must be submitted to the Land Use Administrator every year.
 16. Building elevations will be required prior to Final Development Plan approval.
 17. Applicant will complete all improvements before applying for a building permit.

JAN DANIELS (Review Specialist): Mr. Chairman, Commissioners, there are two other conditions that have been agreed upon that were too late to get into the report. May I read those conditions into the record?

CHAIRMAN ANAYA: You may.

MS. DANIELS: Thank you. Number 1, the fence and the garage will both be painted earthtone colors. Number 2, No more than five items are allowed on the sales lot at one time.

CHAIRMAN ANAYA: That would be 18 and 19.

MS. DANIELS: Yes. Thank you.

CHAIRMAN ANAYA: Thank you, Jan. Okay, any questions of the staff? Go ahead, Dale, come forward.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I've got a question. Is the 9,000 gallon storage cistern requirement, is that for the Water Conservation Ordinance, Vicki, or where does that come from?

MS. LUCERO: Mr. Chairman, Commissioner Sullivan, that's correct. It does

come from the calculations of the Water Conservation Ordinance.

COMMISSIONER SULLIVAN: Based on the runoff from the barn and so forth.

MS. LUCERO: Right. That's correct.

COMMISSIONER SULLIVAN: Okay. It's not the potable water. And I noticed the fire - there's no Fire Marshal comments in your report that says that you don't have any Fire Marshal comments. What's the Fire Marshal going to request? Are they going to request a fire storage tank?

MS. LUCERO: Mr. Chairman, Commissioner Sullivan, at this point it's not clear. We haven't had any conversations with the Fire Marshal regarding this project and we haven't received any responses. This application was sent over to their office for review. We just haven't received any comments as of this time.

COMMISSIONER SULLIVAN: So if the Commission were to accept the 8,000 gallon water storage cistern, and the Fire Marshal were to require a larger fire - based on the usage of the property, then would the larger one control?

MS. LUCERO: Mr. Chairman, Commissioner Sullivan, I believe that would be correct. This is strictly just for the stormwater runoff from the building, not to do with fire protection.

COMMISSIONER SULLIVAN: For the water harvesting?

MS. LUCERO: That's correct.

COMMISSIONER SULLIVAN: Thank you.

CHAIRMAN ANAYA: Okay. Thank you. All right, Dale, go ahead and state your name and address for the record.

[Duly sworn, Dale Lewis testified as follows:]

DALE LEWIS: Dale Lewis, Stanley, New Mexico.

CHAIRMAN ANAYA: Dale, would you like to add anything?

MR. LEWIS: Mr. Chairman, Commissioners, I feel that I'd be an asset to the community and I'm hoping that you'll approve this. I talked to all the neighbors and they're all in support of this. You have a letter of support in your packet. You should. If not, I've got a copy here you can see and I just think I'd be a good community member.

CHAIRMAN ANAYA: Thanks. Any questions of Dale? Dale, we'd love to have you there. This is a public hearing. Is there anybody who would like to speak for or against this case? Hearing none, what's the pleasure of the Board?

COMMISSIONER CAMPOS: Mr. Chairman, move to approve with conditions 1 through 19. Is that it?

CHAIRMAN ANAYA: There's a motion.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN ANAYA: And a second. Any more discussion?

The motion to approve CDRC Case #MP/DP 04-5730 passed by unanimous [5-0] voice vote.

CHAIRMAN ANAYA: Dale, be careful on the way home and I just want to make one comment and that is to this Commission is that there's a lot of times we don't here back from the Fire Department and when it comes times for FTEs maybe we need to get one just for that area, because they're just holding us up and it's not because they're not doing it's just that they have a lot of work.

COMMISSIONER VIGIL: And Mr. Chairman, I would just sort of echo. Perhaps they're bottlenecked for every area. It isn't any one in particular. I think an FTE would create a benefit because the bottleneck actually occurs in terms of how the applications come in. They're prioritized. And no matter where they're at, whether they're Edgewood or Pojoaque or La Cienega, the other end, I think that an additional FTE would create a benefit to the overall.

COMMISSIONER MONTOYA: While we're on FTEs I'd like to -

CHAIRMAN ANAYA: Thanks, Dale. Say hi to Karen.

- XIII. A. 11. **EZ Case # S 96-1212 Las Campanas Estates VIII, Units 1,2,&3. Las Campanas Limited Partnership (Michael D. Baird), Applicant, is Requesting and Amendment of the Plat/Development Plan for 104 Residential Lots, to Permit Guest Houses. The Property is Located off Las Campanas Drive within Section 11, Township 17 North, Range 9 East (Commission District 2)**

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: With your permission, I'd like to recuse myself from this case.

CHAIRMAN ANAYA: Okay. Commissioner Sullivan is going home.

MR. CATANACH: Thank you, Mr. Chairman, Commissioners. In the timer period from 1996 to 1998 the BCC granted final plat, development plan approval for the Estates VIII Subdivision consisting of 104 residential lots in three phases. The applicant did not request guesthouses at that time and therefore allocated .25 acre-feet of water rights for each lot. Please note that the master plan approval granted by the BCC in 1992 allowed for guesthouses based on available water rights of .50 acre-feet to support a main house and guesthouse and many subdivision phases within Las Campanas are approved for guesthouses. The BCC has reduced the allocation of water from .50 acre-foot to .40 acre-foot for recent subdivision approvals within Las Campanas. The reduction of water was based on consideration for water conservation and with the understanding that occupancy of a guesthouse should not be full time and permanent and therefore would not need a .25 allocation.

The allocation of water for the requested guesthouse is .15 acre-foot per lot for a total of 15.6 acre-feet to serve the 104 lots. The applicant has submitted an outline of acquired water rights that have been committed for the Las Campanas development and the remaining balance

that is available. That's part of the exhibits in your packet, that water rights schedule. The State Engineer has previously verified that the water rights are approved for the Las Campanas development. The applicant does have a sufficient amount of water rights to serve the requested guesthouses. Staff recommends approval subject to the following conditions:

1. Submit appropriate documents for amending subdivision plats, homeowner covenants, disclosure statement and updated water rights schedule.
2. Submit confirmation from City that this request does not conflict with relevant agreement.

That's the letter I just handed out from the City Attorney, Kyle Harwood [*Exhibit 6*]
Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Any questions of Joe? Is the applicant here? Scott, do you have anything to add?

MR. HOEFT: I would like to also swear in Chuck Dumar.

[Chuck Dumar was placed under oath.]

CHAIRMAN ANAYA: Do you have anything to add?

MR. HOEFT: The staff report is very accurate but I'd just like to kind of highlight that Las Campanas in 1992 with their development agreement and their master plan agreement came in with guesthouses and .5 acre-feet of water. And when they came in with the plat for Estates VIII in 1997 they didn't have their water rights at the time to proceed. So those lots were approved with .25. That agreement, the initial agreements of 1992 stated that they were allowed to come back and amend those when necessary when they acquired the water rights. Since then, they have in the last six years acquired the necessary water rights and the application before you tonight is simply just to amend the plat from .25, actually, rather than to .5, which is what the agreement essentially allowed, to .4. And the reason why we're suggesting .4 is because this Board a year and a half ago already approved .4 for the Estancia Subdivision, 126-lot subdivision in Las Campanas, and .4 takes into account the fact that these are seasonal uses, seasonal residences that is, as well as catchment systems now being utilized.

So again, I'd just like to highlight that catchment is now utilized in Las Campanas for all new residences. We have .4 rather than .5 water allocation. This is consistent with all the development agreements from 1992 as well as the 1992 master plan for Las Campanas.

CHAIRMAN ANAYA: Thank you. Any comments, questions, Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, Mr. Hoeft, where did you acquire these water rights?

MR. HOEFT: I'll have to defer all water questions to Chuck Dumar please.

COMMISSIONER CAMPOS: Professor.

CHUCK DUMAR: These water rights were acquired in the Rio Grande Basin starting many years ago. When this project was first approved we calculated we hired the best water engineer we could to calculate the demand and that engineer provided the demand schedule at .5 acre-feet and that demand caused us to acquire 709 acre-feet, which is .5 acre-

feet per unit, assuming that there were guesthouses on every lot. There have not been, but that was required by the County. So they were acquired in the Rio Grande and also we acquired the offsets that were necessary to offset the effects from them and they were all put into the Buckman wellfields. We now have an application pending to move all of those rights down to the surface diversion when the surface diversion is complete pursuant to the agreement with the County and the City.

COMMISSIONER CAMPOS: So this is all surface water and no groundwater?

MR. DUMARS: I think actually three or four of those were pre-1956 groundwater rights from the Middle Basin, but they were pretty much all surface water, but I would say about 100 acre-feet of groundwater rights. We looked for those if we could find them but they were all validated by the State Engineer.

COMMISSIONER CAMPOS: Thank you. A question for Mr. Hoeft then. As far as water savings, it seems to me that .5 is a lot of water, and if you design your houses properly with the right appliances, with harvesting off the rooftop, with limitations on your landscaping, you don't need .5 or .4. You could probably do it with less.

MR. HOEFT: We've already concurred with .4.

COMMISSIONER CAMPOS: But don't you agree that you could do it more efficiently?

MR. HOEFT: We agree with .4 at this stage, Commissioner Campos. We've worked our analysis.

COMMISSIONER CAMPOS: Would you answer the question? Do you think you could do it more efficiently, save more water?

MR. HOEFT: Based upon the studies at Las Campanas as completed today they feel .4 is the allocation that's sufficient.

COMMISSIONER CAMPOS: Now, let me ask you the question, sir. Don't you think you could design them in a more effective and efficient way to save more water, to use less than .4, maybe even .35.

MR. HOEFT: I'm certain, Commissioner, I can't answer that question without an analysis of the sizes. There's lots of factors to take into consideration with that question.

COMMISSIONER CAMPOS: Sure there are. There's a lot of factors, especially with the drought. People are really thinking seriously about how to not use water and use water efficiently.

MR. HOEFT: Well, one item to take into account is that the City of Santa Fe uses a standard allocation for a guesthouse of .12. We're requesting .15 so this is a number that the City of Santa Fe has used as a standard calculation for years now, so I feel that .15 is a number that Las Campanas can live with and feels comfortable with as well as it's been approved by the Estancias, that this Board approved a year and a half ago.

COMMISSIONER CAMPOS: It just seems that as good neighbors that you would want to use water as efficiently as possible because it affects the entire community.

MR. HOEFT: We feel that going from .5 already down to .4 is a good neighbor thing.

COMMISSIONER CAMPOS: Point five is ridiculous for a guesthome.

CHAIRMAN ANAYA: Any other questions or comments? Okay, this is a public hearing.

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: I do have a question for Chuck. Chuck, regarding those 709 acre-feet, those are all going to be transferred to the Direct Diversion project?

MR. DUMAR: Yes. When the Direct Diversion project is complete, they will be transferred and we will draw our water exclusively, Las Campanas' water will be drawn exclusively from the surface diversion as soon as it's completely permitted to do that. I had some documents that I wanted to put in the record in this case and if I could, I'll just identify them so we do have them in the record, if I might do that.

First is the letter of June 27, 1991 to Dick Frye of Las Campanas from then County Attorney Terry Brennan, *[Exhibit 7]* that says that all of the water requirements contained in the approval by the CDRC, of the final development plan will be sufficient. There will be no further changes. The next is the agreement of August 19, 1991 between Las Campanas and the Santa Fe County *[Exhibit 8]*. In that agreement of August 19th specifically says that all of the conditions in the approval were actually made part of this contract and with respect to water, in quantities are subject to specific enforcement in court.

The next are the relevant pages from the master plan development agreement, which indicate I think very clearly that guesthouses are allowed. *[Exhibit 9]* The next document is the document specifically incorporated into that as written into the master plan development agreement and it is the water use budget prepared by the engineers for Las Campanas *[Exhibit 10]*, Jack Sullivan, in which he indicated with conservation, Las Campanas would be expected to consume for the guesthouses .437, it turns out, so that's pretty close to the .4.

The letter of March 22, 1993 from Dr. John Shomaker indicating there's a 100-year supply *[Exhibit 11]* and the agreement, replacement delivery facility agreement of May 18, 1993, *[Exhibit 12]* wherein Las Campanas put up approximately a \$7 million bond in order to demonstrate its good faith to participate in the replacement facility. I would note that the amount of water rights agreed to is 709 acre-feet in that agreement. I'm just putting those into the record.

But I think a great point is made by Commissioner Campos about conservation. I think conservation is important, and there was litigation as you probably recall between the City of Santa Fe and Las Campanas. And as a part of the settlement of that agreement, Las Campanas agreed that if there is any drought stage, for example, Stage 4, Stage 3, Stage 2, Stage 1, that Las Campanas will automatically reduce their use in the same way as the City of Santa Fe. So it's built into that settlement that there will be conservation. It's required of Las Campanas and they will have thus far met every requirement for conservation in that agreement and matched the City of Santa Fe's conservation requirement. Thank you.

CHAIRMAN ANAYA: Thank you. If you could give those to the recorder

we'll put them in the record. Any other questions? Commissioner.

COMMISSIONER MONTOYA: Mr. Chairman, I think it's also important, just for the record, we did receive a letter from the City of Santa Fe basically agreeing with everything that's being requested in tonight's case here. So there's no opposition from the City of Santa Fe. And this is in the record also, correct? Okay.

CHAIRMAN ANAYA: Thank you, Commissioner. It's a public hearing. Is there anybody who would like to speak for or against this case? Hearing none, what's the pleasure of the Board?

COMMISSIONER VIGIL: Mr. Chairman, I have a couple.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: This is for staff. Mr. Dumar referenced quite a few documents that weren't a part of our packet. I would imagine that if I had the opportunity to review some of those documents I would have a better informed opportunity to make a decision tonight. Is there a reason why those documents weren't included in our packet?

MR. CATANACH: I believe that Mr. Dumar presented those documents just to give additional support and background and justification of various agreements and water amounts and guesthouses that were allowed. I didn't think they were really that relevant. The most recent action that's taken place, as I understand a settlement agreement between the City as to how much water can be pulled out of those Buckman wells to serve the Las Campanas development. So I believe that it was just more confusing to throw all that background information in as opposed to just submitting the letter from the City stating that the amount of water being pulled out of the wells to allow these guesthouses, that that would be okay.

MR. DUMAR: Those were just indeed background documents. I think we stand simply on the record, submit the approval by the City of Santa Fe and the development master plan development agreement. I was just offering those as further background. I certainly would not want to cause any delay. Las Campanas needs a decision tonight on that, so if there's any chance of background documents causing a delay we would recall them if that were the pleasure of the Commission. We simply were trying to provide new background information. I quoted the substance of most of them as I defined them, Mr. Chairman, Commissioner Vigil.

COMMISSIONER VIGIL: Thank you. And Mr. Chairman, Mr. Dumar, some of the substance of what you've referenced references guesthouses and actually, a letter and master plan approval that references guesthouses. That would have been more beneficial to me because most of my packet information just says we're requesting guesthouses. I didn't have the background information that guesthouses had actually been spoken of before, except for a possible settlement agreement, and for that question I'm going to turn to Steve Ross. Steve, there was a development settlement agreement. What is your opinion as to what that - it wasn't a settlement agreement. I think it was a development agreement.

MR. ROSS: Development agreement. Right.

COMMISSIONER VIGIL: What is your opinion as to what that agreement says about guesthouses?

MR. ROSS: Well, of course the agreement was entered into some 12 years ago

and it essentially shaped a lot of the decisions that would normally be made at the presentation of each phase of the subdivision concerning things like fire protection, of course water, all these other platting issues were dealt with in that agreement a long, long time ago. I think the idea of the agreement was to, both from the County and from the developer's standpoint to promote some consistency in the development of the subdivision over time.

As a result, some of the provisions might seem a little out-dated today, particular with respect perhaps to water and guesthouses and things like that. But to answer your question directly of course, there is a section on water in the development agreement. It describes how water is going to be allocated, and it does mention guesthouses. It says that on properties where guesthouses are permitted there's going to be .5 acre-feet per year allocated to that lot. In fact the agreement also says you can't deviate from that limitation. You can't even go below it. You can only go above it. Reading the contract, reading between the lines of the contract you can sense that the Commission at the time was trying to ensure that adequate water rights were dedicated to the water supply for the subdivision. They didn't want the public authorities, in this case, the City of Santa Fe and I suppose back then, PNM, to be having to deliver water to the subdivision that they didn't have water rights for and putting either PNM or the City in the position of having to go out and acquire additional water rights. They wanted to make sure there were adequate water rights to support all deliveries to the subdivision.

That's the reason for some of that language. All those other documents that Mr. Dumar referred to are incorporated by reference in that document. That's why he offered them into the record. You really can't look at any phase of Las Campanas without looking at that document because it governs platting decisions concerning the development. And they were very common in the early 1990s, the development agreements. The Code permitted them. We don't do those any more but for those older subdivisions they do govern the future phases of the development of the subdivision.

COMMISSIONER VIGIL: Thank you, Mr. Chairman. Thank you, Steve.

CHAIRMAN ANAYA: Okay. What's the pleasure of the Board? Jack, do you want to make a motion?

COMMISSIONER MONTOYA: Mr. Chairman, I move for approval of Las Campanas' request.

CHAIRMAN ANAYA: With conditions?

COMMISSIONER MONTOYA: With staff conditions.

CHAIRMAN ANAYA: I'll second it.

COMMISSIONER CAMPOS: For discussion, Mr. Chairman.

CHAIRMAN ANAYA: Discussion.

