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COUNTY OF SANTA FE } ss
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REBECCA BUSTAMANTE
COUNTY CLERK, SANTA FE COUNTY, N.M.
Marcella Palmer
DEPUTY

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SANTA FE

BOARD OF COUNTY COMMISSIONERS

REGULAR MEETING

July 8, 2003

- Jack Sullivan, Chairman
- Paul Campos, Vice Chairman
- Paul D. Duran
- Michael D. Anaya
- Harry B. Montoya

SANTA FE BOARD OF COUNTY COMMISSIONERS
COMMISSION CHAMBERS COUNTY ADMINISTRATION BUILDING

REGULAR MEETING
(Public Hearing)
July 8, 2003 - 3:00 pm

Amended Agenda

- 2605162
- I. Call to Order
 - II. Roll Call
 - III. Pledge of Allegiance
 - IV. Invocation
 - V. Approval of Agenda
 - A. Amendments
 - B. Tabled or Withdrawn Items
 - VI. Approval of Minutes
 - VII. Matters of Public Concern -NON-ACTION ITEMS
 - VIII. Matters from the Commission
 - IX. Consent Calendar
 - A. Request Adoption of Findings of Fact and Conclusions of Law for the Following Land Use Cases:
 - 1. TDRC CASE #S 02-5292 - Tesuque Ridge Subdivision Amendment (Approved)
 - 2. EZ CASE #S 03-4070 - Tierra de la Vida Subdivision (Approved) Moved to Land Use Department
 - 3. EZ CASE #S 02-4461 -- Mountain Vista Subdivision (Approved)
 - B. Resolution No. 2003-A Resolution Requesting an Increase to the State Special Appropriations Fund (318)/Youth Shelters & Family Services for a Project Grant Received from the City of Santa Fe for Expenditure in Fiscal Year 2004 (Project & Facilities Management Department)
 - C. Resolution No. 2003 - A Resolution Requesting an Increase to the General Fund (101)/Region III Grant Program to Budget Grant Revenue Received for Expenditure in Fiscal Year 2004 (Sheriff's Office)
 - D. Resolution No. 2003 - A Resolution Requesting an Increase to the Federal Forfeiture Fund (225)/Region III Program Income to Budget Federal Forfeiture Restitution Revenue Received for Expenditure in Fiscal Year 2003 (Sheriff's Office)

X. Staff and Elected Officials' Items

A. Administrative Services Department

1. Request Approval of the Collective Bargaining Agreement Between Santa Fe County and the American Federation of State, County and Municipal Employees Effective July 1, 2003 TABLED

B. Land Use Department

1. Request Adoption of Findings of Fact and Conclusions of Law for the Following Land Use Cases:

a. F.Z. CASE #S 03-4, 70 - Tierra de la Vida Subdivision (Approved)

C. Project and Facilities Management Department

1. Request Authorization to Accept and Award a Professional Service Agreement with the Highest Rated Respondent in Response to RFP #23-49, Document Imaging Project for Santa Fe County

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D. Utilities Department

1. Request Authorization to Execute an Extension of the Existing Lease and Operating Agreement between Santa Fe County and the New Mexico General Services Department for the Wastewater Treatment Plant at the New Mexico State Penitentiary.
2. Request Ratification of a 90-day Extension of the Professional Services Agreement with Sudeen G. Kelly and Sheehan, Sheehan & Stelzner to Provide Legal Services/Consultation for the Santa Fe County Utilities Department.

E. Matters from the County Manager

1. Request Authorization to Submit a Grant Proposal to the U.S. Department of Education up to \$500,000 for a Re-Entry Program for County Jail Prisoners and Their Families: "Home for Good" (Community & Health Development Department)

F. Matters from the County Attorney

1. Executive Session

- a. Discussion of Pending or Threatened Litigation
- b. Discussion of Bargaining Strategy Preliminary to Collective Bargaining Negotiations
- c. Discussion of the Purchase, Acquisition or Disposal of Water Rights
 - i. Wheeling Agreement

XI. Public Hearings

A. Project and Facilities Management Department

1. Resolution No. 2003 - A Resolution on the 2004 - 2008 Santa Fe County Infrastructure Capital Improvement Plan (Second Public Hearing)

B. Land Use Department

1. Second Public Hearing on the 2004-2008 Santa Fe County Infrastructure Capital Improvement Plan (Project & Facilities Management) Moved to XI. A. 1
2. BCC CASE #03-4370 - Pomonis Land Division. Daniel Pomonis and Denise Wikoff, Requests Plat Approval to Divide 5.004 Acres into Two Tracts. The Tracts Will be Known as Tract C-1 (2.503 Acres), and Tract C-2 (2.501 Acres). The Property is Located within the Alameda Ranchettes Subdivision, off of Sloman Court Via Santa Fe County Road 70-A, within Section 25, Township 17 North, Range 8 East (Commission District 2). Victoria Reyes (FOR DELIBERATION & ACTION ONLY)