COMMISSIONER CAMPOS: You know, they're asking for much more water than they need. If you look at an average house in America, you're not going to use, with a guesthouse 11,000 gallons a month and that's what they're asking for just about. It seems that just being responsible as a corporation, you say, okay, I'm going to be responsible to the community. I want to see what I really need and use what you really need. But to tie up 11,000 gallons a month for a home and a guesthome is too much. You're looking at average -- that's

way beyond the average. That's much more water than anybody needs. But they probably have the contract right to do it if they want. They could be fairly straight and tell us we'll do whatever the heck we want to do because that's the right we got. Even though it's much more water than they actually do need and that they'll ever consume.

CHAIRMAN ANAYA: Any other comments? Did the last subdivision, phase of the subdivision - we approved .4, wasn't it? Was it .4?

MR. CATANACH: Yes, Mr. Chairman.

CHAIRMAN ANAYA: Per lot.

MR. CATANACH: That's correct. For a lot with a house and guesthouse.

That's correct.

COMMISSIONER CAMPOS: Let me ask something.

CHAIRMAN ANAYA: Sure.

COMMISSIONER CAMPOS: Haven't we also approved .35 or less than .4? I think we have.

MR. CATANACH: I don't know if that came up with Las Campanas Development.

COMMISSIONER CAMPOS: I don't know if it has with Las Campanas Development, but we have in other developments I think, and certainly that would be nice if you guys would do that.

CHAIRMAN ANAYA: Okay. Any more discussion?

COMMISSIONER VIGIL: I have a question for Scott.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Scott, you're asking for 104 guesthouses. Have the developers discussed the possibility of creating a limitation to that? I'm sure that you probably wouldn't have a need for 104 houses. As a matter of fact my understanding is with the development it's a marketable thing to have the opportunity to have guesthouses but do you actually need 104 opportunities for guesthouses? Is it possible for the developer to consider coming to the Commission with a specific amount of requests for guesthousing?

MR. HOEFT: Because we don't know the specifics of the development, of every individual lot throughout that area, I think they would be reluctant to tie certain lots to a restriction on a guesthouse and other lots with the permission to do a guesthouse. So if you're asking if they would be willing to say 50 percent of the 104, I don't think they'd be willing to do that. They want to give the owners and the potential owners the ability to build a guesthouse or not.

COMMISSIONER VIGIL: Okay.

COMMISSIONER MONTOYA: Mr. Chairman, on that point.

CHAIRMAN ANAYA: Go ahead.

COMMISSIONER MONTOYA: Scott, don't you - and I don't know what the topography is out there, but is it possible that out of those 104 lots that not all of them will be able to accommodate a home and a guesthome because of the topography?

MR. HOEFT: That I can't tell you off the top of my head, Commissioner. I

really can't. It is possible, but off the top of my head without doing a bit more analysis I can't tell you for sure. In terms of the lot sizes, they're sized for a house and a guesthouse. And the topography typically is adequate, but there may be an exception here or there.

COMMISSIONER VIGIL: Steve, Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Steve, I guess my legal hat is also quibbling through this, wondering if we are legally required to look towards an approval of this based on the previous agreement. Are we?

MR. ROSS: Mr. Chairman, Commissioner Vigil, you certainly can make that argument. Based on the language of the agreement and based on in particular a lot of the documents that were incorporated by reference in the document. What you'd have to do is figure out what the intent of the parties, the contracting parties was in 1993. There's certainly suggestions that in 1993 guesthouses were contemplated.

MR. DUMAR: I might be able to shed some light on that if I might. Mr. Chairman, Commissioner Vigil, the master plan approval incorporated by reference specifically the water use budget of August of 1991. The water use budget of August 1991 concluded that the amount with a guesthouse would be .5 acre-feet, but the relevant language is as follows: "Since there will be no restriction on the construction of a guesthouse at Las Campanas, 0.5 acre-feet per year per residence is assumed for the worst case scenario multiplied by 1419 lots equals 709.5 acre-feet for the entire development."

And since I was involved in this, even way back then, that was followed by the replacement delivery facility agreement where Las Campanas put up a \$7 million bond in exchange for the right to be able to use, if necessary, 709 acre-feet. And Las Campanas has purchased 709 acre-feet, so the pattern and practice for the last 13 years has been to recognize the entitlement to a guesthouse. So it is our position that the combination, plus the other supporting documents I don't need to go through. The specific language from this document was what incorporated by reference says there will be no restrictions on guesthouses given the fact that Las Campanas posted a \$7 million bond for the right to utilize 709 acre-feet out there.

I would note, however, that in response to the issue of conservation, there are steps being made and there will be more made in the future. But right now, when you are marketing these lots, it is very difficult to explain to your client why they are not entitled to enforce an agreement that no its face in enforceable in court.

COMMISSIONER CAMPOS: I would suggest that maybe it would be in the public interest and the public good and being a good neighbor, Professor. That might be an argument that your corporate people would consider.

MR. DUMAR: Yes, and I totally agree that those are all persuasive arguments but I'm just speaking as a lawyer, as a member of the public.

COMMISSIONER CAMPOS: I understand. But maybe we should consider a motion to table and have them go back to their corporate sponsors and see if they would reduce to .35 which is probably even more than adequate amount of water for a residence and a guesthome.

CHAIRMAN ANAYA: Commissioner Montoya, would you put that in your motion?

COMMISSIONER MONTOYA: To table it?

CHAIRMAN ANAYA: To put in .35 instead of .4?

COMMISSIONER CAMPOS: Well, I don't think we can tell them what to do. I think that's going to be up to them. They probably have some rights. What is the right thing to do for this community? Maybe they need time to go talk to the board of directors.

MR. DUMARS: With all due respect, they've really thought a lot about this issue. The quantities need to market houses out there have been subject to a tremendous amount of review. They have concluded that to market these houses to these people they need this quantity of water. Whether they actually build a guesthouse is problematic. I don't think it will happen in many cases, but they need to make this decision now because they're starting in the sale season. Everything is beautiful. This is the time. So they need a decision tonight if it's at all possible.

CHAIRMAN ANAYA: Okay. So we already have a motion on the floor and it's been seconded, but if you want to amend it, we can amend it. If we want to vote on it, we can vote on it.

COMMISSIONER CAMPOS: Or we can table it.

COMMISSIONER MONTOYA: What if we looked at .375 and if there's over-utilization of that amount that we revisit that in the future. Scott?

MR. HOEFT: We're not authorized to accept anything other .4 tonight, gentlemen and ma'am.

CHAIRMAN ANAYA: There's a motion and a second.

The motion to approve EZ Case #S 96-1212 failed by 0-1 voice vote with Commissioner Anaya voting no, Commissioner Sullivan abstaining and the other Commissioners not voting.

CHAIRMAN ANAYA: That was a regular motion so I guess I won. Do I hear another motion.

COMMISSIONER CAMPOS: Do you want to table this to the next meeting? Anybody?

CHAIRMAN ANAYA: If you make the motion.

COMMISSIONER MONTOYA: I'll make the motion that we approve the request at .375 acre-feet.

COMMISSIONER CAMPOS: I won't go there because I think it's up to them. I think they've got to go back to the board of directors and get that decision. I would vote for .375.

CHAIRMAN ANAYA: There is a motion. Is there a second? Dies for lack of a second.

COMMISSIONER CAMPOS: I move that we table this until our next regularly

scheduled BCC public case hearing in a month.

CHAIRMAN ANAYA: There's been a motion to table.

COMMISSIONER VIGIL: Second.

CHAIRMAN ANAYA: And a second.

The motion to table EZ Case #S 96-1212 tied 2-2 voice vote with Commissioners Campos and Vigil voting in favor and Commissioner Anaya and Montoya voting against.

COMMISSIONER MONTOYA: I'll go back to my original motion to approve with staff recommendations and conditions.

COMMISSIONER CAMPOS: And that's at .4.

CHAIRMAN ANAYA: There's been a motion. Is there a second? I'll second it for discussion. Any discussion?

The motion to approve EZ Case #S 96-1212 tied by a 2-2 voice vote with Commissioners Campos and Vigil voting against.

COMMISSIONER CAMPOS: I would suggest we just table it and have some time to think about this.

CHAIRMAN ANAYA: Wait a minute. Wait a minute. Since it tied two to two, two for and two against, it dies, correct? It's dead.

COMMISSIONER CAMPOS: I'm just suggesting, Mr. Chairman, that maybe we table it and have people think about it. It already died.

CHAIRMAN ANAYA: It's already died.

COMMISSIONER CAMPOS: Well, we could have another motion.

COMMISSIONER VIGIL: We can motion to reconsider it.

CHAIRMAN ANAYA: Is there a motion to reconsider from the maker of the motion that passed? Commissioner Montoya.

COMMISSIONER MONTOYA: Move to reconsider.

CHAIRMAN ANAYA: Okay, move to reconsider. Is there a second?

COMMISSIONER CAMPOS: Second.

CHAIRMAN ANAYA: There's a second to reconsider the motion. Any discussion?

The motion to reconsider the motion passed by unanimous [4-0] voice vote.

CHAIRMAN ANAYA: So what's the motion? I'm looking for another motion.

COMMISSIONER CAMPOS: Motion to table to the next regularly scheduled BCC land use hearing.

COMMISSIONER VIGIL: I think there's two considerations that I would include in that second and that is that you go to your clients and at least discuss the option of

lessening of the .4 and consider and discuss the option of identifying guesthouses and perhaps creating some level of a limitation. I must say I have a difficult time moving forward. I recognize that we're legally probably at a place where we need to move forward with this and make a decision for you but I think there's some way that we can fashion this in a way that would be more predictable for us with regard to our water supply at this point in time and would be more predictable with regard to our development issues at this time. So I'm going to second that in hopes that your clients would at least discuss those options and come back to us and if we can expedite this and bring it at the next meeting I'm happy to do that because I recognize from your testimony that we actually need to move quickly on this. So I'm seconding a motion to table.

The motion to table passed by unanimous [4-0] voice vote with Commissioner Sullivan abstaining.

CHAIRMAN ANAYA: So it's tabled. Sorry.

- XIII. A. 12. CDRC Case #MP 04-5770 Parker Property Master Plan Zoning. Jim Siebert, Agent for Paul and Mary Jo Parker, Applicants, Requests master Plan Zoning Approval for Light Industrial and Office Use on 5.8 Acres. Also, Requested is an Application for a Grading Permit for Four Feet of Fill (That has Previously Occurred) to a Portion of the Property. The Property is Located in the Santa Fe Metro Highway Corridor Area Within the Santa Fe Airport Redevelopment Sub-district just Outside the Santa Fe City Limits, Adjacent to the Santa Fe River, on the Northeast Side of N.M. 599 Within Sections 2 and 11, Township 16 North, Range 8 East (Commission District 2)**

MS. DANIELS: At its regularly scheduled meeting of February 17, 2005, the CDRC met and approved this case. The majority of the property is in the 100-year floodplain, so the remaining usable area consists of 1.5 acres. Resource Technology, Inc. is consulting with FEMA about a LOMR map revision for the floodplain area. The suggested use for this tract will be a contractors' yard, a warehouse to work on large vehicle equipment and an office to be used for administration. The warehouse building will be 8,000 square feet with 16 parking spaces. The office building will be 2000 square feet with 11 parking spaces provided.

Proposed lot coverage is 3.9 percent and 3.31 acres of the property will be used as open space for a total of 57 percent open space. A variance for an extension of the existing major center commercial node at the intersection of 599 and Airport was granted by the BCC on May 14, 1996 in order to incorporate a 30.5-acre parcel from which the subject property was later divided. Since there is no time limit on a variance, the property is already designated within a

regional center commercial node. This property is subject to the Highway Corridor Plan since it is located outside of the two-mile EZ District.

The application was reviewed for the following: location, adjacent property, access, terrain management, soils, landscaping, water, liquid waste, solid waste, parking/traffic impact, archeology, outside lighting, signage and fire protection.

This application is in accordance with Article V, Section 5.2, Master plan submittals and procedures of the Land Development Code. The CDRC recommended master plan zoning approval subject to the following conditions. Mr. Chairman, may I enter the conditions into the record?

CHAIRMAN ANAYA: You may. Thank you, Jan.
[The conditions are as follows:]

1. Water use shall be to 0.25 acre-feet per year.
2. Submit exterior lighting plan in conformance with minimum standards. All outside lighting shall be shielded and must conform to County Code regulation.
3. Submit a fire protection plan as required by the County Fire Marshal's Office.
4. All utilities are to be underground.
5. All redline comments shall be addressed. Original redlines must be returned.
6. The Master plan shall be recorded with the County Clerks Office.
7. Submit landscaping plan in conformance with minimum standards. All trees shall be a minimum of 6 feet in height, 1.5-inch caliper at planting. All landscaping shall require only low to moderate water use as per county code.
8. Compliance with the applicable review comments from the following:
 - a. State Engineer's Office
 - b. State Environment Department
 - c. County Hydrologist
 - d. County Fire Marshal
 - e. County Public Works
 - f. Development Review Director/Technical Review
 - g. State Department of Transportation
9. The applicant must comply with the ordinance for rainwater harvesting.
10. The proposed sign shall be in conformance with County Code requirements.
11. The applicant must submit an approved LOMR with Preliminary Development Plan submittal.
12. A detailed water budget must be submitted with preliminary development plan.
13. A detailed grading and drainage plan with calculation, will be required with preliminary development plan application.

CHAIRMAN ANAYA: Any questions of Jan? The applicant, Jim? We could swear you in.

[Duly sworn, Jim Siebert testified as follows:]

JIM SIEBERT: My address is 915 Mercer in Santa Fe. This was actually also part of a previously approved master plan, which has since lapsed since the five-year period is passed. So this was previously zoned commercial. We're in agreement with all conditions as stated by staff and I'll answer any questions you may have.

CHAIRMAN ANAYA: Okay. Any questions?

COMMISSIONER VIGIL: I have a question.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: And this is probably for staff or anyone. As I review some of these they look pretty straightforward but one of the issues that come up through the Commission is on the water metering and the reporting of the water metering. Is it possible for you to consider – and I'm not sure since it's so late in the year, but I wasn't able to see this in the conditions that water metering be reported to the County. Or is that in one of the generic statements? Can anyone respond to that, Vicki?

MS. LUCERO: Mr. Chairman, Commissioner Vigil, there's just a general condition that water use shall be a quarter acre-foot per year. This is just master plan approval so they'll need to come back in to the CDRC for development plan approval. So at that time we'll assure that that condition gets imposed.

COMMISSIONER VIGIL: And I'd like to – Dolores, as much as we can, incorporate that, because it's been discussed by the Board of County Commission. I think there was a consensus agreement that while we don't have the staff or the structure currently available, that doesn't necessarily create a barrier to making that a required condition for these reviews. I think the burden for that should be placed on the homeowner and we have the burden of keeping the records. So if we could make that a standard I think it might be good. At least that's my understanding.

CHAIRMAN ANAYA: Okay. Any other comments, questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Jim, in your report, page 7, you say that a public sewer is not located within a reasonable distance, so this commercial development is going to be served by a septic tank. How far away is the public sewer system?

MR. SIEBERT: The closest sewer actually would be in the Naumburg Business Park, which will be across the river.

COMMISSIONER SULLIVAN: And is that doable?

MR. SIEBERT: Well, there's no easements to get to it. It would be a pretty significant distance to get into that sewer line.

COMMISSIONER SULLIVAN: Five hundred feet? Four hundred?

MR. SIEBERT: Oh, no. It would be more on the order of – I'm guessing it would be 3,000 to 3,500 feet.

COMMISSIONER SULLIVAN: I see.

MR. SIEBERT: And you'd have to go underneath the Santa Fe River to get there.

COMMISSIONER SULLIVAN: Right. Then, this development will also use a well. Is that correct?

MR. SIEBERT: Correct.

COMMISSIONER SULLIVAN: How far away are we on this development from the County water system?

MR. SIEBERT: Well, a long ways. The closest I could think of would be in Las Campanas, would be the closest County water system.

COMMISSIONER SULLIVAN: Okay. But would you have any objection to a condition which I don't see in here that in the event of a regional water system coming within 200 feet of the property the applicant would be required to connect in?

MR. SIEBERT: None whatsoever.

COMMISSIONER SULLIVAN: Okay. And a question for staff. Would this after master plan approval come back to the BCC or not?

MS. LUCERO: Mr. Chairman, Commissioner Sullivan, the development plan would just go back to the CDRC.

COMMISSIONER SULLIVAN: Would not come back here.

MS. LUCERO: Would not come back to the Board.

COMMISSIONER SULLIVAN: And why is that? Because it's commercial?

MS. LUCERO: Mr. Chairman, any development plan for commercial are subject just to CDRC approval.

COMMISSIONER SULLIVAN: Regardless of how big they are? A shopping center?

MS. LUCERO: That's correct.

COMMISSIONER SULLIVAN: Another Villa Linda Mall wouldn't come to the BCC?

MS. LUCERO: Not for the development plan, unless the BCC were to request that it come back as part of the conditions, but the Code does not require it to come back to the Board.

COMMISSIONER SULLIVAN: Thank you.

CHAIRMAN ANAYA: Any other questions? This is a public hearing. Anybody in the audience who would like to speak in favor? Anybody against? What's the pleasure of the Board?

COMMISSIONER VIGIL: Move to approve.

CHAIRMAN ANAYA: There's been a motion to approve, with conditions?

COMMISSIONER VIGIL: With conditions, yes.

CHAIRMAN ANAYA: With the added 14th condition that says Connect to County water when within 200 feet of the property line? Do you agree with that?

COMMISSIONER VIGIL: Yes.

CHAIRMAN ANAYA: Is there a second?

COMMISSIONER SULLIVAN: Second.

CHAIRMAN ANAYA: There's a motion and a second. Any more discussion?

Commissioner Vigil.

COMMISSIONER VIGIL: Staff is also recommending approval here. Am I correct?

CHAIRMAN ANAYA: That's right.

COMMISSIONER VIGIL: Thank you.

COMMISSIONER SULLIVAN: Mr. Chairman, discussion.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think we should begin to look at these commercial developments when they come back. When you say development plan, Ms. Lucero, you mean final development plan, or preliminary development plan?

MS. LUCERO: Either preliminary or final. They're not subject to BCC approval.

COMMISSIONER SULLIVAN: Unless that's a stipulation of the BCC.

MS. LUCERO: That's correct.

COMMISSIONER SULLIVAN: If they come back for a combined one, which they probably will, since everyone seems to, then they would come back to the BCC only if specified in the motion.

MS. LUCERO: Only if specified as a condition. That's correct.

COMMISSIONER SULLIVAN: I understand the usage of water on this is under a quarter acre-foot but the traffic is a problem on this one. The road access out onto Airport Road is over hill and dale and Mr. Siebert, could you show me how that property is accessed?

MR. SIEBERT: It's actually at the very end of the frontage road that parallels 599.

COMMISSIONER SULLIVAN: You have to snake down the arroyo and back out to get up to Airport Road, right?

MR. SIEBERT: There is a fairly steep hill you have to climb, correct.

COMMISSIONER SULLIVAN: The other way is to turn around and go backwards up the frontage road until you get to whatever that road is that accesses 599.

MR. SIEBERT: Well, it's really just the frontage road.

COMMISSIONER SULLIVAN: Can you show me on your master plan how it will be accessed? I'm not clear that there's a ready access to this. We don't need it solid tonight but I just feel that it may need to come back.

[Using a site map Mr. Siebert identified the access to the proposed development.]

MR. SIEBERT: This is crossing the Santa Fe River, it's going right through here. And the access, you would come from, off, I think it's County Road 62. The Leeder development is here. The Associated Asphalt development is here. What you do is you come down the frontage road into the property. Basically it dead ends into the frontage road.

COMMISSIONER SULLIVAN: Okay. So there's no plan to go over to Airport Road then. Because people drive over there now. They go down, the continue on that frontage road to Airport.

MR. SIEBERT: A lot of people are using that as kind of a secondary access to the recreational facility.

COMMISSIONER SULLIVAN: And you feel that traffic is not constrained by adding more traffic along that 599 frontage road?

MR. SIEBERT: The only traffic on here now is traffic from the existing sand and gravel operations. There is no residential development. There is no other development other than that.

COMMISSIONER SULLIVAN: Right. But we don't have a traffic report on this.

MR. SIEBERT: Well, because the volume of traffic generated doesn't [inaudible] the frontage road.

COMMISSIONER SULLIVAN: Okay. So there's just that one access and egress then off the dead-end frontage road.

MR. SIEBERT: Right.

COMMISSIONER VIGIL: Mr. Chairman, while you're here and I'm looking at that, will this proposal prohibit that sort of illegal access to Airport Road that actually is occurring now from I guess the east end?

MR. SIEBERT: I'm not sure - this is the extension of the existing frontage road and there is, there's an informal road that's been taken that goes down into the riverbed and then back up to the frontage road on the other side. I think the actual - this property is owned by somebody other than Mr. Parker. I think it's at the point that it drops down into the Santa Fe River bottom that you would need to block the access. He doesn't control that property.

COMMISSIONER VIGIL: Okay. I also have a question, Mr. Chairman, with regard to staff. Does the Highway Corridor Plan apply to this area at all?

MS. LUCERO: Mr. Chairman, Commissioner Vigil, the Highway Corridor Plan is in place in this area but the ordinance is not in effect. So there are really no design standards, the regulations that we could require or impose on this on this project.

COMMISSIONER VIGIL: Okay.

MR. SIEBERT: Mr. Chairman, Commissioner, we have in fact complied with all provisions of the Highway Corridor Ordinance including there's a 350-foot setback which eats up 70 percent of the property, so he only has 30 percent of the property left.

COMMISSIONER VIGIL: Thank you for clarifying that, Jim.

The motion to approve CDRC Case #MP 04-5770 passed by unanimous [5-0] voice vote.

CHAIRMAN ANAYA: I have one question, Jim. I noticed on your map, that one right there, that you have two arrows pointing north on different areas. What does that mean? Do you not know where north is?

MR. SIEBERT: We're working on it though. I want you to know that. It's

actually true and magnetic north. It's a requirement of the government. There's 12 degrees -
COMMISSIONER SULLIVAN: Twelve degree differential.
CHAIRMAN ANAYA: Oh, you've got to have true and magnetic.

XIII. A. 14. AFDRC Case # MIS 04-5700 Plants of the Southwest Master Plan Amendment. Plants of the Southwest, Applicant, and David Perrigo, Agent, are Requesting a Master plan Amendment for a 1,300 Square foot Bakery/Café addition to the Existing Retail Business on 4.39-Acres. The Property is Located at 3905 Agua Fria Street in the Traditional community of Agua Fria, within Section 32, Township 17 North, Range 9 East (Commission District 2) [Exhibit 13: Additional material]

MR. SALAZAR: Thank you, Mr. Chairman, Commissioners. On March 3, 2005 the Agua Fria Development Review Committee met and acted on this case. The decision of the AFDRC was to recommend approval for a master plan zoning amendment to allow the addition of a 1200 square foot bakery café to the existing retail business on 4.39 acres. On May 28, 1991 the Extraterritorial Zoning Authority granted master plan zoning approval of a wholesale/retail business of native southwestern seed and plants, which includes an 1800 square foot retail office, a 635 square foot seed barn, a 100 square foot green house, a 1000 square foot caretaker residence and four separate residential units of 1000 square feet.

On September 12, 1991 the Extraterritorial Zoning Commission granted development plan approval of phase 1 which has already been constructed. The applicant amended phase 1 to allow a seed bard on 1,550 square feet and an office/staff area of 950 square feet in January 2000. The proposed master plan amendment will delete the office/staff facility, which was never constructed, and substitute the 1,200 square foot bakery/café in its place. The bakery/café will seat 18 customers and have a staff of three employees. It will operate during the current retail business hours of 8:00 to 5:00 pm and be open a maximum of six days a week.

Recommendation: It is staff's position that this application is in accordance with the County Land Development Code, Article V, Section 5.2. Staff's recommendation and the decision of the AFDRC was to recommend approval of the master plan amendment subject to the following conditions:

1. All previously imposed conditions for future development must be followed.
2. All utility lines to the proposed buildings must be underground.
3. The amended master plan with the appropriate signatures will be recorded with the County Clerk.
4. Structure shall not be higher than 24 feet above the natural grade or finish cut grade as per County Code.
5. The applicant must modify the current liquid waste permit with the Environment

Department to reflect changes proposed in this amendment prior to building permit issuance.

6. The roof shall be constructed of a non-reflective material.
7. The applicant shall request a driveway permit and meet with Public Works staff to discuss these improvements.
8. An updated service letter from Sangre de Cristo Water Company will be required with development plan submittal.
9. Compliance with the applicable review comments from the following:
 - a. Santa Fe County Water Utility
 - b. State Environment Department
 - c. Santa Fe County Public Works
 - d. Soil and Water District
 - e. Santa Fe County Technical Review
 - f. Santa Fe County Fire Department
 - g. Santa Fe Public Schools District
 - h. State Department of Transportation
 - i. State Engineer's Office
 - j. State Historic Preservation Division
10. All staff redline comments must be addressed.
11. A detailed grading and drainage plan with appropriate engineering will be required with development plan application.

CHAIRMAN ANAYA: Okay. Thank you. Any questions of John? Is the applicant here. Thanks, John. Do you have anything to add, David?

[Duly sworn, David Perrigo testified as follows:]

DAVID PERRIGO: The square footage on the agenda was listed at 1300. It's actually 1200.

CHAIRMAN ANAYA: Okay.

MR. PERRIGO: We met with the Agua Fria Village Association and made some amendments to the original application. The first amendment was to decrease the previously approved four residential units to two. They were never built. That was to get it more line with the density requirements of the village.

CHAIRMAN ANAYA: Okay.

MR. PERRIGO: And the second revision was that we relocated the wetland, septic tank to get beyond 100 feet from our neighbor's well. Those are the two primary –

CHAIRMAN ANAYA: So you met with them, those were their suggestions and you worked with them?

MR. PERRIGO: Right.

CHAIRMAN ANAYA: Thank you. Anything else you want to add?

MR. PERRIGO: No. Not at this time.

CHAIRMAN ANAYA: Any questions of the applicant? This is a public

hearing. Is there anybody in the audience that would like to speak for or against this? Come forward, ma'am. Are you in favor or against? Or neither?

MARY GONZALES: I just want to make a statement.

CHAIRMAN ANAYA: You bet. Your name and address for the record.

[Duly sworn, Mary Gonzales testified as follows:]

MS. GONZALES: Mary Gonzales, 1963 Skeeter Lane.

CHAIRMAN ANAYA: If you want, Mary, you can pull that mike down.

MS. GONZALES: The only concern that I do have right now is a privacy fence. Do you guys have my letter that I gave to the County Land Use Administrator? It just stated all my issues that I did have to the Plants of the Southwest.

CHAIRMAN ANAYA: Do you want to read them?

MS. GONZALES: Well, one was the health and safety hazards, because my domestic well was 50 feet away from the proposed septic tank and the wetland, which they did change.

CHAIRMAN ANAYA: Okay, so is that issue solved?

MS. GONZALES: Yes, that's fine. And the water concern, that also was basically also resolved too because they said they were going to be using the Sangre de Cristo water on that. And the privacy is still an issue with me because of the fact that that for it being a commercial part of the land and it's adjacent to mine, I just feel that we need privacy. And the traffic also, there's going to be an additional, it's going to be quite a bit of traffic going there with this bakery.

CHAIRMAN ANAYA: Okay.

MS. GONZALES: And also with the noise pollution. Those were my issues at that time. We did resolve most of them but like I say it was just with the privacy fence.

CHAIRMAN ANAYA: Okay. Is that it?

MS. GONZALES: That's it.

CHAIRMAN ANAYA: Okay. Thank you, Mary. Is there anybody else that would like to speak for or against this case? Could the applicant come back up? You heard Mary Gonzales' issue about the traffic, the noise, the pollution, the privacy fence. What is your comments on those, Dave?

MR. PERRIGO: Regarding the water, the commercial use requires that Sangre de Cristo supply them with water. There is a well on the property which is dedicated only for the future residential use, which hasn't been constructed yet, and any established plantings, permanent plantings that are there. The wastewater I think we dealt with. We had a traffic study that indicated that there might be ten additional vehicles coming in and out of that driveway. The traffic report said it was minimal impact.

CHAIRMAN ANAYA: Okay.

MR. PERRIGO: The noise issue probably is related to an event that happened last summer I believe it was. There was a circus that was put on the property, and that won't happen again. That wasn't satisfactory to the owners either. And regarding the fence, at the Agua Fria Village Association meeting we offered to put a fence up essentially the length of

their trailer to block and views of the property. At that time there was an agreement that there would be a fence. There wasn't any length involved and then later, Mary came back and requested to fence her whole property, which was I believe 392 feet.

CHAIRMAN ANAYA: One side?

MR. PERRIGO: One side. Which Plants of the Southwest thought was too much. But the offer for privacy screening along the trailer is still out there.

CHAIRMAN ANAYA: Okay. She mentioned three times that her issue, her main issue was the privacy fence. So is there any way that you can accommodate that?

MR. PERRIGO: We can block her residence from the view of the commercial facilities.

CHAIRMAN ANAYA: How many feet?

MR. PERRIGO: Originally we had said the length of the trailer. I believe that's about 60 feet.

CHAIRMAN ANAYA: Okay.

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: On that point, what if the complainant and the applicant split it 50-50.

MR. PERRIGO: We've offered to - I've been told that Plants of the Southwest in the past has offered to put up fences and split the cost but that wasn't -

COMMISSIONER MONTOYA: I think there has to be some sort of compromise here. Either you do part of it, none of it, split it. There has to be some compromise.

MR. PERRIGO: Well, we're willing to put up some fence, just not the whole property line.

CHAIRMAN ANAYA: You're saying that the total length of the property is 300-something?

MR. PERRIGO: It's 392.

CHAIRMAN ANAYA: What's half of that?

MR. PERRIGO: Roughly 200.

CHAIRMAN ANAYA: Roughly 200. Would you be willing to put up 200 feet of fence, privacy fence? You want the bakery, right?

MR. PERRIGO: I believe the owner would be willing to put it up if they were willing to pay for half of it. Sure.

CHAIRMAN ANAYA: You want the bakery, right?

MR. PERRIGO: Yes, sir.

CHAIRMAN ANAYA: Are there any other comments? Commissioner Sullivan.

COMMISSIONER SULLIVAN: It's off the privacy fence issue so I didn't know if you wanted to continue with that.

CHAIRMAN ANAYA: Well, I think he should do the 200 feet of privacy

fence.

COMMISSIONER SULLIVAN: We can put that in the motion. I didn't want to barge in if you were still on the issue.

CHAIRMAN ANAYA: Go ahead. You want to talk about water, right?

COMMISSIONER SULLIVAN: How did you know that? I'm going to fool you. I want to talk about parking, then I'll talk about water. I don't see any additional parking shown on your plan. Am I missing that?

MR. PERRIGO: No. The existing parking is approximately ten spaces over what's required for the existing facility.

COMMISSIONER SULLIVAN: I don't read that in the report that way. It says that there's - and let me ask staff just to confirm that. It says there's ten staff spaces and 22 other spaces for a total of 34. I didn't read that to say that that was ten over the requirement. Who's the analyst here? Mr. Salazar? What's the requirement for this nursery and everything combined?

MR. SALAZAR: Right now it's at 34. I believe - I'm not to sure what the calculation is to put the proper amount of parking spaces.

COMMISSIONER SULLIVAN: Let me just read it. It says the main parking area currently accommodates .2 vehicles plus two additional handicapped parking spaces. A staff parking area counts for ten additional spaces, bringing the total number of parking to 34. And that's all it says about parking. It doesn't say that it exceeds it. Is the staff parking area existing or is that proposed for future use in this project.

MR. SALAZAR: That is existing.

COMMISSIONER SULLIVAN: That's existing. So there's 34 spaces there now. So could you or someone tell me - we don't have a copy of the traffic study in this packet. I'm looking for a document that says that these meets or exceeds the parking requirements for the square footage and the type use that you have here.

MS. LUCERO: Mr. Chairman, Commissioner Sullivan, we didn't break down the calculations in the report but we did do our review based on the different type uses, retail use and then this café use. And it does meet the requirements as set forth in the Code.

COMMISSIONER SULLIVAN: Okay, how many spaces would that require?

MS. LUCERO: Mr. Chairman, Commissioner Sullivan, I'd have to run through the calculations again but I do know that we did look at this. I don't have -

COMMISSIONER SULLIVAN: Okay. And you're confident that 34 meets or exceeds the required parking.

MS. LUCERO: Yes, Mr. Chairman, Commissioner Sullivan.

COMMISSIONER SULLIVAN: Okay. So no new parking is going to be provided. And the reason I ask is because I've been down to Plants of the Southwest and on a weekend with existing parking it's busy and it's hard to get a parking space. So I just envision now with the bakery and restaurant that there's going to be less parking.

CHAIRMAN ANAYA: What did you buy?

COMMISSIONER SULLIVAN: I bought some nice plants. They have nice

nursery plants there. But they're very limited in parking because they use up as much space as they can for their bedding plants.

CHAIRMAN ANAYA: Right. Right.

COMMISSIONER SULLIVAN: And it's also with a bunch of old bumpers and stuff it's kind of hard to get around in that gravel parking lot. Is there going to be any paving on this lot? No. It's tough to line off spaces so you lose parking. You can draw out the parking. When you don't have paving you can draw it on a drawing and come up with 34 spaces but people don't park that way when there's not lined spaces they just go park however they want to your 34 is usually quite a bit less.

The other question I had is that the State Engineer - and this is for Mr. Salazar - the State Engineer has issued a negative opinion on this project. Could you tell me what has been done with all that?

MR. SALAZAR: Mr. Chairman, Commissioner Sullivan, the State Engineer reissued a positive -

COMMISSIONER SULLIVAN: December 1, 2004, about two four months ago was the negative opinion.

MR. SALAZAR: On December 29th they issued a positive opinion. *[Exhibit 14]*

COMMISSIONER SULLIVAN: The issue was water rights offsets to the City and a water requirements analysis. Has that been addressed?

MR. SALAZAR: Yes.

COMMISSIONER SULLIVAN: So there will be some water rights offsets for the City of Santa Fe? Okay. This isn't in the packet and I don't have time to read it and I'm sure neither do the other Commissioners. But I have to take their word that it resolves the issue. Perhaps, Mr. Chairman, we should enter that into the record. Could you make a copy of that and enter that into the record with the recorder.

That's all the questions I had, Mr. Chairman.

CHAIRMAN ANAYA: Okay. Any other questions?

COMMISSIONER VIGIL: I have one.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: With regards to perhaps some updated material in the packet too, Mr. Chairman. Paul Kavanaugh, the senior engineering technician says that the grading and drainage plan does not conform to County Code in regards to Article VII, Terrain Management. And then it has a requirement. Did we get an updated report on that? That was November of 2004. Staff will require that all appropriate engineering be submitted before a favorable opinion can be given for preliminary and final development plan approval.

MR. SALAZAR: Mr. Chairman, Commissioner Vigil, the redlines haven't been addressed. I haven't given them to the applicant yet.

CHAIRMAN ANAYA: So it's under condition 11.

MS. LUCERO: Mr. Chairman, Commissioner, also I just did want to mention that they're requiring that those be addressed before preliminary and final. This is just master plan requests, so those will be addressed before they come back.

COMMISSIONER VIGIL: Okay. Thanks for clarifying that.

MS. LUCERO: You're welcome.

CHAIRMAN ANAYA: Any other questions? Back to the fence. What kind of fence or privacy fence would he have to construct?