3. Ordinance No. 2003 - An Ordinance Amending Article XIV, Traditional and Contemporary Community Zoning Districts, of the Santa Fe County Land Development Code (Ordinance 1996-10) to Add a New Section 7, El Valle De Arroyo Seco Highway Corridor Plan. FIRST PUBLIC HEARING. Robert Griego
4. AFDRC CASE #V 02-5600 - Ferbie Corriz Variance. Ferbie Corriz, Applicant, Requests a Variance of Article III, Section 4.1 and 4.2 (Types and Locations of Commercial Districts) of the Land Development Code to Allow Commercial Zoning Outside of an Eligible Commercial District on 1.70 Acres. The Property is Located at 2364 Calle Elosia in the Traditional Community of Agua Fria, within Section 32, Township 17 North, Range 9 East (Commission District 2). Wayne Dalton 2605164
5. CDRC CASE #A/V 03-5620 - Bobby Armijo Appeal Variance. Bobby Armijo, Applicant, is Appealing the County Development Review Committee's Decision to Deny a Land Division of 16.20 Acres into Four Lots, Each Consisting of 4.05 Acres, for a Family Transfer, Which Would Result in a Variance of Article III, Section 10, (Lot Size Requirements) of the Land Development Code. The Property is Located at 428 Ojo de la Vaca, within Section 30, Township 15 North, Range 11 East (Commission District 3). Jan Daniels
6. EZ CASE #DL 03-4480 - Conservationship of J. Anthony Peperas, Jr., Land Division. The Conservation of J. Anthony Peperas, Jr., Applicant, Request a Plat Approval to Divide 5.13 Acres into Two (2) Tracts. The Tracts Will Be Known as Tract 2A-1B (2.56 Acres), and Tract 2A-1A (2.56 Acres). The Property is Located within the Pinon Hills Subdivision, at 97 Calle Francisca, within Section 25, Township 17 North, Range 8 East (Commission District 2). Jan Daniels
7. BCC CASE #M 03-5133 - Brumby's LLC Transfer of Dispenser Liquor License. Brumby's LLC, Phillip Saltz, Agent for Allan and Stacy Crossingham, is Requesting a Transfer of Ownership and Location for a Dispenser Liquor License. The Property is Located at the Intersection of Avenida Vista Grande and Caliente Road, within Sections 9 and 16, Township 15 North, Range 10 East (Commission District 5). Victoria Reyes
8. BCC CASE #03-4370 - Pomonis Land Division. Daniel Pomonis and Denise Wikoff, Requests Plat Approval to Divide 5.004 Acres into Two Tracts. The Tracts Will be Known as Tract C-1 (2.503 Acres), and Tract C-2 (2.501 Acres). The Property is Located within the Alameda Ranchettes Subdivision, off of Sloman Court Via Santa Fe County Road 70-A, within Section 25, Township 17 North, Range 8 East (Commission District 2). Victoria Reyes (FOR DELIBERATION & ACTION ONLY) Moved to XI. B. 2
9. CDRC CASE #Z 03-5080 - New Mexico Vigas and Timbers. Dennis Duran, Applicant, James Siebert, Agent Request Master Plan Zoning within a Designated Commercial District to Allow the Sales, Storage and Processing of Vigas and Timbers on a 7.03 Acres Tract. The Property is Located off Law Road, West of Cowboy Lane and South of US 84-285 Intersection, within Section 18, Township 20 North, Range 9 East (Commission District 1). Dominic Gonzales

10. **EZ CASE #S 02-4022** – Tesuque Hills Subdivision. Chuck Bryant, Applicant, C.R. Walbridge & Associates, Agent, Request Final Development Plan and Plat Approval for a Residential Development in Accordance with the Previously Approved Master Plan. The Development will Consist of 45 Single Family Lots of 1 Acre in Size, and 6 Condominium Unites on 5.18 Acres, for a Total of 51 Units on 51.76 Acres. This Request Includes a Variance of Section 3.5.4.g.2 of the Extraterritorial Subdivision Regulations to Allow the Approach to an Intersection to Exceed 3% Grade for 100 Linear Feet. The Property is Located Immediately West of US Highway 84-285, within Section 1, Township 17 North, Range 9 East (Commission District 2). Wayne Dalton
11. **EZ CASE #S 99-4622** – Village Plaza. Great Western Investors (Richard Montoya), Applicant, Santa Fe Planning Group, Agent Request Final Plat and Development Plan Approval for a Mixed Use Development which Will Consist of 86 Residential Units and 51,000 Square Feet of Commercial Area on 48.3 Acres. The Property is Located South of the Intersection of SR 599 and County Road 62, within Section 31, Township 17 North, Range 8 East (2 Mile EZ District). Vicki Lucero

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XII. 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 in advance to discuss any special needs (e.g., interpreters for the hearing impaired or readers for the sight impaired).

SANTA FE COUNTY

REGULAR MEETING

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BOARD OF COUNTY COMMISSIONERS

July 8, 2003

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

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

Members Present:

Commissioner Jack Sullivan, Chairman
Commissioner Paul Campos
Commissioner Paul Duran [late arrival]
Commissioner Mike Anaya
Commissioner Harry Montoya

Members Absent:

[None]

An invocation was given by Archbishop Richard Gundry from the Catholic Apostolic Church of Antioch.

IV. Approval of the Agenda

- A. Amendments
- B. Tabled or withdrawn items

CHAIRMAN SULLIVAN: Mr. Gonzalez, would you like to show us the staff changes?

GERALD GONZALEZ (County Manager): Mr. Chair, an item that was formerly on the Consent Calendar, item IX. A.2 has been moved to the Land Use Department so that will be heard after the Consent Calendar has been deliberated. And then under item X. Staff and Elected Officials' Items, item A. 1 under Administrative Services Department has been tabled. And under B. 1, we have the item that was moved that I just mentioned. At the end, under Matters from the County Attorney, that's F, we have added under Executive

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session, sub-item c. Discussion of the purchase, acquisition or disposal of water rights, wheeling agreement. Under the Public Hearings, item A. 1, and incidentally, that item should read as in B. 1, that's where it was moved from, and this is the second public hearing on 2004-2008 Santa Fe County Infrastructure Capital Improvement Plan. We have also added item number 2, BCC Case 03-4370, this is the item for deliberation and action only. That has been moved from further down in the list. If you'll notice it was previously item 8 and in order to maintain the integrity of the Commissioners' packet, the packet material still appears under item number 8 with the note that it's been moved to Public Hearings item number B. 2. That's it, Mr. Chair. Oh, there's one other change. I just missed that. We just got a letter on item number 4 under the Public Hearings, Land Use Department. That item, AFDRC Case #V 02-5600 has been withdrawn at that the request of the applicant.

COMMISSIONER MONTOYA: Is that XI. 4, Mr. Chair?

MR. GONZALEZ: That's item number 4. That's the Ferbic Corriz variance.

CHAIRMAN SULLIVAN: And by "withdrawn," that means that if it's going to be brought back in the future it needs to start through the process again.

MR. GONZALEZ: That's my understanding. Yes, Mr. Chair.

CHAIRMAN SULLIVAN: Okay. In essence it's permanently withdrawn until and unless noticed otherwise.

MR. GONZALEZ: That's correct.

CHAIRMAN SULLIVAN: Okay. From the Commission, are there any changes or corrections to the agenda?

COMMISSIONER MONTOYA: Move for approval.

COMMISSIONER ANAYA: Second.

CHAIRMAN SULLIVAN: Motion from Commissioner Montoya, second from Commissioner Anaya.

The motion to approve the amended agenda passed by unanimous [4-0] voice vote. [Commissioner Duran was not present for this item.]

VII. Matters of Public Concern - Non-Action Items

CHAIRMAN SULLIVAN: Are there any individuals in the audience who would like to speak to the County Commission? We have one staff member who I think would like to make an introduction. Mr. Roybal.

GARY ROYBAL (Utilities Director): Thank you, Mr. Chair, members of the Board. I'd like to introduce Stephen Wust as our County Hydrologist. Stephen has a Ph.D. in geology from the University of Arizona. Stephen has spent approximately the last 13 years in the Environmental Department. He's worked in the Superfund Program, the Terrero Remediation project, the drinking water program and the surface water program. Steve also teaches environmental science classes at the College of Santa Fe and if the County ever decides

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to go into off-shore exploration and production he also has some experience there. So with that I'd just like to introduce Steve.

[Commissioner Duran arrives.]

CHAIRMAN SULLIVAN: Welcome aboard.

COMMISSIONER MONTOYA: Welcome, Steve.

MR. ROYBAL: He is located at our offices at the Anacon Building so I invite the Commissioners to come by and visit with Steve and visit our new facilities. Thank you.

COMMISSIONER ANAYA: Thank you. Welcome, Steve.

CHAIRMAN SULLIVAN: Okay, seeing no other individuals from the public who would like to speak we'll move on to Matters from the Commission.

VIII. Matters from the Commission

CHAIRMAN SULLIVAN: Start with Commissioner Campos this time.

COMMISSIONER CAMPOS: Thank you, Mr. Chair. One issue I'd like to raise for discussion at this point as a Matter from the Commission is the Casa Rufina variance that was granted about a month ago. I've heard a lot of comment from a lot of people in the community. There seems to be a lot of concern about it. Certainly it's my position that we didn't have authority to do that, and if this is litigated I think a district court is going to find that we didn't have the authority and they will simply send it back down. So that's one issue I would like to have some comment from the other Commissioners. I think it's an important issue. And that's about it for today, Mr. Chair. Thank you.

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN SULLIVAN: We're going down the line.

COMMISSIONER DURAN: I thought he wanted some comment.

CHAIRMAN SULLIVAN: Okay. Are there any individuals who would like to comment on Commissioner Campos's comment? Commissioner Duran.

COMMISSIONER DURAN: Thank you. I believe that what we did that night passing that retirement project was proper. I think it was a use that was needed. There was a similar -- the only thing that approval lacked was a joint powers agreement with the City of Santa Fe. I believe that when it's all said and done, provided that the City agrees to provide them water that it will be done so under a joint powers agreement. We did the same kind of thing, we actually increased the urban growth area for a project. I have a copy of it right here. That piece of property was surrounded by industrial property. It was on the very edge of the Agua Fria historic community and it was sticking out like a sore thumb. I think that the use that we approved on that property was proper and like I said I think the only thing that that approval lacks is the designation as an urban growth area. I would suggest that Commissioner Campos maybe take a look at that and see if that maybe gets him over whatever it is he's concerned about. Thank you.