MS. LUCERO: Mr. Chairman, I was actually looking in the County Code, the Land Development Code, and it does require a buffer between residential and non-residential properties that includes a wall, fence, earthberms or landscaping or a combination thereof.

CHAIRMAN ANAYA: So it's required.

MS. LUCERO: It's require.

CHAIRMAN ANAYA: We just missed it. So when we talk about, now how long is this fence supposed to be?

MS. LUCERO: Mr. Chairman, it doesn't specify. It just requires some sort of a buffer between residential and commercial, between parking areas.

CHAIRMAN ANAYA: So do you think - this is a question to the neighbors. Two hundred feet would be sufficient?

MS. GONZALES: No. Mr. Chairman, Commissioners, I don't feel that it would because the bakery is going to be right in front, maybe twenty feet from my home and the parking is on the other side all the way near my property.

CHAIRMAN ANAYA: So the whole length of your property?

MS. GONZALES: Yes, 392 feet.

CHAIRMAN ANAYA: Would be the buffer? How does staff feel? If that's the requirement then that's what we've got to do.

MS. LUCERO: Mr. Chairman, according to the Code it does require from building, parking and outdoor storage, from residential property.

CHAIRMAN ANAYA: So does that mean that the applicant has to build it to 390?

MS. LUCERO: Mr. Chairman, it does appear that along that entire property boundary the applicant is proposing parking from Agua Fria to the edge of the river.

CHAIRMAN ANAYA: Okay. So what kind of a buffer are we talking about and what size or height and made of what?

MS. LUCERO: Mr. Chairman, Commissioners, buffering would be required, I would say along the total length of that property boundary, whether we decide to do fencing, a wall, or with berms or landscaping. It can be a combination of any of those.

CHAIRMAN ANAYA: So can we say, can we just put it in the condition that the applicant is supposed to do a buffer between the residents and let you guys determine what that would be? That way it could be aesthetically pleasing for both parties?

MS. LUCERO: Mr. Chairman, we can work with the applicant and the neighbors on that.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Do we have a better map than this little Xerox

one of this subdivision? Could you show that to me? That's the same one we have; it's unreadable. Where is the new - I'm just asking you to point out where the bakery is going to be. This is your entrance road coming off of Agua Fria, correct? And Ms. Gonzales is located, her house is where your finger is. These are your existing buildings in the unshaded areas. Your parking lot is down here. And her concern is that people come in here, they will see, what? Her residence is here about in the center? Okay. And Commissioner Anaya is trying to work out the fencing as to where along this line, or the fencing and screening should be an how much of it.

MR. SALAZAR: Correct.

COMMISSIONER SULLIVAN: And staff is saying there needs to be some screening. It doesn't necessarily have to be fencing. It can be berming. It can be fencing. It can be a combination of plantings and so forth. Is there anything along the boundary there now? What's there now?

MR. PERRIGO: There's some landscape.

COMMISSIONER SULLIVAN: Is there a hog-wire fence or anything down there? There's a hog-wire fence. Okay.

MR. PERRIGO: It's a combination of fences but it's primarily a wire fence.

COMMISSIONER SULLIVAN: A wire fence. Okay. Security.

MR. PERRIGO: This is a proposed access road for future residences. This hasn't been put in place.

COMMISSIONER SULLIVAN: Future residences on your property?

MR. PERRIGO: Here, here. There were two more here that we deleted.

COMMISSIONER SULLIVAN: Okay. Mr. Chairman, could I ask Ms.

Gonzales to come up for just a second. Ms. Gonzales could you join us for just a moment and indulge me. Would you explain the concern you have. I'll turn it down this way. Could you explain the concern you have. As people are coming in here - could you point where your home is.

MS. GONZALES: Okay, my home is right in here.

COMMISSIONER SULLIVAN: Where the arrow is? The north arrow. Okay, you're right there. Some people would be coming in the driveway and I assume parking down here and then walking around and going over to the bakery. Now, you're concerned that as they come in here that this is a visual problem for you here or what? There's a big hill here as you go down here.

MS. GONZALES: That's right. I can see everything that's going on and as far as the bakery, the proposed bakery -

COMMISSIONER SULLIVAN: I understand that. The bakery is right across from where you are. But these cars are coming down there now anyway. They're coming in every day just to go to the nursery.

MS. GONZALES: That's right.

COMMISSIONER SULLIVAN: So they're coming, but the bakery would be like this so it seems like for fencing if maybe half of it or so, wouldn't that provide some pretty good screening?

MS. GONZALES: No. I feel that -

COMMISSIONER SULLIVAN: I'm not selling you on this I can tell.

MS. GONZALES: I need the whole 392.

COMMISSIONER SULLIVAN: Okay.

MS. GONZALES: And the thing is that as people park here and they're looking at all the plants, you know, as far as what they want or whatever, the property, I see a lot of people -

COMMISSIONER SULLIVAN: Okay, so you're more concerned this way. So what if the applicant - I'm not trying to put words in the applicant's mouth, but what if the applicant were to put the fence more down this way to where most of the activity occurs? Kind of like where my pencil is now.

MS. GONZALES: From right there to right here, from here to here is 500 feet. And my property, my trailer is right here. Now we're not talking about this part here.

COMMISSIONER SULLIVAN: You're not talking about the upper part here. I see. You're from here down to here. So all of that. I see. All of that pretty much does, it is in your visual envelope here. Okay. Thank you, Ms. Gonzales.

CHAIRMAN ANAYA: Thank you, Commissioner. Okay, so if we were talk about getting back with a buffer but we need to sit down with the applicant and the neighbors to see what kind of buffer and hopefully, that won't cause too much of a conflict. If it does, then we'll come back and then we'll just pick one.

COMMISSIONER SULLIVAN: Mr. Chairman, does this come back, Vicki, to the BCC?

MS. LUCERO: Mr. Chairman, Commissioner Sullivan, I did want to clarify that this development plan will go just back to the AFDRC unless, again, there is BCC request that it come back.

COMMISSIONER SULLIVAN: Okay. Mr. Chairman, should we add a condition that if the applicant and the neighbor cannot agree to a buffering arrangement, mutually satisfactory, that it would then come back to the BCC for resolution?

CHAIRMAN ANAYA: Yes. I'd like that.

COMMISSIONER SULLIVAN: I think they can probably work it out and that will save them time and effort coming back here and give them some incentive.

CHAIRMAN ANAYA: Okay, so is there a motion?

COMMISSIONER VIGIL: Move to approve with the additional conditions.

CHAIRMAN ANAYA: And the condition was the buffer and -

COMMISSIONER VIGIL: The parties work out a buffer and if in fact one is unable to be resolved it come back to the Board of County Commission.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN ANAYA: There's a motion and a second. Did you have a comment?

MR. PERRIGO: Yes, because up until this point they've insisted on one solution and one solution only and I'm assuming that that's going to continue so there's

really no negotiation. We've offered various solutions and we've never had any cooperation.

COMMISSIONER SULLIVAN: I was just going to say, perhaps we could clarify that condition, Commissioner Vigil, too to state that provided that the buffering meets the Code.

CHAIRMAN ANAYA: Right.

COMMISSIONER SULLIVAN: The minimum Code requirements.

MR. PERRIGO: I guess that would be helpful.

COMMISSIONER VIGIL: Yes.

COMMISSIONER SULLIVAN: If the applicant in the staff's judgment provides a screening and buffering that meets the Code, then they've met the Code.

CHAIRMAN ANAYA: Right. Right. That's acceptable.

COMMISSIONER SULLIVAN: But if they do not and there's valid disagreement and the staff were to agree that there's a disagreement over how the Code states then we will arbitrate the outcome. It's a little bit complex. Is that okay with you?

COMMISSIONER VIGIL: Yes.

CHAIRMAN ANAYA: The maker says okay. How about the seconder?

COMMISSIONER SULLIVAN: It's okay with the seconder.

CHAIRMAN ANAYA: Any more discussion?

The motion to approve AFDRC Case #MIS 04-5700 passed by unanimous [5-0] voice vote.

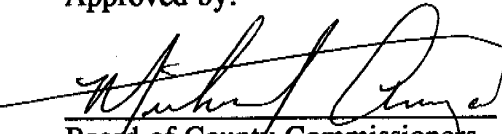
CHAIRMAN ANAYA: Good luck. I hope we don't see you back.

COMMISSIONER VIGIL: Thank you for working this out as far as you have. I really appreciate it. I know you've been before the Agua Fria Association, the Village Association and the Planning Committee and have gone through many routes to make this happen and worked with the neighbors and we really appreciate your input. I'm very appreciate of coming to us with a conciliatory proposal and a willingness to continue that. Thank you.

XIV. ADJOURNMENT

Chairman Anaya declared this meeting adjourned at approximately 9:55 p.m.


Approved by:

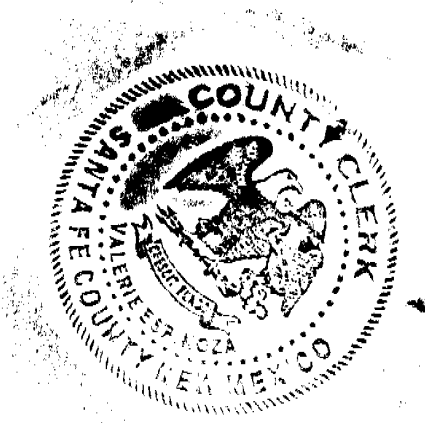

Board of County Commissioners
Mike Anaya, Chairman

Respectfully submitted:


Karen Farrell, Commission Reporter

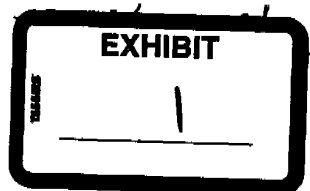
ATTEST TO:


VALERIE ESPINOZA
SANTA FE COUNTY CLERK



SFC CLERK RECORDED 05/13/2005

Revised



SANTA FE COUNTY

Resolution No. 2005-

A RESOLUTION DEDICATING COUNTY ROAD 89A CUYUMUNGUE
BRIDGE AS THE DOS ROMEROS MEMORIAL BRIDGE

WHEREAS, we honor all who served the United States of America during World War II, and thereby acknowledge the historical commitment and achievements of the entire nation; and

WHEREAS, two cousins, Frank Romero and Julian Romero, of the community of Cuyumungue, New Mexico, served and died for their Country during World War II; and

WHEREAS, Frank Romero was killed in action in France, in 1944 and Julian Romero was killed in action in Belgium in 1945; and

WHEREAS, it is fitting and proper to memorialize Frank Romero's and Julian Romero's spirit, sacrifice, and commitment to their Country, as exemplified by their selfless service during World War II; and

WHEREAS, Santa Fe County and the family of the Romero cousins would like to honor, recognize, and memorialize the lives, service and sacrifice of Frank and Julian Romero in the community where they were raised.

SFC CLERK RECORDED 05/13/2005

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Santa Fe that the Cuyumungue Bridge, located on County Road 89A, also known as Bronze Sky Road, in Cuyumungue, New Mexico, is hereby dedicated and shall henceforth be known as the "Dos Romeros Memorial Bridge"; and

BE IT FURTHER RESOLVED that the Santa Fe County Public Works Department is directed to obtain and place a sign at the bridge that reads:

**Dos Romeros Memorial Bridge
Named in Honor of Frank Romero and Julian Romero
Both of Whom Died While Serving Their Country During World War II**

PASSED, APPROVED, AND ADOPTED this 12th day of April, 2005.

BOARD OF COUNTY COMMISSIONERS

Michael D. Anaya, Chairman

ATTEST:

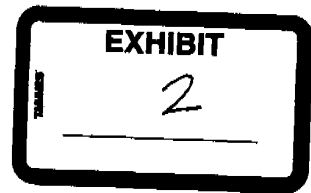
Valerie Espinoza, Santa Fe County County Clerk

APPROVED AS TO FORM:

Stephen C. Ross, Santa Fe County Attorney

SFC CLERK RECORDED 05/13/2005

Santa Fe Energy Task Force Progress and Actions



Meeting No.	Date	Key Issues/Actions
1	November 8, 2004	Nominations for ninth member, naming of utility representatives, discussion of mission and goals, determination of jurisdiction, itemization of data and information needed.
2	November 22, 2004	Selection of ninth member (held over to next meeting), drafting of letter clarifying scope and authority, presentation of PNM plans (facility, distribution, etc.), discussion of Chair's recommendations for items for Task Force to consider.
3	December 13, 2004	Clarification of chair's right to vote, selection of ninth member (Steven Michel), discussion of info needed from PNM, discussion of Celerity contract, load retention rates, potential for efficiency, etc.
4	January 10, 2005	Presentation from Manuel Sanchez, Senior planner from PNM, discussion of PNM customers with "special rates", discussion of load forecasting and reduction.
5	January 24, 2005	Discussion of possible presentations from Celerity, APPA, BTU's R Us, etc. Gail Ryba presentation of SW Energy Efficiency Project study and conclusions (30% effy improvements possible), assertion by PNM that efficiency improvements don't affect wires decisions?
6	February 7, 2005	Discussion of wind energy letter from City of SF, Nann Winter presentation and discussion of draft franchise agreement w/ City of SF, decision to formally recommend that the City develop a comprehensive clean-energy policy.
7	February 28, 2005	Discussion of technical nature of load inquiry as it relates to wires needs, discussion of implications of the 115 kV loop, and whether it is "transmission", "sub-trans.", or distribution, discussion of draft franchise agreement, implications of state legislation on City and County.
8	March 21, 2005	Entire meeting devoted to making recommendations regarding the draft franchise agreement to the City.
9	April 11, 2005	Discussed what to expect rate-wise from the next rate case (rates frozen in 2002, will thaw Jan 2008), discussed franchise recommendations to City (some adopted, others not discussed), followed up on legislation, discussed deliverables from the task force, prioritization of projects for review by ETF.

SFC CLERK RECORDED 05/13/2005

November 29, 2004

Gerald T. E. Gonzalez, County Manager
P.O. Box 276
Santa Fe, New Mexico 87504-0276

Mike P. Lujan, City Manager
200 Lincoln Avenue
Santa Fe, NM 87501

RE: Santa Fe Energy Task Force Scope-Of-Work

Dear Mr. Gonzalez and Mr. Lujan:

At the first meeting of the Santa Fe Energy Task Force on Monday, November 8, members reviewed the joint resolution creating the Task Force and discussed the specific provisions regarding the proposed work of the Task Force. The resolution states, "PNM has submitted plans to the Santa Fe County Board of County Commissioners (BCC) and to the City of Santa Fe for a 10-year energy supply plan..."(emphasis added), and later refers to "PNM's 10-year plan". In our meeting, PNM offered that they have prepared an *Electric Supply Plan*, a *Ten-Year Distribution System Plan*, a *Draft Electric Facility Plan*, and a *Renewable Energy Procurement Plan* for Santa Fe. These plans were not uniformly submitted to both the City and County.

This letter is to clarify exactly how we are construing our authority given the lack of equivalency in labeling of the documents to be reviewed in the resolution.

We believe that the Governing Body of the City of Santa Fe and the Board of County Commissioners created the Task Force under the authority granted them by their zoning and planning positions in state law. This authority, which emanates from state law mandates providing for reasonable development of land use within the jurisdiction, allows the City and County to dictate siting and location of privately owned utility facilities.

We believe that the intent of the joint resolution was to review PNM's operations, plans, and activities related to the provision of utility service over which the City and County of Santa Fe have authority. We will therefore be reviewing any and all documents pertaining to such matters, investigating alternatives to planned activities, and reporting as to the existing plans and the efficacy and potential benefits of alternatives.

If you have any questions or disagreement that this was your intent, please advise us promptly.

Sincerely,

Mark Sardella, PE
Chair, Santa Fe Energy Task Force

Cc. Robert Gallegos, Wayne Dalton

SFC CLERK RECORDED 05/13/2005

Possible Items for Consideration by the Santa Fe Energy Task Force

Mark Sardella, PE – Chair

November 22, 2004

Issues of Authority:

1. **What is the extent of Santa Fe's authority over utility activities?** The City and County have authority regarding taxation, economic development, public health, safety and welfare, building codes, siting, zoning, franchising, and municipal utility operations, and the extent and limitations of this authority must be known. Studying these rights generates ideas for proposals, and knowing the limitations of these rights will prevent us from wasting time recommending rules or programs over which we have no jurisdiction.
2. **Could Santa Fe require comprehensive, third-party neutral studies of alternatives as a pre-condition of approval of power line projects?** Alternatives could include demand-side management, load-side generation, etc. The third-party neutral stipulation may be needed since the results could affect utility revenues.
3. **Could Santa Fe offer incentives for non rate-based alternatives, such as independent development of demand-response technology?**
4. **Could Santa Fe implement its own programs or measures that obviate power-line upgrades?**
5. **Can Santa Fe require disclosure of technical information regarding loads?**
6. **Can Santa Fe require disclosure of the details of any load retention rates that affect its utility system?**
7. **What are Santa Fe's options relative to municipal-utility creation? What about a Utility District or Power Authority?**

Issues of Regulation:

1. **What is the regulatory significance of encircling the city with sub-transmission?** Would having a ring of sub-transmission (115kV) around the City prevent or deter competitive electric companies from being able to serve the City? Would such companies have to pay a tariff, and if so, what would the tariff be based on, and who would regulate it?
2. **What impacts have load-retention rates had on the need for additional utility infrastructure?**
3. **Should Santa Fe be an intervener in utility filings at the Commission?**
4. **If the transmission or distribution capacity created with demand-response technology can be made available to the utility for less than the cost of a power line upgrade, is the utility required to purchase it?**

SFC CLERK RECORDED 05/13/2005

Technical Issues:

- 1. What is the daily load profile for a summer peak? Winter peak?** The 24-hour load profile from a peak day would show the time-of-day that the peak occurs, yielding valuable information about what type of load is causing it.
- 2. What is the duration of the peak load?** Peaks occurring for less than 20 total hours per year could possibly be reduced using electronic load control, and peaks of less than 100-hours could be served by a standby generator.
- 3. How much local electric load could be switched to another fuel?** Electric space-heating is a possibility, and large pumping operations may also be possible. Other options?
- 4. How much existing local generation could be interconnected to serve peak loads?** In Albuquerque, backup generators were interconnected with the utility grid to serve peak loads. Are there existing generators located in bottleneck areas in Santa Fe? The Chavez Center? Community College? Sewage treatment plant? Are there strategic locations where generators could be added to relieve electrical feeders?
- 5. What is the potential of offering interruptible service in Santa Fe?** How many customers would pay a lower rate in exchange for having their service cut during peak loads?
- 6. What is the potential of electronic DSM systems in Santa Fe?** Electronic systems using radio-controlled switches to temporarily interrupt hot-water heaters, air-conditioners, and other loads during peak hours are common. How effective could they be in Santa Fe?