CHAIRMAN SULLIVAN: Okay, Commissioner Montoya.

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COMMISSIONER MONTOYA: Mr. Chair, we've been involved in the planning process for the Pojoaque Valley Planning Committee for about, well since about December 10th. We've been very active. We've had Romella from Land Use who's been facilitating as the lead planner. Jack Kolkmeier has been out there a couple of times. But I would like to request from the Commission that as part of this planning process, and we have had some funds that were awarded to us by the McCune Foundation for the tribal summit meetings. And there's a bit of a carryover that would be helpful for our planning committee at this time in doing some further meetings and presentations to the Pueblo officials of San Ildefonso, Nambe, Tesuque and Pojoaque.

I think at this point, I'm not sure, Gerald, if there was a plan for that but I'd just like to request maybe that we utilize some of those funds, if not the remainder of that balance for the efforts in the Pojoaque Valley.

MR. GONZALEZ: Mr. Chair, Commissioner Montoya, we do have a plan for utilizing some of those funds for the purpose of getting the Pueblos together with the County and exploring other cooperative efforts. I appreciate the comment.

COMMISSIONER MONTOYA: Okay.

CHAIRMAN SULLIVAN: Commissioner Montoya, I read the memo on that which I'm sure you're referring to.

COMMISSIONER MONTOYA: Yes.

CHAIRMAN SULLIVAN: I think that's a good use for it. I think it was under \$3,000 in expenditure and I've always been concerned that the tribal summits are not focused and lack focus and are too general in their agendas. And I think focusing on these specific land use issues will get right down to the heart of where people have concerns -- trash pick-up, roads, access, trespassing, water and infrastructure and capital improvements and personally, I think that's a good use of the monies. Do any other Commissioners have any thoughts one way or the other? Commissioner Duran seems to agree. Commissioner Anaya, does that seem to work with you?

COMMISSIONER ANAYA: Yes, that's fine. There was \$3,000 left over and that money will be used to negotiate or what is it for?

CHAIRMAN SULLIVAN: To set up -- I'll let Commissioner Montoya explain. To set up a meeting.

COMMISSIONER MONTOYA: The planning process for the Pojoaque Valley plan.

COMMISSIONER ANAYA: I have no problem with that.

CHAIRMAN SULLIVAN: I think it's McCune Foundation money and of course their approval has to be obtained for that and are they on board with that?

COMMISSIONER MONTOYA: I'm not sure. This is the first I've made of this request.

MR. GONZALEZ: Actually, Mr. Chair, Commissioner Montoya, we had indicated to the McCune Foundation that we would continue to use it for the same purposes as we had before. I think this fits within that. The actual amount I think is \$1,921 or so. But it's

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being made available for that purpose.

CHAIRMAN SULLIVAN: But we should, I think, as a courtesy let them know what we plan to do with this. I think they'll concur. I think it's a good next step.

MR. GONZALEZ: They actually will solicit a report from us and we will report back how we used the money.

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Duran, your comment on the study.

COMMISSIONER DURAN: Gerald, I thought that the Commission several months ago decided we were going to use this money for the tribal summits. Is this some that's left over?

MR. GONZALEZ: That's correct, Mr. Chair. It's the residue after we completed the series of summit meetings that had been scheduled.

COMMISSIONER DURAN: Okay. Thank you.

CHAIRMAN SULLIVAN: Okay. Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chair, the only other thing I have is I received an e-mail and I don't know how many of you've seen it today. I'm not sure who this sender is. Save Our Aquifers. But it was pretty interesting because there's probably about 16, 18 different subdivisions that I guess are pretty active and the question was where are we going to get the water for all this. I don't know if any of the other Commissioners had an opportunity to review this but it certainly sparked my interest in terms of where are we going to get the water for all these. There's condominiums and apartments and lots of houses in here and it's pretty interesting reading.

COMMISSIONER DURAN: Which area?

COMMISSIONER MONTOYA: All over Santa Fe County. There's some by Las Campanas, Tesuque, different parts of the County.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: So that was an e-mail sent to you to let them know what they're proposing?

COMMISSIONER MONTOYA: Yes.

COMMISSIONER ANAYA: Who sent it?

COMMISSIONER MONTOYA: Again, it was Save Our Aquifers. And I don't know --

COMMISSIONER ANAYA: So they put this thing together.

COMMISSIONER MONTOYA: Yes. So I don't know who the author --

CHAIRMAN SULLIVAN: I think actually, Commissioner Anaya, I recall looking at it just today and I think all it was was actually a listing from just Santa Fe Properties. At the end there was a listing of all the high-end subdivisions carried by this one particular real estate firm. Of course only one. Not French and French, just Santa Fe Properties. And so --

COMMISSIONER DURAN: That's not fair.

CHAIRMAN SULLIVAN: I guess we could add French and French's listing to

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the list.

COMMISSIONER DURAN: We don't use water.

CHAIRMAN SULLIVAN: I think that's where the list came from that he's referring to, Commissioner Anaya.

COMMISSIONER DURAN: Mr. Chair.

COMMISSIONER MONTOYA: That's all I had, Mr. Chair.

COMMISSIONER DURAN: Just a response to Commissioner Montoya.

CHAIRMAN SULLIVAN: It's your turn anyway.

COMMISSIONER DURAN: Oh, well, I thought we got to comment.

CHAIRMAN SULLIVAN: You may comment. It's your turn and you may also do other items.

COMMISSIONER DURAN: It's a double whammy.

CHAIRMAN SULLIVAN: Yes, the floor is yours.

COMMISSIONER DURAN: I think all of those projects though had to have some kind of -- I understand your concern about where we're going to get the water. Maybe it's time that we take another look at the hydrology requirements that these subdivisions must meet in order to gain approval. I haven't seen the list but it would seem to me that if these are subdivisions that have been approved, they're either on City water and with the City having made commitment to them to provide water, or they were projects approved through the County process with having proved a 100-year water supply. So I don't know. Maybe it's time we rethink our Land Use Code relative to water availability. That's about the only thing I think we could do.

COMMISSIONER MONTOYA: I think that's a great idea. That's kind of why I brought it up. Commissioner Sullivan is right. This is just Santa Fe Properties and I just skimmed through it, but it's like I had mentioned, it's all over the county.

COMMISSIONER DURAN: When do those listings expire?

CHAIRMAN SULLIVAN: We don't need to conduct business here.

COMMISSIONER MONTOYA: At 3:30.

COMMISSIONER DURAN: And believe it or not, I don't have anything.

Commissioner Campos brought up what I was going to bring up so I'll pass.

CHAIRMAN SULLIVAN: Let me just make one comment, Commissioner Duran, on your comment about the geo-hydrology requirements, since we have our new hydrologist still in the audience. Let me just relate something that Katherine Yuhas mentioned to me some while back. Our hydrology equation that we use to measure 100-year availability of water is probably, according to her, a fairly reasonable and conservative equation. But nonetheless, it's some 20 years old and I think needs another look at, particularly with regard to how you look at the areas of influence. We have a fairly limited was of looking at the area of influence which sometimes is the breaking point of whether there is or isn't a 100-year availability based on the amount of acreage that you're physically looking at, the plat of acreage. So that's one kind of weakness in that equation.

And the other comment that Katherine made to me was that our boundaries, our

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hydrologic boundaries or zones that were again created many years ago through a consultant recommendation. In her opinion have actually somewhat migrated north and so if you were to take all those hydraulic zones, Basin Zone, the Basin Fringe and so forth, and that map as an overlay, and just shift the whole map north, you would probably have a fairly good replication of what had been happening in the two decades to the aquifer. In other words, her feeling was that there was probably a little more water availability in the northern part of the city and somewhat less in the southern part of the city and that those lines had actually shifted some amount.

So we may want to also look, when time permits it, at those hydrologic zones that we use for defining the minimum lot acreage. Okay, Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chair. The only thing I have is I received an e-mail about ham radio communications, ACES, Amateur Civilian Emergency Services, and I know that we don't have an ordinance on that. I believe the height requirement or restriction is 24 feet and I think they needed to raise it. They wanted it to be higher and maybe have an ordinance out there on this. And maybe, Roman, I don't know if you received something on it but maybe you can comment a little bit on this.

COMMISSIONER MONTOYA: Mr. Chair, Commissioner Anaya, the author actually is also here, Dr. Paule.

ROMAN ABEYTA (Land Use Administrator): Mr. Chair, Commissioner Anaya, we did receive a copy of that e-mail. Right now, we are looking at our cell tower ordinance and possible amendments to it, so it's actually pretty timely that we received the e-mail because we have been directed by the County Manager's office to look at the ordinance for any needed amendments. So this would be one that we could consider.

COMMISSIONER ANAYA: Okay. Great. Thank you.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: Roman, does this fall under the Cell Tower

Ordinance?

MR. ABEYTA: Mr. Chair, Commissioner Montoya, yes. It falls under cell towers and other related towers. And the ordinance does restrict it to 24 feet right now, as was indicated in the e-mail.

COMMISSIONER MONTOYA: Oh, okay.

MR. ABEYTA: So we would have to do an amendment to accommodate that.

CHAIRMAN SULLIVAN: Roman, if it's over -- if it's attached to a building or on a building it's greater than 24 feet, right?

MR. ABEYTA: Mr. Chair, you may be correct. I'm not that familiar with it.

CHAIRMAN SULLIVAN: I think that's a free-stranding height. Commissioner

Anaya.

COMMISSIONER ANAYA: I didn't know that this Amateur Civilian Emergency Service was being used through the Cerro Grande fire and any other fires that we have. So I think it's pretty important that we have people out there like Dr. Paule that are

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willing to help out the community. So I'd like to see what we can come up with. Thank you.
That's all I had, Mr. Chair.

CHAIRMAN SULLIVAN: Thank you, Commissioner. I think, Roman, are we still on, or Gerald, for July 22nd for the Code review? Because this is part of the overall Code review too, I assume.