Economic Issues:

A 1987 study by UNM's *Bureau of Business and Economic Research* showed that a 15% drop in electricity prices would create 2,600 new manufacturing jobs, increase total state employment by 5,100 jobs, and increase personal income by \$125 million. Clearly, care must be taken when policy decisions affect energy prices!

Electricity rates are currently frozen. When exactly does this freeze end, and what is the expectation for rates beyond that time? Estimating the increase is critical, since the economic effects of electricity price increases are severe and regressive.

Possible Resources for Information:

- Alison Sylverstein – Senior Energy Policy Advisor, FERC
- Anthony Mazy – California Office of Ratepayer Advocacy
- Dave Hoffman – Celerity Energy
- T. J. Carr – Wagner Power Systems (Albuquerque)
- The American Public Power Association <http://www.appanet.org/>
- The Regulatory Assistance Project <http://www.raponline.org>

April 12, 2005

RE: VM TECHNOLOGY, INC., 2 Reata Road, Santa Fe, NM 87507

To Whom It May Concern:

The purpose of this letter is to explain the business operations of VM Technology, Inc.

VM Technology is a manufacturer of water & air treatment systems. The equipment VM Technology designs are site-specific. In other words, custom for large industrial concerns, or governmental agencies. The cleanup of air & water is done specifically and only on the Customer's property.

VM Technology designs and manufactures equipment that is sold to the end user or customer. We have no responsibility of operation of the equipment or transportation of any chemicals, storage or removal of waste.

The proposed facility at 2 Reata Road will be used for administration, sales, engineering, pilot testing of drinking water, small machine shop and storage of lab monitoring equipment.

We will also manufacture electrical control systems within the facility that consist of programmable controllers, motor starters and air monitoring systems.

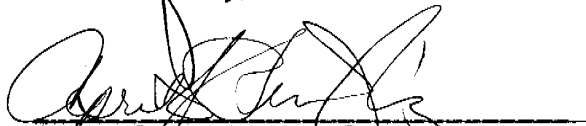
Important note: On this site there will be no chemicals stored, no hazardous chemicals used, no storage of any type of hazardous chemical waste.

The property use is light industrial.

The equipment components, carbon beds, tanks, etc. that we buy and assemble is directly shipped to the job site from the manufacturer.

I spoke at length today with Mr. Joe Trujillo, who is a resident of Remuda Ridge opposing this project. We have clarified the use of this property to him. He was not aware and misunderstood the use of this property. We hope to resolve his concerns with further discussion and a tour of our property.


Alfonz Vizsolay, Owner


April J. Pero-Vizsolay, Owner

SFC CLERK RECORDED 05/13/2005



April 10, 2005

To: Santa Fe County Land Use Administer
CDRC Case #: MIS 05-5030

My name is Martin Montoya and I live next door to Jose Villegas who is requesting a variance to build a second dwelling on his lot. We live in the racetrack subdivision and in our covenants we are allowed to build a house and guest house. I believe the county also allows a guest house besides our own residence to be built on the same lot.

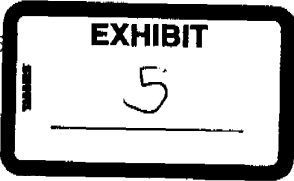
I am in protest of the building of a second dwelling by Mr. Villegas because if the county allows this, it means another **septic tank and more draw** on our water tables. It also causes congestion in **our neighborhood** and if this becomes a rental it makes it even worse by **changing the value** of surrounding houses. If the county allows **this structure to be built**, then it must allow anyone and everyone who wishes to **build a second dwelling** on their lot in the race track subdivision. This would change the neighborhood for the worse. Thank you for your attention & concerns in this matter.

Sincerely

A handwritten signature in dark ink, appearing to read "Martin S. Montoya". The signature is fluid and cursive, with a large, stylized initial "M".

Martin S. Montoya
14 Camino Torcido Lp.
Santa Fe, NM 87507

SFC CLERK RECORDED 05/13/2005



CORBIN CONSULTING, INC.

8 Descanso Road
Santa Fe, New Mexico 87508
Phone: (505) 466-4605 • Fax (505) 466-0557
E-Mail: CorbinCons@aol.com

April 2, 2003

Mr. Robert D. Pearson
VISTA, LTD
255 Staab Street
Santa Fe, NM 87501

Re: Revised Water Budget

Dear Bob:

Based on the information furnished me by Al Lilly, you are figuring on 60,000 SF of Office Space and 60,000 SF of Warehouse Space for your Industrial/Office Park. Since I don't have a configuration to work from, I've had to use standard figures to develop a revised water budget for your submittal. In the development of the original water budget we used the following:

- Warehouse Space – 60,000 SF
 - 2000 SF per employee (based on some standard figures for warehouses)
 - 10 gal per day per employee (that allows for 5 trips to the bathroom, or some combination of trips and use of drinking water, although I suspect occupants will use bottled water for drinking; in any event that's a high sided figure.)
 - 365 work days (treats weekends and holidays the same as work/week days)
 - 60,000SF/2000sf per employee = 30 employees
 - 30 employees @ 10gpd @ 365 days = 109,500 gal per year = 0.34 ac-ft
 - Assume 10% for visitors (0.34 ac-ft x 10% = 0.03 ac-ft) = 0.03 ac-ft

WAREHOUSE WATER BUDGET = 0.37 ac-ft

- Office Space – 60,000 SF
 - 500 SF per employees (we used 500 SF last time which is adjusted for hallways, waiting areas, conference rooms, and common areas).
 - 10 gal per day per employee (again allows for 5 toilet visits or some combination of toilet and drinking usage which is more likely.)
 - 365 work days (treats weekends and holidays the same as work/week days)
 - 60,000 SF/500 SF per employee = 120 employees
 - 120 employees @ 10gpd @ 365 days = 438,000 gal per year = 1.34 ac-ft
 - Assume 15% for visitors (1.34 ac-ft @ 15% = 0.2 ac-ft) = 0.20 ac-ft

OFFICE WATER BUDGET = 1.54 ac-ft

SFC CLERK RECORDED 05/13/2005

• Landscaping - unknown (should be desert/xeriscape but you may be forced by the county to put in trees/shrubs, etc. in spite of the fact that makes no real sense in this area. Therefore we will figure on using captured water from the roofs for the bulk of the landscaping and allocate 10% of the office and warehouse usage against landscaping until we have a better figure. Total office and warehouse usage to 0.37 ac-ft plus 1.54 ac-ft which equals 1.91 ac-ft @ 10% = 0.19 ac-ft for landscaping.

LANDSCAPING BUDGET = 0.19 ac-ft

• Fire Flow Usage - again we'll figure @ 10% of the office and warehouse usage which is the same as landscaping or an additional 0.19 ac-ft which will be run down the ditches to demonstrate pressure, etc. It may be that if you put in some capture facilities for the precipitation runoff that you can work a deal with the fire department where they will run the water they usually waste into your tanks or ponds for landscaping usage.

FIRE FLOW BUDGET = 0.19 ac-ft

• Finally you must account for leaks, spills and idiots who will waste water. Again we will use 10%, but will sum up all uses to date and apply the 10% against that figure as a safe-sided calculation (Office @ 1.54 ac-ft + Warehouse @ 0.37 ac-ft + Landscape @ 0.19 ac-ft + Fire flow @ 0.19 ac-ft = 2.29 ac-ft x 10% = 0.23 ac-ft for waste).

WASTE/LEAKS = 0.23 ac-ft

In summary your water budget is as follows:

- Office Usage = 1.54 ac-ft
- Warehouse Usage = 0.37 ac-ft
- Landscape Usage = 0.19 ac-ft
- Fire Flow Usage = 0.19 ac-ft
- Waste/Leaks = 0.23 ac-ft
- Total Usage = 2.52 ac-ft

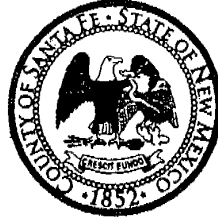
TOTAL WATER BUDGET = 2.52 ac-ft

SFC CLERK RECORDED 05/13/2005

Harry B. Montoya
Commissioner, District 1

Paul Duran
Commissioner, District 2

Michael D. Anaya
Commissioner, District 3



Paul Campos
Commissioner, District 4

Jack Sullivan
Commissioner, District 5

Gerald T. E. Gonzales
County Manager

May 14, 2003

Bob Pearson
C/o Al Lily (agent)
PO Box 2482
Santa Fe NM 87504

Re: MIS CASE # 03-6000 Bob Pearson Master Plan Extension

Dear Mr. Lily:

The Board of County Commissioners at its regularly scheduled meeting of May 13, 2003 met and acted upon the above referenced case.

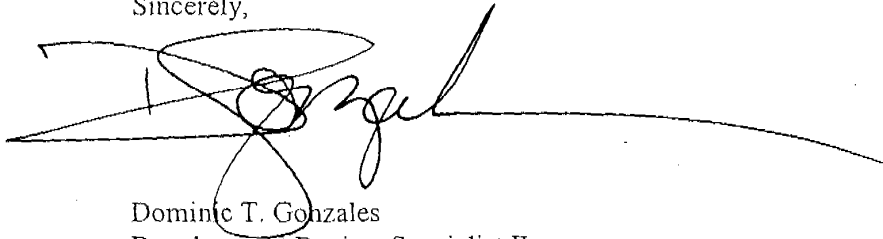
The decision of the BCC was to approve a master plan extension of Article V, Section 5.2.7 of the Land Development Code to allow a two-year master plan extension subject to the following condition:

1. The master plan is subject to all conditions of approval imposed by the BCC on November 10, 1998.

You have the right to appeal this decision under NMSA 1978, Section 39-3-1.1 and RULE 1-074 NMRA 2001.

If you have any questions regarding this matter, please do not hesitate to contact me at 986-6223.

Sincerely,



Dominic T. Gonzales
Development Review Specialist II

SFC CLERK RECORDED 05/13/2005

EXHIBIT B

NEW MEXICO STATE ENGINEER OFFICE
CHANGE OF OWNERSHIP OF WATER RIGHT

1497329

C-7800-30 - \$2.00

STATE ENGINEER OFFICE
NEW MEXICO
98 MAY 11 PM 4:42

1. OWNER OF RECORD

Abel Davis, Susan F. Davis, Leslie Davis, Lauren Davis
Name: Patricia Davis Wilson and John Abel Davis
Contact: Abel Davis Work Phone: _____
Address: Post Office Box 156 Home Phone: 982-1045
City: Tesuque State: NM Zip: 87575

NEW OWNER

Name: Robert D. Pearson
Contact: Robert D. Pearson Work Phone: _____
Address: 255 Staab Street Home Phone: _____
City: Santa Fe State: NM Zip: 87505

2. AMOUNT CONVEYED

State Engineer File Number: RG-53-F
Subfile Number _____ of Cause Number _____
Owner of record has conveyed all of said right.
(all or part)
Consumptive Use: 3.15 acre-feet per annum
Diversion Amount: _____ acre-feet per annum
Other: _____ (units)

OFFICE OF
STATE ENGINEER
SANTA FE, NEW MEXICO
98 MAY 8 PM 2:47

3. PURPOSE OF USE

Domestic: _____ Livestock: _____ Irrigation: _____ Municipal: _____ Industrial: _____
Commercial: XX Other (specify): as described in the Office of the
Specific use: State Engineer's Certificate and License RG-53-F
(Exhibit A)

4. PLACE OF USE

_____ acres of land described as follows:

Subdivision of Section (District or Hydrographic Survey)	Section (Map No.)	Township (Tract No.)	Range	Acres	Priority
Located at a point in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 5 Township 16 North					
Range 9 East N.M.P.M. and further described in the attached					
Exhibit A					
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

File Number: RG-53-F

SFC CLERK RECORDED 05/13/2005

NEW MEXICO STATE ENGINEER OFFICE
CHANGE OF OWNERSHIP OF WATER RIGHT

1497330

5. WELLS TO ACCOMPANY CONVEYED RIGHT

Well File No. Subdivision Section Township Range

NO OFFICE OF THE STATE ENGINEER PERMITTED WELLS, APPURTENANCES OR STRUCTURES ACCOMPANY THE CONVEYED WATER RIGHT

6. CONSENT TO LAWFUL CHANGE IN PLACE AND/OR PURPOSE OF USE

I, the above owner of record, hereby consent to a lawful change in the place and/or purpose of use of the above-described water right: (To be completed only if it is an irrigation water right and has been conveyed separate from the land to which it was appurtenant.)

Abel Davis
Abel Davis
Patricia Davis Wilson by Abel Davis as her attorney in fact
Patricia Davis Wilson by Abel Davis as her attorney in fact

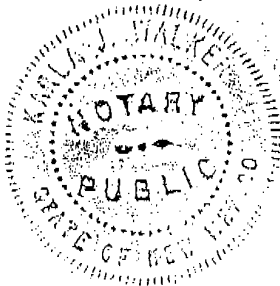
Leslie Davis by Abel Davis as her attorney in fact
Leslie Davis by Abel Davis as her attorney in fact
John Abel Davis by Abel Davis as his attorney in fact
John Abel Davis by Abel Davis as his attorney in fact
John Abel Davis by Abel Davis as his attorney in fact
John Abel Davis by Abel Davis as his attorney in fact
Lauren Davis by Abel Davis as her attorney in fact
Lauren Davis by Abel Davis as her attorney in fact

STATE OF _____)
COUNTY OF _____)

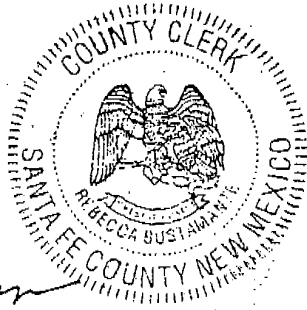
The foregoing instrument was acknowledged before me this 1st day of May 1998, by Abel Davis, Leslie Davis, Patricia Davis Wilson, John Abel Davis, and Lauren Davis by Abel Davis as their attorney in fact.

Karlene Wilson
Notary Public
My commission expires: 07/09/01

seal



1026 SS 164
COUNTY OF SANTA FE
STATE OF NEW MEXICO
I hereby certify that this instrument was filed for record on 1st day of May A.D. 1998 at 12:47 o'clock PM and was duly recorded in book 339 page 336 of the records of Santa Fe County. Witness my Hand and Seal of Office
Rebecca Bustamante
County Clerk, Santa Fe County, NM
Margie Holton
Deputy



98 MAY 11 PM 2:42

STATE ENGINEER OFFICE
ALBUQUERQUE, NEW MEXICO

SFC CLERK RECORDED 05/13/2005

File Number: RG-53-F

NOTE: This page 2A added to ensure a signature of the Buyer per SEO staff request.

NEW MEXICO STATE ENGINEER OFFICE
CHANGE OF OWNERSHIP OF WATER RIGHT

request.
JEP
5/18/98

5. WELLS TO ACCOMPANY CONVEYED RIGHT

1497331

Well File No.	Subdivision	Section	Township	Range
see	PAGE 2			

6. CONSENT TO LAWFUL CHANGE IN PLACE AND/OR PURPOSE OF USE

I, the above owner of record, hereby consent to a lawful change in the place and/or purpose of use of the above-described water right: (To be completed only if it is an irrigation water right and has been conveyed separately from the land to which it was appurtenant.)

N/A N/A

7. ADDITIONAL STATEMENTS OR EXPLANATIONS:

N/A (see page 2)

STATE ENGINEER OFFICE
SANTA FE, NEW MEXICO
OFFICE OF
STATE ENGINEER
98 MAY 11 PM 2:42
98 MAY 8 PM 2:47

ACKNOWLEDGEMENT FOR NATURAL PERSONS

I, Robert D. Pearson affirm that the foregoing statements are true to (Please Print)

the best of my knowledge and belief, By: ROBERT D. PEARSON

Signature _____ Signature Robert D. Pearson

NOTARY

This instrument was acknowledged before me this 8th day of May

A.D., 1998, By Robert D. Pearson
Name of Applicant

My commission expires 12/12/98

Jude M. Sanville
Notary Public

File Number: RG-53-F



SFC CLERK RECORDED 05/13/2005

NEW MEXICO STATE ENGINEER OFFICE
CHANGE OF OWNERSHIP OF WATER RIGHT

1497332

ACKNOWLEDGMENT FOR CORPORATION

Signature of Officer

State of (_____)

County of (_____)

ss.

This instrument was acknowledged before me this _____ day of _____

A.D., _____, By _____
(Name of Officer)

(Title of Officer)

of _____ a _____ corporation,
(Name of Corporation Acknowledging) (State of Corporation)

on behalf of said corporation.