MR. GONZALEZ: That's correct, I believe, Mr. Chair.

CHAIRMAN SULLIVAN: Is there a work session, Roman? Perhaps you want to remind the Commissioners about that.

MR. ABEYTA: Mr. Chair, there is a work session but I'll get the exact time and date. I think you are right. It's the 22nd but I want to confirm that before I tell the Commission.

CHAIRMAN SULLIVAN: Okay. And it's a work session to go over -- we had a report from the Code consultants about a month ago and this is a work session to talk nuts and bolts.

MR. ABEYTA: Right. And it's going to cover three sections of the Code and we're going to take three or four sections at a time before the Board and this will be the procedures section.

COMMISSIONER DURAN: It's 1:00 on the 22nd.

CHAIRMAN SULLIVAN: Commissioner Duran says it's 1:00 on the 22nd.

MR. ABEYTA: I'll confirm that, Mr. Chair.

CHAIRMAN SULLIVAN: Okay. The only comment I had under items from the Commission was to wish good luck to the 717th Medical Company, which is deploying once again to Afghanistan as of today. They're going to Fort Bliss first and then to Afghanistan. They just came back in June from Afghanistan, about 29 men and women or soldiers are leaving for another 6+ month tour of duty there and these are individuals not only from Santa Fe County but from Bernalillo County, Las Vegas, Rio Arriba and also some of the Pueblos. So we wish them godspeed and they're on a medical mission and fortunately saving lives instead of taking lives and we wish them the best.

IX. Consent Calendar

A. Request Adoption of Findings of Fact and Conclusions of Law for the Following Land Use Cases:

1. **TDRC CASE #S 02-5292 - Tesuque Ridge Subdivision Amendment (Approved)**
3. **EZ CASE #S 02-4461 - Mountain Vista Subdivision (Approved)**

B. Resolution No. 2003-87. A Resolution Requesting an Increase to the State Special Appropriations Fund (318)/Youth Shelters & Family Services for a Project Grant Received from the City of Santa Fe for Expenditure in Fiscal Year 2004 (Project & Facilities Management Department)

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- C. Resolution No. 2003-88. A Resolution Requesting an Increase to the General Fund (101)/Region III Grant Program to Budget Grant Revenue Received for Expenditure in Fiscal Year 2004 (Sheriff's Office)
- D. Resolution No. 2003-89. A Resolution Requesting an Increase to the Federal Forfeiture Fund (225)/Region III Program Income to Budget Federal Forfeiture Restitution Revenue Received for Expenditure in Fiscal Year 2003 (Sheriff's Office)

CHAIRMAN SULLIVAN: We had just one item excluded from the Consent Calendar. What's the wishes of the Commission?

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: I just wanted to ask a quick question about item IX. A, 1 through 3. I was wondering if there were any variances involved.

CHAIRMAN SULLIVAN: One through three. One and three are the only items right now on the Consent Calendar.

COMMISSIONER CAMPOS: Okay. So 2 is off.

CHAIRMAN SULLIVAN: Two will be heard in just a minute. There was just a staff correction on the conditions. The question is are there any variances. Roman, did you want to respond to that?

MR. ABEYTA: Mr. Chair, I believe there were variances related to the road and slope standards with both those cases. But the case and the density itself, there were no density variances but there may have been development plan, variances to the development plan standards and I'm looking through the findings of fact now.

Mr. Chair, there were no variances to number 1, to A.1 Tesuque Ridge. There were no variances associated with that amendment. And then as for A.3, Mountain Vista, there was a variance to the road requirements, the length of the cul-de-sac, for item 3.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN SULLIVAN: Any questions?

COMMISSIONER MONTOYA: Mr. Chair, move for approval.

CHAIRMAN SULLIVAN: Motion for approval of the Consent Calendar.

COMMISSIONER ANAYA: Second.

CHAIRMAN SULLIVAN: And a second by Commissioner Anaya, motion by Commissioner Montoya.

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: Let the record show that I've abstained.

The motion to approve the Consent Calendar passed by unanimous [4-0] voice vote. [Commissioner Duran abstained.]

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X. Staff and Elected Officials' Items

B. Land Use Department

**1. Request Adoption of Findings of Fact and Conclusions of Law
for the Following Land Use Cases:**

- a. **EZ CASE #S 03-4070 - Tierra de la Vida Subdivision
(Approved)**

CHAIRMAN SULLIVAN: Mr. Dalton, do you want to explain the correction to us on that one?

WAYNE DALTON (Review Specialist): Thank you, Mr. Chair. Mr. Chair, the correction was on condition number 10. The copy of the findings of fact you have read "Both wells to serve the subdivision must be drilled to a depth as approved by the County Hydrologist." That wasn't what was approved at the BCC meeting. The condition that was approved at the meeting should read "Both wells to serve this subdivision must be drilled to a depth of at least 760 feet and completed as illustrated in the appendix of the geo-hydrology report." And I did make that change and I believe all of you have that change.

CHAIRMAN SULLIVAN: Okay. Any questions of Mr. Dalton? If not, what's the wishes of the Commission?

COMMISSIONER ANAYA: Move for approval.