My commission expires _____

Notary Public

STATE ENGINEER OFFICE
SANTA FE, NEW MEXICO
98 MAY 11 PM 2:42
OFFICE OF
STATE ENGINEER
SANTA FE, NEW MEXICO
98 MAY 8 PM 2 47

ACTION OF STATE ENGINEER

This Change of Ownership form is hereby accepted for filing in accordance with Section 72-1-2.1, NMSA-1978 (1985 Repl. Pam), as amended. The acceptance by the State Engineer Office does not constitute validation of the right conveyed.

Nancy Cunningham

File Number: RG-53-F

SFC CLERK RECORDED 05/13/2005

NEW MEXICO STATE ENGINEER OFFICE
CHANGE OF OWNERSHIP OF WATER RIGHT

CHANGE OF OWNERSHIP INSTRUCTIONS

- a. The "Owner of Record" of a water right is the current owner recorded in the State Engineer Office.
- b. This form shall be completed by the new owner and shall be accompanied by a warranty deed or other instrument of conveyance.
- c. A separate Change of Ownership of Water Right form shall be filed for each water right recorded in the State Engineer Office by either Permit, License, Declaration or Court Adjudication.
- d. This form shall be filed in triplicate (three) and must be accompanied by a \$2.00 filing fee. Each form must be signed and notarized.
- e. An original will be forwarded to the new owner with instructions to file it with the county clerk in the county in which the water right is located. Acceptance of the form for filing by the State Engineer does not constitute verification of the right conveyed.

LINE BY LINE INSTRUCTIONS

1. Name and address of new owner is required.
2. If for irrigation, "Diversion Amount" is the diversion at the farm (turnout) headgate. State Engineer file number is required.
3. State purpose of use of the existing water right of the owner of record.
4. A legal description of the land with the water right or place of use is required. If possible, a copy of the survey plat shall accompany this document.
5. If the ownership of a well is being changed, the State Engineer file number of the well is required.
6. If the water rights are being conveyed without the land a verification (signature) from the seller is required.

Assistance in completing this form is available, and filing of the form may be done, at the State Engineer Office in Santa Fe and the District Offices located as follows:

Santa Fe, Room 102, Bataan Memorial Building, P.O. Box 25102,
Santa Fe, NM 87504-5102, Phone # 505-827-6120
District 1, 3311 Candelaria, NE, Suite A,
Albuquerque, NM 87107, Phone # 505-841-9480
District 2, 1900 West Second Street,
Roswell, NM 88201, Phone # 505-622-6467
District 3, 216 South Silver, P.O. Box 844,
Deming, NM 88031, Phone # 505-546-2851
District 4, 133 Wyatt Drive, Suite 3,
Las Cruces, NM 88005, Phone # 505-524-6161
Aztec Sub-Office, 112 South Mesa Verde,
Aztec, NM 87410, Phone # 505-334-9481

File Number: RG-53-F

STATE ENGINEER OFFICE
ALBUQUERQUE
NEW MEXICO

98 APR 11 11 PM 2:43

OFFICE OF
STATE ENGINEER
SANTA FE, NEW MEXICO

98 APR 8 PM 2 47

SFC CLERK RECORDED 05/13/2005

WARRANTY DEED
(CONVEYANCE OF WATER RIGHTS)

1497333

Abel Davis, Susan E. Davis, Leslie Davis, Lauren Davis, Patricia Davis Wilson and John Abel Davis, ("Grantor") warrants that Grantor is the owner of 3.15 acre-feet of consumptive use water rights in the Rio Grande Basin ("Water Rights"), which Water Rights are part of the underground water rights that are located in Santa Fe County, New Mexico, and that are identified in Certificate and License No. RG-53-F dated February 1, 1972 and issued by the Office of the State Engineer, a copy of which is attached as Exhibit A. For valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor grants to Robert D. Pearson, Thunderbird Realty, whose address is 255 Staab Street, Santa Fe, New Mexico, 87505, a fee simple interest in the water rights, with warranty covenants.

may 1, 1998
DATED: April 1, 1998

STATE ENGINEER OFFICE
SANTA FE, NEW MEXICO
MAY 11 11 PM 2:47

Abel Davis
Abel Davis

Leslie Davis by Abel Davis
her attorney in fact

Leslie Davis by Abel Davis as her attorney in fact

Patricia Davis Wilson by Abel Davis
her attorney in fact

John Abel Davis by Abel Davis
as his attorney in fact

Patricia Davis Wilson by Abel Davis as her attorney in fact

John Abel Davis by Abel Davis as his attorney in fact

Lauren Davis by Abel Davis as her attorney in fact

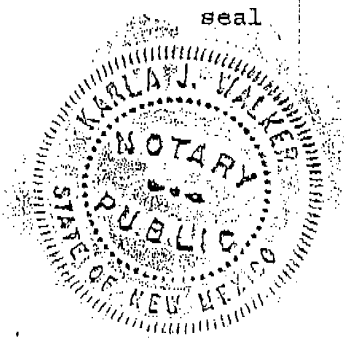
Lauren Davis by Abel Davis as her attorney in fact

STATE OF New Mexico
COUNTY OF Bernalillo

The foregoing instrument was acknowledged before me this 1st day of May 1998, by Abel Davis, Leslie Davis, Patricia Davis Wilson, John Abel Davis, and Lauren Davis, by Abel Davis as their attorney in fact.

Karl J. Walker
Notary Public
My commission expires:

OFFICE OF
STATE ENGINEER
SANTA FE, NEW MEXICO
MAY 8 PM 2 47



SFC CLERK RECORDED 05/13/2005

CERTIFICATE AND LICENSE

No. RG-53-F

Refers to File Nos:

RG-53; RG-53-F into
RG-6429; RG-53-F into
RG-6429-S; and RG-53-F
into RG-6429 & RG-6429-S-
Adj.

WHEREAS, on the 28th day of May, 1959, Declaration of Owner of Underground Water Right No. RG-53-Amended was filed with the office of the State Engineer, stating that well RG-53 was drilled in September, 1953, to a depth of 110 feet with 13 inch casing at a point in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 26, Township 10 North, Range 2 East, N.M.P.M., projected, and water was first applied to beneficial use in September, 1953, for the irrigation of 17.34 acres of cropland and 5.60 acres of native grassland described as Blocks 7 and 8, Southwestern Skies Subdivision, 3.13 acres, native grass; and Parcel B, 2.47 acres, native grass; and Parcels C, D and E, 17.34 acres, cropland, all as shown on plat prepared by Ross-Beyer Engineering Office dated June 20-30, 1959; and further described as parts of S $\frac{1}{2}$ SW $\frac{1}{4}$ Section 26; SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 27; NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 34; N $\frac{1}{2}$ N $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 35, all in Township 10 North, Range 2 East, N.M.P.M., projected. Water also beneficially used for domestic purposes for two houses.

WHEREAS, on the 27th day of February, 1962, after notice pursuant to statute, the State Engineer did approve Application No. RG-53-F into RG-6429, for permit to change location of well and place and purpose of use of underground water rights by abandoning the use of well RG-53 for the irrigation of 1.5 acres of land in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 26, Township 10 North, Range 2

98 MAY 11 PM 2:42

STATE ENGINEER'S OFFICE
ALBUQUERQUE, N.M.

SFC CLERK RECORDED 05/13/2005

1497335

East, N.M.P.M., projected, and commencing the use of domestic well RG-6429 in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 5, Township 16 North, Range 9 East for commercial, trailer court and related purposes, with consumptive use of water not to exceed 3.15 acre feet per annum, the amount diverted in excess of 3.15 acre feet per annum not to exceed the return flow to the ground-water reservoir, and diversion of water not to exceed 6.3 acre feet per annum.

WHEREAS, on the 15th day of April, 1964, after notice pursuant to statute, the State Engineer did approve Application No. RG-53-F into RG-6429-S for permit to drill a shallow ground water well in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 5, Township 16 North, Range 9 East, N.M.P.M., for the purpose of supplementing well RG-6429, as set forth above.

WHEREAS, on the 23rd day of April, 1965, after notice pursuant to statute, the State Engineer did approve Application No. RG-53-F into RG-6429 and RG-6429-S-Adj. for a permit to increase the diversion amount to 10.5 acre feet per annum and the consumptive use right to remain at 3.15 acre feet per annum from wells RG-6429 and RG-6429-S for purposes set forth above.

WHEREAS, on the 7th day of December, 1970, water right file RG-53-F into RG-6429 was renumbered RG-53-F and wells RG-6429 and RG-6429-S were renumbered RG-53-F and RG-53-F-S.

NOW, THEREFORE, I, S. E. Reynolds, State Engineer of the State of New Mexico, by virtue of the authority vested in me by the laws of said State, do hereby grant to Russell Thomen and wife of Santa Fe, County of Santa Fe, State of New Mexico, this CERTIFICATE OF ACCEPTANCE of the wells drilled under authority of permit Nos. RG-53-F and RG-53-F-S in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 5, Township 16 North, Range 9 East, N.M.P.M., at a point 186 feet from the south line and 119 feet from the east line of the west portion, S.H.C. 493, Lot 2, and at a point 178 feet from the south line and 109.5 feet from the east line of the west portion

STATE ENGINEER OFFICE
APR 11 1964
98 MAY 11 PM 2:42

SFC CLERK RECORDED 05/13/2005

1497336

of S.H.C. 493, Lot 2 and this LICENSE with a priority as of September, 1953, to consume 3.75 acre feet per annum, the amount diverted in excess of ~~3.75~~ acre feet per annum shall be returned to the ground-water reservoir and diversion of water shall not exceed 10.5 acre feet per annum for commercial purposes in a mobile home park and related facilities, the same to be used as above stated and can be changed only as provided by law and provided that the total amount of water from all combined sources shall not exceed 10.5 acre feet per annum for said purposes, and further provided that the total amount of water diverted from wells RG-53-F and RG-53-F-S and the total amount of water returned to the ground-water reservoir shall be determined by the licensee by a method approved by the State Engineer, and records of diversion and return flow shall be submitted to the State Engineer for each calendar month on or before the 15th day of the following month, and further provided that this LICENSE shall not be used to the detriment of any other person having prior valid and existing rights to the use of said shallow waters of the Rio Grande Underground Water Basin.

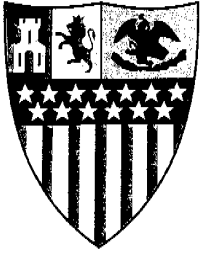
IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 1st day of February A.D., 1972.

S. E. REYNOLDS
State Engineer

By: D. E. Gray
D. E. Gray, Chief
Water Rights Division

STATE ENGINEER OFFICE
ASST. ENGINEER
MILWAUKEE
90 MAY 11 PM 2:42

SFC CLERK RECORDED 05/13/2005



City of Santa Fe, New Mexico

200 Lincoln Avenue, P.O. Box 909, Santa Fe, NM 87504

EXHIBIT

6

Larry A. Delgado, *Mayor*
Mike P. Lujan, *City Manager*

Councilors:

- Carol Robertson-Lopez, Mayor Pro Tem, Dist. 4
- Patti J. Bushee, Dist. 1
- David Pfeffer, Dist. 1
- Karen Heldmeyer, Dist. 2
- Rebecca Wurzburger, Dist. 2
- Miguel M. Chavez, Dist. 3
- David Coss, Dist. 3
- Matthew E. Ortiz, Dist. 4

Joe Catanach, Subdivision Review Director
Santa Fe County
102 Grant Avenue
Santa Fe, NM 87504-0276

Re: EZ Case S 96-1212 Las Campanas Estates VIII, Units 1,2,3

The Santa Fe County Memorandum of April 12, 2005 recommends that the City of Santa Fe provide confirmation that the request presented by Las Campanas does not conflict with relevant agreements.

The City Attorney's Office does not object to the request presented by Las Campanas in the above-captioned EZ Case, and is of the opinion that it does not conflict with the Settlement Agreement.

The City and Las Campanas entered into a Settlement Agreement on September 30, 2003 regarding potable and treated effluent deliveries as part of settling the Case No. D-0101-CV-2002-01878. That Agreement, in part, addresses the delivery of Buckman Permit Groundwater for Domestic and Commercial Uses on page 5 of the Settlement Agreement. The quantity provision of that section states, in part, that "... the maximum annual water use authorized by the restrictive water use covenant applicable to each lot ..." shall be used to compute the potable water deliveries.

Nothing in this letter abridges, amends or otherwise alters the terms and conditions of the Settlement Agreement.

Sincerely,

Kyle Harwood, 4/11/05
Kyle Harwood
Assistant City of Santa Fe Attorney

- Cc: Dolores Vigil, Land Use Administrator, Santa Fe County
Steve Ross, County Attorney, Santa Fe County
Galen Buller, Director, Sangre De Cristo Water Division, City of Santa Fe
Anne McLaughlin, Director, Planning and Land Use Division, City of Santa Fe

SFC CLERK RECORDED 05/13/2005



June 27, 1991

EXHIBIT
7

June 27, 1991

BOARD OF
COUNTY
COMMISSIONERS

Raymond M. Chavez
District No. 1

Nancy Rodriguez
District No. 2

Linda Grill
District No. 3

Richard D. Anaya
District No. 4

Betty Platts
District No. 5

Gil D. Tercero
County Manager

R.T. Frye
Las Campanas de Santa Fe
218 Camino La Tierra
Santa Fe, NM 87501

Dear Mr. Frye:

This letter provides assurances by the County of Santa Fe To Dutch Meadows Limited Partnership, the entity that is developing the project in Santa Fe County called Las Campanas de Santa Fe and to its heirs, successors, and assigns, as follows:

The County agrees that the 40-year lease between Dutch Meadows and the City of Albuquerque for the use of San Juan Chama water to offset the impact of pumping from the Buckman well field on the Rio Grande is sufficient for the first twenty-five (25) years of the lease term. The golf courses of the Las Campanas de Santa Fe project may be operated during that term under that Albuquerque lease, upon approval by the State Engineer, as set forth in and in accordance with the County Development Review Committee (CDRC) final development plan approval of June 27, 1991.

When the conditions set forth in the CDRC's final development plan approval of June 27, 1991 are met, no further requirements for golf course approval for the East Course will be made by the County, nor will any further requirements as to water supply for the Las Campanas de Santa Fe project or any particular portion of the project be required by the County, except those set forth in the CDRC's final development plan approval of June 27, 1991. Dutch Meadows will not


SFC CLERK RECORDED 05/13/2005

be obligated by the County to acquire by option, purchase, or otherwise any water rights for this project other than those required under the CDRC's final development plan approval requirements of June 27, 1991.

It is understood that none of the conditions for approval set forth in the approval developments of June 27, 1991, adopted by the CDRC foreclose Dutch Meadows from selling, assigning, or otherwise conveying any of the assets described in said letter to any other person, corporation, partnership, or other legal entity, so long as the conditions set forth in those CDRC approval requirements are met. This letter is intended to deal with certain topics not included in CDRC approval of June 27, 1991, such as the requirements as to water supply for the entire Las Campanas de Santa Fe project or any particular portion thereof in addition to the East Golf Course. However, nothing in this letter is intended to conflict with the conditions set forth in the CDRC's final development plan approval of June 27, 1991. In the event that any conflict does exist, the terms of the June 27, 1991 CDRC final development plan approval shall prevail.

Very truly yours,

SANTA FE COUNTY

BY: 
Terrence P. Brennan,
Santa Fe County Attorney

cc: Louis Stelzner

SFC CLERK RECORDED 05/13/2005

August 19 1991



AGREEMENT

The County of Santa Fe, New Mexico, by and through its Board of County Commissioners ("County") and Dutch Meadows Limited partnership, a New Mexico limited partnership, owner of the project commonly known as Las Campanas de Santa Fe ("Applicant") hereby agree as follows:

WHEREAS, The Santa Fe County Development Review Committee ("CDRC"), on the 27th, of June, 1991, heard the application known as "CDRC" case #OD 89-108: the Ranch at Santa Fe/Las Campanas" requesting preliminary and final development plan approval to allow the construction of the East Golf Course as part of the first phase development, which development was previously granted preliminary development plan approval in 1989; and

WHEREAS, The CDRC granted final approval on June 27, 1991 of the Applicant's proposal, subject to twenty-three (23) requirements which were set forth by the Santa Fe County Land Use Administration Staff; and

WHEREAS, among those requirements were certain stipulations regarding water availability at the above described project which exceeded the requirements for the East Golf Course, and, in fact, satisfied requirements for the entire project, as proposed by the Applicant; and

WHEREAS, Applicant is in agreement with the requirements and stipulations regarding water availability of the

SFC CLERK RECORDED 05/13/2005

CDRC's final development plan approval of June 27, 1991; and

WHEREAS, a letter was sent from Santa Fe County Attorney, Terrence P. Brennan to R.T. Frye of Application on June 27, 1991 stating that "When the conditions set forth in the CDRC's final development plan approval of June 27, 1991 are met, no further requirements for golf course approval for the East Golf Course will be made by the County, nor will any further requirements as to water supply for the Las Campanas de Santa Fe project or any particular portion of the project be required by the County, except those set forth in the CDRC's final development plan approval of June 27, 1991. Dutch Meadows will not be obligated by the County to acquire by option, purchase, or otherwise any water rights for this project other than those required under the CDRC's final development plan approval requirements of June 27, 1991."

NOW THEREFORE, in consideration of Applicant's agreement with the requirements of the CDRC's final development plan approval of June 27, 1991, and in further consideration of the County's agreements wet forth herein, the parties agree as follows:

1. If the requirements of the CDRC's final development plan approval of June 27, 1991, referenced above, are fully met and complied with by the Applicant, then no further require-

SFC CLERK RECORDED 05/13/2005

ments as to water supply for the Las Campanas de Santa Fe project as shown on the approved amended development plan of February 23, 1989, or any particular portion or phase thereof will be imposed by the County; and

2. If the requirements of the DCRC's final development plan approval of June 27, 1991, referenced above, are met, the Applicant will not be obligated by the County to acquire by option, purchase or otherwise any water rights for the above described project other than those required under the DCRC's final development plan approval of June 27, 1991; and

3. Applicant may rely on this agreement in its continuing development of the Las Campanas de Santa Fe project; provided, however, that nothing in this Agreement forecloses the County from requiring a greater water supply if the master plan for the project is changed to require a larger quantity of water than that stated in the hydrologic report; and

4. The execution of this Agreement by the undersigned parties has been duly approved and authorized by the appropriate parties of the Applicant any by the Board of County commissioners of the County of Santa Fe, New Mexico at its August 13, 1991 meeting.