CHAIRMAN SULLIVAN: Motion for approval from Commissioner Anaya.

COMMISSIONER MONTOYA: Second.

CHAIRMAN SULLIVAN: Second from Commissioner Montoya. Further discussion?

The motion to approve the findings of fact on EZ Case # S 03-4070 passed by unanimous [5-0] voice vote.

E. Project and Facilities Management Department

- 1. Request Authorization to Accept and Award a Professional Service Agreement with the Highest Rated Respondent in Response to RFP #23-49, Document Imaging Project for Santa Fe County**

TONY FLORES (Project Manager): Thank you. This is in conjunction actually with the Clerk's office. Santa Fe County PFMD and the Clerk's office prepared a request for proposals to implement a document imaging program or pilot project for the County Clerk's office. Both staff from the IT Division and Becky's office prepared a solicitation. Four responsive proposals were received, evaluated. All for proposers or offerors were then interviewed and the highest rated firm was Professional Document Systems, which is a current contractor with Santa Fe County and various other counties for similar services throughout the

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state of New Mexico.

The agreement itself is multifaceted in that it sets up hardware pricing schedules, software pricing schedules, training schedules and other additional services and professional services, and it's tied down to specific numbers. That was purposely done so that in the event that this project gets off the ground and is successful, we're able to expand that to other offices in the County such as the Assessor's, the Treasurer's, possibly even land use when it comes to document imaging. The process or the project itself really brings Becky's office beyond the 21st century and really brings us up to speed with larger counties such as El Paso County, Dona Ana County, and it really alleviates a lot of the burden and time constraints that are put on Becky's staff currently. It will also provide access, easy access to title companies for searches. Everything will be imaged or scanned into the system. We will have less paper storage than is currently being used, and it's an innovative project that we're trying to get off the ground.

So we're requesting today the approval of the professional service agreement with PDS in the amount of \$224,155 for the first phase, what we're calling the first phase of the document imaging project. And I stand for any questions.

CHAIRMAN SULLIVAN: Questions from the Commission?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: Tony, this doesn't involve the purchase of equipment, does it? Or will it?

MR. FLORES: Yes. Mr. Chair, Commissioner Montoya, it involves purchase of equipment, both scanning stations, cashing stations, computers. Also it involves the purchase of software, to be able to implement the program, and it involves training and additional professional services to write programs if necessary. So it's multi-faceted. It involves all of that.

COMMISSIONER MONTOYA: Oh, okay. So that's what PDS will be providing within that \$224,000, all of that.

MR. FLORES: Yes. It's equipment, servicing, software, training, implementation. It's basically a turnkey operation. However, we've priced it unit price wise in case or in the event of that it is successful in the next year, we're able to add to that other departments or offices of the County that could be phase 2 or phase 3 of the implementation project.

COMMISSIONER MONTOYA: Mr. Chair and Tony, where are we going to store all this equipment?

MR. FLORES: Mr. Chair, Commissioner Montoya, actually the equipment that Becky has indicated that she'd like to purchase: if this is approved will be stored on, some of it will be on the front counter of her area and we'll be building an additional storage space for the scanner/imager that the title companies will be able to come in and do searches for. So it will be within the existing space. We're hoping to consolidate operations, so to speak, in her area to make it more efficient for not only her staff but for the public. So all of the hardware will be in Becky's office.

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COMMISSIONER MONTOYA: So it will be on --

MR. FLORES: Yes. The countertop. Yes.

COMMISSIONER MONTOYA: Thank you, Mr. Chair. Thank you, Tony.

CHAIRMAN SULLIVAN: The one question I had is the time table seemed quite aggressive. As I recall it was like about three months. Is that correct?

MR. FLORES: Mr. Chair, that's correct. Initially, we had planned on having this approved in June. What we did is we backed out the dates from the special election of September 23rd to be able to accommodate the implementation prior to that. Because we've had some delays in the contract, we're still pushing for that implementation schedule and the contractor having indicated in writing that he is able to perform that. The only issues that we may run into is once it's implemented is the training time that Becky's staff will be able to devote to it because of the special election. So we do have an aggressive time schedule in there for implementation. Becky wanted this up and running the first quarter. We're a little bit behind schedule because of the contract issues or the delay of getting the contract finalized so to speak, so he has indicated that we can meet that schedule.

CHAIRMAN SULLIVAN: And was this firm the low bidder?

MR. FLORES: Mr. Chair, this was put out as a RFP, a request for proposals, so it was on qualification and price, which we can do in the procurement code. They were the highest rated firm based upon the point criteria that were set up by IT and the Clerk's office. And they were the second lowest offeror as far as price was concerned. However, when you evaluate it versus the lowest price offered, which was a difference of about \$80,000, the lower price did not have the expansion capabilities or the mechanisms currently in place that we'd be able to do a turnkey. In other words, we'd have to pay for additional programming services to get them up to where Becky needed them.

So the firm that we have selected is the highest rated firm including price of the four that submitted. The prices ranged from \$165,000 all the way up to \$580,000 in the offers.

CHAIRMAN SULLIVAN: They were the second lowest and the difference was about \$80,000.