5. This Agreement between the parties hereto is binding upon, and inures to the benefit of, the parties hereto, their successors and assigns sin interest, is specifically enforceable, is governed by the laws of the State of New Mexico, constitutes the entire agreement of the parties with respect

SFC CLERK RECORDED 05/13/2005

SFC CLERK RECORDED 05/13/2005

to the subject matter hereof, and may be modified only in writing signed by the parties.

6. Applicant and its agents and employees are not employees of Santa Fe County. Applicant and its agents and employees shall not accrue leave, retirement, insurance, or any other benefits afforded to employees of Santa Fe County as a result of this agreement.

7. Applicant warrants that it presently has no interest and shall not acquire any interests, direct or indirect, which would conflict in any manner or degree with performance of services required under this agreement.

8. This agreement shall not be altered, changed or amended except by an instrument in writing executed by the parties hereto concerning the subject matter hereof.

9. This agreement shall be governed by the Laws of the State of New Mexico. No prior agreement or understanding, verbal or otherwise, of the parties or their agency as to water, shall be valid or enforceable unless embodied in this agreement.

DATE: _____, 1991

COUNTY OF SANTA FE, NEW MEXICO,
a political subdivision of the State
of New Mexico

By SANTA FE COUNTY BOARD OF COUNTY
COMMISSIONERS

BY: 
RAY CHAVEZ, Chairman

Applicant:

DUTCH MEADOWS LIMITED PARTNERSHIP, a
New Mexico limited partnership

BY: *Lyle H. Anderson*
LYLE H. ANDERSON, General Partner

By LYLE ANDERSON, 89-1 LIMITED
PARTNERSHIP, an Arizona limited
partnership, general partners

BY: *Lyle H. Anderson*
LYLE H. ANDERSON, General Partner

Date: August 20, 1991

STATE OF NEW MEXICO
COUNTY OF SANTA FE

The foregoing instrument was acknowledged before me this 20th day of August,
1991, by Lyle H. Anderson, General Partner.

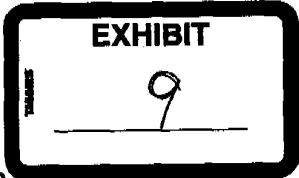
Anna Ruby Jimenez
Notary Public

My Commission Expires:
3/11/95



OFFICIAL SEAL
ANNA RUBY JIMENEZ
NOTARY PUBLIC - STATE OF NEW MEXICO
Notary Bond Filed with Secretary of State
My Commission Expires 3/11/95

SFC CLERK RECORDED 05/13/2005



March 3rd, 1993

903021

MASTER PLAN
DEVELOPMENT AGREEMENT
FOR LAS CAMPANAS DE SANTA FE

THIS DEVELOPMENT AGREEMENT is entered into this 3rd day of March, 1993, by and between THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY, New Mexico (the "County") and LAS CAMPANAS LIMITED PARTNERSHIP, a Delaware limited partnership (the "Developer").

RECITALS

1. On April 14, 1992, the Board of County Commissioners of the County approved the Master Plan for the 3548 acre tract of land located in Sections 7, 8 and 9 of Township 17 North, Range 9 East, and Sections 2, 3, 10, 11, 12, 13, 14 and 15, Township 17 North, Range 8 East, N.M.P.M., Santa Fe County, New Mexico, known as Las Campanas de Santa Fe (the "Project"). This approved plan allows for large scale mixed use development which includes a total of 1419 residential lots, two golf courses, two golf course maintenance facilities, a clubhouse with dining facilities, a tennis center, an equestrian center, a sales office, a hospitality house and a wastewater treatment facility. The Master Plan was recorded on March 5, 1993 in Book 244, Pages 039-049 of the real property records of Santa Fe County.

2. The Project has received the following comprehensive plan approvals:

- A. Preliminary Development Plan Approval (County Development Review Committee - January 30, 1986);

SFC CLERK RECORDED 05/13/2005

Commissioners.

903024

B. All matters, requirements and conditions concerning the water system and water supply for the Project are governed by 1) that certain Agreement between the County and the Developer (at that time the Developer was identified as its predecessor Dutch Meadows Limited Partnership) dated August 19, 1991, 2) that certain approval letter dated September 10, 1991, from Gilbert Chavez to Michael D. Baird, as amended, which is incorporated in part at pages 14 through 16 of this Agreement; and 3) the Amendment of August 19, 1991 Agreement between the County and the Developer, dated January 22, 1993; all of which documents are incorporated herein by reference.

C. The probable use in the Project water usage budget of August 1991 is accepted as part of the approved Master Plan. The sole exception to the Budget is that, upon submission for preliminary plat approval for any residential subdivision phase of the Project, the Developer shall demonstrate to the County that it holds an option to purchase surface water rights on the main stem of the Rio Grande to the extent of .50 acre feet of permanent rights for each lot of that phase on which a residence and a guest house may be built and .25 acre feet of permanent rights for each lot of that phase on which only a residence may be built. As part of the submittal for final plat approval for each residential subdivision phase of the Project the Developer shall demonstrate to the County that it has acquired at least the above stated quantity of permanent surface water rights on the

main stem of the Rio Grande as approved by the State Engineer for each lot of that phase.

D. Beginning with the residential subdivision phase known as Estates III, the Developer shall require both by design guidelines and by restrictive covenants water conservation measures applying to interior and exterior usage, including low-flow fixtures and toilets, water conserving appliances, restricted landscaping and interior and exterior water metering. At the time that Estates IV and other later residential subdivision phases are submitted for preliminary approval, the water rights requirements per lot set forth in Paragraph C above may be adjusted upward (but not down) based on the historical water usage of residences with guest houses and residences without guest houses on prior residential subdivisions of the Project beginning with Estates I. That adjustment will be made if and when the historical water consumption data is sufficient, representative and reasonably applicable to the next phase under consideration. Should the data not be a reliable guide, the requirement will remain at the minimum levels set forth in Paragraph C above.

E. Developer shall obtain surface water rights on the main stem of the Rio Grande to supply the non-residential phases of the Project. These water rights shall be in accordance with approved water budgets for each such phase. Developer shall demonstrate to the County that it holds an option to purchase such water rights prior to submission of a development plan for

County, New Mexico, constitute covenants running with the land and are binding on the successors in interest and assigns of the parties hereto.

903045

3. Writing for Modification.

No modifications of this Development Agreement shall be valid or binding unless executed in writing and signed by the parties hereto. No waiver of any one of the provisions of this Development Agreement shall constitute a waiver of any other provision. The provisions of this Development Agreement are severable. This Development Agreement constitutes the entire agreement between the parties on the matters referenced herein.

4. Governing law.

Unless preempted by federal law or regulations, the laws of the State of New Mexico and the ordinances of the County of Santa Fe shall govern the validity, construction, interpretation and enforcement of this Development Agreement.

IN WITNESS WHEREOF the parties have executed this Development Agreement as of the day and year first above written.

COUNTY OF SANTA FE, NEW MEXICO,
a political subdivision of the
State of New Mexico

By
SANTA FE COUNTY BOARD OF
COUNTY COMMISSIONERS

By Raymond Chavez
RAYMOND CHAVEZ, Chairman

APPROVED AS TO LEGAL FORM

By Terrance Brennan
TERRANCE BRENNAN
COUNTY ATTORNEY

Christina M. Garcia
County Clerk
Christina M. Garcia
Christina M. Garcia

SFC CLERK RECORDED 05/13/2005

903046

LAS CAMPANAS LIMITED PARTNERSHIP,
A Delaware limited partnership

By: Las Campanas Corporation,
A New Mexico corporation
General Partner

By John Nye
JOHN NYE, Vice-President

SFC CLERK RECORDED 05/13/2005

August 1991

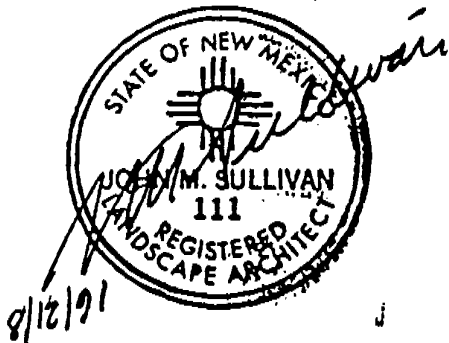
EXHIBIT
10

WATER USE BUDGET

LAS CAMPAÑAS DE SANTA FE

Santa Fe County, New Mexico

AUGUST 1991



PREPARED BY

sullivan design group, inc.

consulting engineers

SANTA FE, NEW MEXICO

SFC CLERK RECORDED 05/13/2005

WATER USE BUDGET
LAS CAMPANAS DE SANTA FE

August 1991

I. Introduction

This report provides an estimate of water usage for the portion of Las Campanas de Santa Fe formerly known as The Ranch at Santa Fe. The development under study comprises 3,548.8 acres in Santa Fe County, New Mexico, and is projected to ultimately consist of 1419 lots, two 18 hole golf courses, a driving range, a clubhouse, a tennis facility and an equestrian center. A location map is included in the Appendix.

Adjacent to and to the east of the 3,548.8 area parcel are three additional development parcels called Estates I, Estates II and Plazuelas de La Tierra. These parcels are projected to contain, respectively, 142 lots, 156 lots and 86 lots, for a total of 384 lots. These lots will be served by the Sangre de Cristo Water Company, and thus are not included in the water usage estimated in this report. These lots will, however, contribute treated sewage effluent to the irrigation system for the two golf courses.

All parcels are planned for full on-site sewage collection, treatment and disposal. Estimates of domestic demand, treated wastewater production, rainfall and lake evaporation are documented in a companion report titled "Las Campanas Subdivision Water Study", dated June 25, 1991, prepared by Gordan & Associates, Inc., Consulting Engineers, Santa Fe, New Mexico (Appendix "D").

II. Residential Use - Interior

Sangre de Cristo Water Company estimates (ref. Mr. Frank Bailey, P.E.) that water usage averages 110 gallons per capita per day (gpcd) on a city-wide basis, with an average of 2.3 persons per household. This equals 0.28 acre feet/year (AF/yr).

The developer has undertaken detailed studies of water usage at its Arizona development, and has determined interior usage to average 136 gpcd, summarized as follows:

<u>Use</u>	<u>GPCD</u>
Toilet	28.0
Shower	36.4
Bath	34.4
Toilet Leakage	1.7
Faucets	10.0
Clothes Washer	14.3
Dishwasher	5.2
Water Softener	5.0
Cleaning	<u>1.0</u>
Total	136.0

The 136 gpcd figure seems to be a reasonable number to use, given the larger-than-average size homes anticipated at Las Campanas. It translates to 0.35 AF/yr.

Santa Fe County stipulates a minimum water usage for planning purposes of 0.25 AF/yr., assuming water conservation measures are required, which will be the case at Las Campanas. If guest houses are permitted, another 0.25 AF/yr. must be added. Since there will be no restriction on the construction of a guest house at Las Campanas, 0.50 AF/yr. per residence is assumed for the worst case scenario, multiplied by 1419 lots equals 709.5 AF/yr. for the entire development.

The 0.50 AF/yr. factor includes both interior and exterior uses.

Based on a brief review of one nearby subdivision, Tano Road, approximately 25% of the properties have guest houses. For the purpose of this report we will assume the same occupancy of 2.3 persons and 136 gpd per residence, although the average occupancy and usage might be less for a guest house.

The most probable usage figure for interior residential usage would thus be $0.35 \text{ AF/yr.} + 25\% \times 0.35 \text{ AF/yr.} = 0.4375 \text{ AF/yr.}$ per lot, at 100% occupancy.

The above figures all assume 100% occupancy. Given the nature of this type of recreation based development, the developer has experienced average occupancy rates of 50% during December through March and 90% during April through November, giving a yearly average of 76.7%.

The guest house usage is probably overstated since one can assume that per capita usage would be less due to the smaller size of the residence. The percent of time occupied would probably also be less than for the homeowner. No adjustment has been made to compensate for this, given the lack of any concrete data at this point in time.

Thus, the most probable usage figure for interior residential water use, adjusted for anticipated occupancy, would be 0.4375 AF/yr. x 76.7% x 1419 lots = 476.2 AF/yr. for the entire development.

III. Commercial Use

Commercial water usage for the clubhouse, tennis facility and equestrian center is estimated to be 16,000 gallons per day based on the developer's previous experience with like facilities. This totals 17.9 AF/yr.

IV. Golf Course Consumptive Use

Based on previous experience, the developer estimates a consumptive use of 572 AF/yr. for two 18-hole golf courses. This usage occurs during the months of April through October. The estimated usage is broken down as follows:

<u>Month</u>	<u>Acre-Feet</u>
April	39
May	71
June	106
July	126
August	113
September	76
October	<u>41</u>
Total	572

By way of a rough check of these figures, a newly constructed nine hole southwest style golf course (i.e. not wall to wall irrigation) in Alamogordo uses approximately 316,000 gallons per day in the peak summer months of July and August. For 36 holes, this translates to 123 AF per month, very close to the developer's estimate, which is based on Arizona golf courses, with the consumptive use modified for Santa Fe climatic conditions.

The tees and greens will be seeded with 100% creeping bentgrass. The fairways will be seeded with three fescue mixtures (85%) and creeping bentgrass (15%). The rough will be seeded with a mixture of four fescues (75%) and Kentucky bluegrass (25%).

The currently designed irrigated areas for the two golf courses are summarized below. The East Course is currently under construction, so the design is set. The West Course is in the preliminary design stage. The East Course also includes the driving range which serves both courses.

JOHN W. SHOMAKER, INC.
GEOLOGY-HYDROGEOLOGY
2703 BROADBENT PARKWAY NE, SUITE D
ALBUQUERQUE, NEW MEXICO 87107
(505) 345-3407, FAX (505) 345-9920

RECEIVED
March 22, 1993
EXHIBIT
11

March 22, 1993

Joe Catanach, Assistant Land-Use Administrator
Santa Fe County
P. O. Box 276
Santa Fe, New Mexico 87504

Re: life of water-supply, Las Campanas

Dear Mr. Catanach:

Mr. Baird has asked me to confirm in writing the opinion I gave on the telephone last week as to the life of the water-supply available to Las Campanas.

My understanding is that the supply is supported by a State Engineer Office permit to divert the required water from wells, which in turn is, and will be, supported by permanent water rights as required to offset depletion of the Rio Grande, Tesuque Creek and the Pojoaque River. The life of a supply for Las Campanas is thus associated with the continuing availability of water in the stream system, and I believe the supply has an indefinite life.

As to whether the supply will last 100 years, I believe that water will be available for at least 100 years, but the points of diversion, i.e., the individual wells now producing the water, may change in that time.

Sincerely,

JOHN W. SHOMAKER, INC.

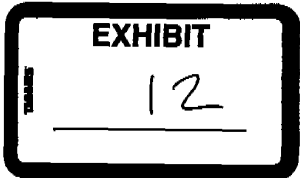
John W. Shomaker

JWS:js

cc: Malcolm Patten
Michael D. Baird, Esq.

SFC CLERK RECORDED 05/13/2005

May 13th, 1993



AGREEMENT

THIS AGREEMENT is entered into by and between The County of Santa Fe, New Mexico, by and through its Board of County Commissioners (the County) and Las Campanas Limited Partnership (Las Campanas).

1. The 3548 acre tract at Las Campanas has received Master Plan approval from the County for 1419 residential lots, plus two golf courses, clubhouse and other amenities. Pursuant to that approval the County and Las Campanas have entered into a Master Plan Development Agreement for the orderly development of this property.

2. In order to insure a permanent water supply to the Las Campanas residents, Santa Fe County has required Las Campanas to acquire perpetual surface water rights on the main stem of the Rio Grande in an amount sufficient to meet the total consumptive use demand of the approved lots in the 3548 acre tract, plus acquire sufficient rights on the surface water tributaries to the Rio Grande to offset the long term impacts of its pumping from the Buckman well field. The County also has required Las Campanas to provide financial surety for implementation of a water delivery and potable water treatment system ("Replacement Delivery Facility") to bring water to the property. The perpetual water rights are to be obtained before plats and development plans are submitted for final approval to the Extraterritorial Zoning Commission. The Replacement Delivery Facility is to provide a long range alternative to Las Campanas' lease of pipeline facilities, wells, booster stations and related structures from Sangre de Cristo Water Company, if needed. Las Campanas will

SFC CLERK RECORDED 05/13/2005

1057754

assure that the Replacement Delivery Facility shall be sufficient to serve Las Campanas' residential and commercial uses and, at Las Campanas' option, the Replacement Delivery Facility will be sufficient to serve Las Campanas' recreational uses including both golf courses, amenities and common areas. The Replacement Delivery Facility shall be capable of providing at least 735 acre feet of water per year plus, at Las Campanas' option, the amount of water required by both golf courses, amenities and common areas after taking into account effluent that will be available for reuse on the golf courses and common areas. Of this 735 acre feet of water, 709.5 feet shall be allocated to residential use, with the remainder to be allocated to the clubhouse and other commercial use.

3. Las Campanas has provided the County with an engineering estimate that the cost of building a new well field and pipeline from the Rio Grande to Las Campanas sufficient to serve all Las Campanas' proposed uses as contained in the Master Plan, including both golf courses, amenities and common areas, together with water treatment facilities, would be approximately Six Million Two Hundred Fifty Thousand Dollars (\$6,250,000.00). This amount includes a fifteen percent (15%) reserve for contingency. The County has verified this engineering estimate through an independent consultant.

4. Pursuant to negotiations with the County, Las Campanas has agreed to provide financial surety for a Replacement Delivery Facility to serve Las Campanas in the total amount of Six Million Five Hundred Thousand Dollars (\$6,500,000.00) as follows:

1057755

A. Beginning with Las Campanas Estates IV and prior to recording of each subsequent residential phase of development, Las Campanas will post and/or provide the County with one or more of the following types of financial surety: appraised real property, a cash escrow, bond, irrevocable letter of credit or other financial surety ("Financial Surety"). Any financial instrument of surety shall be renewed or replaced with other surety prior to the expiration of the term thereof. The Financial Surety shall be in the amount of Five Thousand Dollars (\$5,000.00) per approved lot. Las Campanas may, from time to time, alternate the type(s) of Financial Surety among those specified above. Subject to County approval, Las Campanas may provide real property as Financial Surety, based upon eighty percent (80%) of its appraised value, up to fifty percent (50%) of the total amount of the Financial Surety to be provided. Such approval shall not be unreasonably withheld. Cash escrows, bonds and irrevocable letters of credit are hereby deemed to be cash equivalents which may be freely substituted for real property or for each other as long as the total amount of Financial Surety required herein is satisfied.

B. Upon the sooner of (a) the recording of subdivision plats for seven hundred (700) lots, beginning with Estates IV or, (b) January 1, 1999, Las Campanas will provide the County with Financial Surety for the balance of the \$6,500,000.00 (\$6,500,000.00 less the amount provided as Financial Surety in paragraph 4A, above), adjusted by a percentage amount equal to the increase in the Means City Cost Index published in the Means Building Construction Cost Data Annual Edition during the period from the date of this Agreement to the date the balance of the Financial Surety

1057756

is due.

C. In the event Las Campanas provides real property as the Financial Surety, it shall provide updated appraisals at least annually and shall provide a mortgagee's title insurance policy on each lot showing the County as insured in the amount of the appraised value. In the event the appraised value of the real property provided as Financial Surety decreases over time, the County may require Las Campanas to provide additional real property or to substitute another type of Financial Surety in a form, type and amount acceptable to the County.

5. The Replacement Delivery Facility contemplated by this Agreement may include any one or combination of various alternatives, at the option of Las Campanas. Such alternatives include, but are not limited to, construction of a new pipeline from the Buckman vicinity of the Rio Grande to the Las Campanas Development, provision of water service by a publicly regulated water utility, the County, the City of Santa Fe, or extension of Las Campanas' existing pipeline lease with Sangre de Cristo Water Company or successors for a term of years consistent with the County's planning requirements. Las Campanas shall have the right to choose the alternative to be used, subject to approval by the County. Such approval shall not be unreasonably withheld.

6. If the Replacement Delivery Facility actually used costs less than the amount of the Financial Surety provided, the balance thereof plus accrued interest not previously distributed in accordance with this Agreement shall be released to Las Campanas after the County has approved the design, capacity, construction and other

SFC CLERK RECORDED 05/13/2005

relevant factors regarding the Replacement Delivery Facility; such approval shall not be unreasonably withheld.

7. If Las Campanas elects to provide appraised real property as the Financial Surety, Las Campanas shall grant a first deed of trust to certain residential lots selected by Las Campanas in favor of the County. The trustee of said deed of trust shall be reasonably agreed upon by the parties. Said deed of trust shall specify that Las Campanas shall be allowed to post and substitute appraised lots as Financial Surety with the prior written consent of the County, as long as the total value of the Financial Surety posted or provided meets the amount of Financial Surety specified in paragraph 4, above. Such consent shall not be unreasonably withheld. Such substitution shall be accomplished by means of written notice from the County and Las Campanas to the trustee of the deed of trust instructing it to effectuate the substitution and to fully release the lot(s) substituted from the deed of trust, along with any amendments or supplements to the deed(s) of trust which may be required to perfect the deed of trust for the substitute lots. The County agrees that it shall attempt to process all requested releases and/or substitutions of lots within three days of receipt thereof.

8. If Las Campanas elects to provide Financial Surety, in whole or in part, through the deposit of cash into a cash escrow, the escrow agreement shall contain the following terms:

A. The escrow agent shall be Seafirst National Bank, P.O. Box 24425, Seattle, Washington 98124-0425 (the Escrow Agent). The County may, upon

SFC CLERK RECORDED 05/13/2005

reasonable notice, request the designation of an alternative escrow agent acceptable to Las Campanas.

B. The escrow agreement shall continue until the earlier of: a) a Replacement Delivery Facility is operable, b) a substitute Financial Surety is provided in accordance with this Agreement, or c) the County calls on the Financial Surety as provided in this Agreement.

C. The Escrow Agent shall invest any escrow deposits in U.S. government or U.S. government agency securities. The government secured investments shall be determined by Las Campanas in its sole discretion as long as they are fully guaranteed. All interest on said investments shall accrue to the benefit of Las Campanas and shall be delivered to Las Campanas as it is earned.

D. All expenses of the deed of trust and escrow, including costs of foreclosure, shall be paid by Las Campanas and neither Las Campanas, the trustee, nor the Escrow Agent shall charge any fee, expense or other cost to the County.

9. Upon approval of this Agreement, Las Campanas shall tender the Financial Surety for Estates IV in the amount of Four Hundred Ninety Five Thousand Dollars (\$495,000.00). (99 Lots X \$5,000.00 per Lot).

10. The Financial Surety shall be used exclusively to provide a surety for the design, construction, development and implementation of a Replacement Delivery Facility for Las Campanas.

11. If a Replacement Delivery Facility is not operable by January 1, 2002, the County may at any time thereafter require Las Campanas to promptly establish such a

SFC CLERK RECORDED 05/13/2005

facility and to make sufficient water rights available to serve Las Campanas residential and commercial uses. If at such time sufficient water rights have not already been provided to serve the Las Campanas property as required by the Master Plan Development Agreement and this Agreement, Las Campanas shall provide sufficient water rights to the Replacement Delivery Facility to support a total pumping capacity of 735 acre feet per year to be used exclusively at the Las Campanas property. Las Campanas may withdraw and rededicate, if necessary, all or part of the water rights from the Buckman permit number RG-20516 to the Replacement Delivery Facility to satisfy this obligation. Upon Las Campanas' failure to establish a Replacement Delivery Facility by January 1, 2004, the County may at any time, as its sole remedy for such failure, call upon the Financial Surety and construct the Replacement Delivery Facility itself. In such event, Las Campanas or its successor(s) in interest shall continue to own and be responsible for payment of operating and maintenance expenses for that portion of the Replacement Delivery Facility designed to serve both golf courses, amenities and common areas. Such usage shall be to the extent effluent is not available from Las Campanas. In no event shall the County be required to acquire or provide water rights for such uses. It shall be Las Campanas' responsibility to provide a sufficient water supply, after the application of all available treated effluent, to serve both golf courses, amenities and common areas; such water supply shall be in addition to any water rights acquired by Las Campanas for its residential and commercial uses.

12. The County may, at its own cost, increase the size or capacity of any

SFC CLERK RECORDED 05/13/2005

Replacement Delivery Facility. In such event the County will then own clear and outright an undivided interest in the Replacement Delivery Facility equal to the percentage of the increase in total capacity paid for by the County.

In the event the County elects to increase the size or capacity of any Replacement Delivery Facility, both Las Campanas and the County shall be responsible for payment of their respective shares of all operating and maintenance costs associated with the Replacement Delivery Facility. Fixed operating and maintenance costs shall be allocated to the parties based upon their respective percentages of ownership in the Replacement Delivery Facility. All costs directly related to the volume of water transported shall be allocated to the parties based upon their respective percentages of the total volume of water transported; such allocation of costs shall be made at least annually. Subject to applicable law the County may charge other users, except Las Campanas, for the delivery of water using its portion of the Replacement Delivery Facility.

13. If Las Campanas constructs a Replacement Delivery Facility, the Financial Surety shall be promptly released from time to time as the design, construction and completion of such Replacement Delivery Facility proceeds, for so long as the balance remaining in the Financial Surety is sufficient to complete construction of the Replacement Delivery Facility, exclusive of any increase in size or capacity by the County. Any releases shall be based upon actual construction or other relevant costs as certified in writing by a licensed engineer of Las Campanas' choice. The County agrees that it shall attempt to process all requests for releases

within fifteen (15) days of receipt of certification.

14. Las Campanas hereby grants to the County an option to purchase the undivided portion of any Replacement Delivery Facility constructed or acquired by Las Campanas for its residential and commercial uses (the "Residential Share") for the sum of One Dollar (\$1.00), provided the County shall first form a water utility with the legal right and obligation to provide residential and commercial water service to the Las Campanas property and shall agree to provide residential and commercial water service to the Las Campanas property. In the event the County elects to exercise the option to purchase the Residential Share, both Las Campanas and the County shall be responsible for payment of their respective shares of all operating and maintenance costs associated with the Replacement Delivery Facility. Fixed operating and maintenance costs shall be allocated to the parties based upon their respective percentages of ownership in the Replacement Delivery Facility. All costs directly related to the volume of water transported shall be allocated to the parties based upon their respective percentages of the total volume of water transported; such allocation of costs shall be made at least annually. Any purchase of the Replacement Delivery Facility by the County pursuant to this provision shall be subject to applicable easements, liens or contracts in existence at the time of purchase, but free of all indebtedness. The Residential Share shall be used by the County exclusively to provide residential and commercial water service to Las Campanas; provided, however, that any upgrading or increase in capacity paid for by the County shall not be restricted to exclusive use at Las Campanas. This purchase option shall expire on

SFC CLERK RECORDED 05/13/2005

the later of January 22, 2013, or the date of completion of the infrastructure for the last residential phase of the Las Campanas property as certified by Las Campanas' engineer. If the Residential Share is conveyed by Las Campanas to the Las Campanas Homeowners Water Cooperative or other homeowners association, such conveyance shall be expressly subject to this option. Las Campanas reserves to itself the remainder of the capacity of the Replacement Delivery Facility constructed or acquired or otherwise established by Las Campanas, except for any capacity owned by the County pursuant to its option to upsize (under Paragraph 12 hereof), to provide its own water service for the golf courses, common areas and other recreational uses at the Las Campanas property. In the event the County exercises its option to purchase the Residential Share, Las Campanas may continue to use its share of the Replacement Delivery Facility to transport water for service by Las Campanas for both golf courses, common areas and other recreational uses at the Las Campanas property.

15. All notices required or permitted to be given hereunder shall be in writing and directed to the persons and addresses set forth below. All notices shall be hand-delivered, sent by Federal Express or other nationally recognized overnight delivery service, or sent by certified mail, return receipt requested. All notices shall be deemed received 1) when delivered or 2) one business day after being deposited with an overnight delivery service or 3) three business days after mailing.

The address of the County for all purposes under this Agreement and for all notices shall be:

SFC CLERK RECORDED 05/13/2005

1057763

Santa Fe County
c/o County Attorney
102 Grant Avenue
Santa Fe, NM 87501

The address of Las Campanas for all purposes under this Agreement
and for all notices shall be:

Las Campanas Limited Partnership
c/o Don Hegland
777 108th Avenue NE, Suite 1800
Bellevue, WA 98004

With a copy to:

James W. Johnson, Esq.
Fennemore Craig
Two North Central Avenue, Suite 2200
Phoenix, AZ 85004-2390

16. This Agreement is binding upon and shall inure to the benefit of the parties hereto and to their respective successors and assigns.

17. The terms of the Master Plan Development Agreement dated March 3, 1993, shall remain in full force and effect.

18. Compliance by Las Campanas with this Agreement and the Master Plan Development Agreement of March 3, 1993 shall constitute compliance with all conditions relating to water supply and water delivery facilities needed for the approval of all existing and future subdivisions up to the 1419 residential lots, two golf courses, clubhouse and other amenities for which master plan approval has been obtained.

DATED this 18th day of May, 1994.

1057764

COUNTY OF SANTA FE, NEW MEXICO,
a political subdivision of the
State of New Mexico

By SANTA FE COUNTY BOARD OF
COUNTY COMMISSIONERS

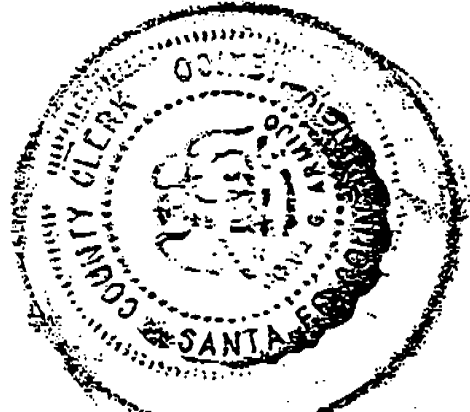
By: Linda Grill
LINDA GRILL, CHAIRPERSON

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: Terrence P. Brennan
TERRENCE P. BRENNAN,
County Attorney

ATTEST:

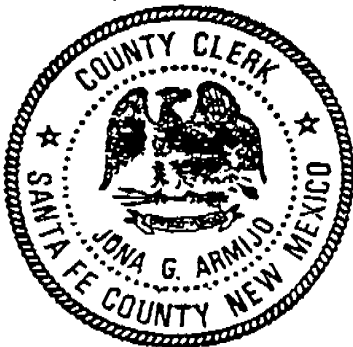
Jona G. Armijo
Jona G. Armijo,
County Clerk



LAS CAMPANAS LIMITED PARTNERSHIP

By LAS CAMPANAS CORPORATION,
General Partner

By: John M. Nye



COUNTY OF SANTA FE 863,333 261
STATE OF NEW MEXICO
I hereby certify that this instrument was filed for
record on the 17 day of May A.D.
19 94 at 2:21 o'clock P.M. and
was duly recorded in book 10574 page
753 of the records of Santa Fe County.
Witness my Hand and Seal of Office
Jona G. Armijo
County Clerk, Santa Fe County, NM
Margaret Ruvens
Deputy

SFC CLERK RECORDED 05/13/2005

January 4, 2005

County Land Use Administrator
PO Box 276
Santa Fe, NM 87504-0276

RE: CDRC CASE # MPA 04-5700

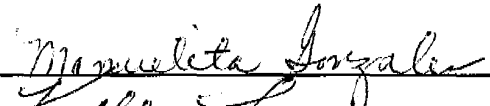
Dear Sir or Madam:

On behalf of Manuelita "Nellie" Gonzales, Kathleen Laemmle and Marla Laemmle we are all in agreement and welcome the Bakery/Cafe addition to the existing retail business to the Plants of the South West.

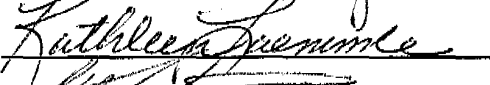
Marla Laemmle however, has one request. Can we place a gate that joins property for easy entrance?

Sincerely,

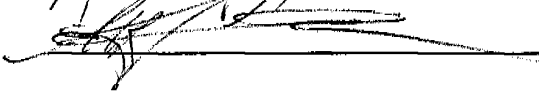
Manuelita Gonzales



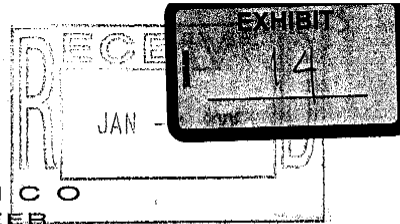
Kathleen Laemmle



Marla Laemmle



SFC CLERK RECORDED 05/13/2005



STATE OF NEW MEXICO
OFFICE OF THE STATE ENGINEER

SANTA FE

John R. D'Antonio, Jr. P.E.
State Engineer

BATAAN MEMORIAL BUILDING, ROOM 101
POST OFFICE BOX 25102
SANTA FE, NEW MEXICO 87504-5102
(505) 827-6175
FAX: (505) 827-6138

December 29, 2004

John M. Salazar, Development Review Specialist II
Santa Fe County
P.O. Box 276
Santa Fe, NM 87504-5102

CERTIFIED MAIL
RETURN RECEIPT
REQUESTED

Reference: Plants of the Southwest

Dear Mr. Salazar:

The Office of the State Engineer (OSE) is in receipt of your letter, of December 9, 2004. In it, you request OSE to review the Plants of the Southwest Proposal for compliance to the water supply requirements found in your regulations concerning land development. The purpose of this letter is to provide this opinion:

Conclusion/ Summary

The OSE has re-reviewed the documentation for the Plants of the Southwest proposal, pursuant to the Santa Fe County Land Development Regulations (Regulations). OSE issued a negative opinion for this development on December 1, 2004. It is the opinion of this office that the developer's proposal complies with the water supply requirements of the Regulations. In accordance, a **positive opinion** is hereby issued by this office.

Project

The Plants of the Southwest proposal is a request to build a coffee shop on a 4.4-acre lot, where their greenhouse facilities are. The facilities are located just outside the Santa Fe City limits, on the north side of Agua Fria Street, approximately one mile west of Siler Road, in Section 32 of T17N, R9E, N.M.P.M.. The developer proposes that domestic water will continue to be supplied to his development via the Sangre de Cristo Water System, which is owned by the City of Santa Fe.

Water Demand Analysis and Conservation Measures

Article VII, Section 6.6.2 of the Code requires the developer to provide a water requirement analysis. In his latest submittal, the applicant provided an estimate of water use at the new facilities. The developer calculated that the new facility will require 260 gallons per day 9or 0.23 acre-feet per year). In comparing this facility to other similar type cafes, OSE is able to conclude that this estimate is reasonable.

SFC CLERK RECORDED 05/13/2005