MR. FLORES: \$80,000 less. But it did not include the additional programming costs to get them up to where we needed to be.

CHAIRMAN SULLIVAN: I understand. So staff's recommendation is that this provides more value for the dollar.

MR. FLORES: Absolutely.

CHAIRMAN SULLIVAN: Any questions from the Commission?

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Flores, where's the money coming from?

MR. FLORES: Mr. Chair, Commissioner Campos, \$125,000 of this is coming from the capital package of FY03. This was actually a budgeted item last year. We were hoping again to have it awarded by June 30th. We're a little bit behind schedule on that. The remaining part actually comes out of the Clerk's filing fees and recording fees, which is a quasi-enterprise

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fund, so to speak because they collect their own fees. So it's a combination of those two sources.

COMMISSIONER CAMPOS: The CIP money is coming from the state legislature?

MR. FLORES: Mr. Chair, Commissioner Campos, no. That capital money was through the budget you approved last year.

COMMISSIONER CAMPOS: General fund then.

MR. FLORES: Yes.

COMMISSIONER CAMPOS: Okay. Thank you.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: Move for approval.

COMMISSIONER DURAN: Second.

CHAIRMAN SULLIVAN: Seconded by Commissioner Duran. Any further discussion?

The motion to approve the PSA for document imaging passed by unanimous [5-0] voice vote.

X. Utilities Department

1. Request Authorization to Execute an Extension of the Existing Lease and Operating Agreement between Santa Fe County and the New Mexico General Services Department for the Wastewater Treatment Plant at the New Mexico State Penitentiary

MR. ROYBAL: Thank you, Mr. Chair. Before you is a request by the Utilities Department for authorization to execute an extension on an existing lease and operating agreement for the wastewater treatment plant at the New Mexico State Penitentiary. The agreement is between the New Mexico General Services Department and the County of Santa Fe. The term of the agreement was a five-year term which expired June 30th of this year. The County did submit a request to GSD to extend that for an additional five years as allowed under the contract and I believe it's under the term of the agreement it's paragraph 2.

We have not received -- I did have an informal discussion with the director of property control from GSD. He didn't seem to -- he did indicate that this shouldn't be a problem but we still need to execute the documents, so I'm before you today requesting authorization to move forward when we do receive those documents from GSD.

CHAIRMAN SULLIVAN: Questions for Mr. Roybal?

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Campos and then Commissioner

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Duran.

COMMISSIONER CAMPOS: Mr. Roybal, what is the history as far as the negotiation? At some point you were negotiating a long term? You wanted to negotiate or attempted to negotiate a long-term lease for this facility?

MR. ROYBAL: Mr. Chair, Commissioner Campos, yes. For about a year, we've been trying to negotiate an extension of this lease and operating agreement for a period of about 19 years. Those negotiations have been ongoing. I thought they were near conclusion. There was a change in administration. I think that amendment has gotten caught within this change of administration and we haven't received any notification from GSD as to whether they're going to go forward with that extension or not.

COMMISSIONER CAMPOS: When do you think you're going to have a response?

MR. ROYBAL: Mr. Chair, Commissioner Campos, I don't know. We've been working on it and it's difficult for me to say what time period as for GSD to get back to us with that response.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: Mr. Roybal, I recall this thing as being a little bit different than what you just said. I thought that your department was trying to get the state to agree to give us a long-term lease on the water rights. They have been hesitant to extend that, actually let us lease those water rights for any period of time. And my understanding, last time I talked to you about this was that the wastewater treatment plant, that you were tying them both in together. You told me Why would we want the wastewater treatment plant if we weren't going to get the water rights? I talked to Bill Taylor at the Property Control Division and he's ready to extend this agreement but he also indicated to me that he wasn't willing to do anything with the water rights.

MR. ROYBAL: Mr. Chair, Commissioner Duran, the negotiations for the extension of the sewer and lease agreement were initiated prior to entering into negotiations for the water facilities. We had been negotiating that for several months. It's been about a year since we've been negotiating that. And then, probably the last quarter of last year we began negotiations into the water system to take over their water system and we were moving forward. We met the prerequisites of the resolution the legislature adopted and passed to bring it before two committees, our forty-year water plan. We went through those prerequisites, got the approvals, the necessary authorizations from these committees to go forward to GSD and begin a negotiation of the lease of the water facilities. We began that the last quarter of last year. Again, we had a change in administration. It got caught up in there. I had several discussions with Mr. Taylor regarding the water and wastewater lease both. The last indication we had was on the water side, they were -- well, there were several issues. First it went to a 25-year lease. Then it went, well, we're not sure if we want to do it. Then we did get into the sewer lease and I again questioned why we would want to enter into a long-term sewer lease without the water lease and we would have to

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re-evaluate our overall strategy and approach on these facilities.

However, I did not discount and say we would not enter into any type of long-term sewer lease. We haven't received any documentation. We've been, as I said, it's been over a year since we've been talking and negotiating with GSD on the sewer lease and we haven't received an authorization or a signed extension. That was a very simple amendment to the contract. And we're still waiting for that.

COMMISSIONER DURAN: So you believe that maintaining this agreement with the state on the wastewater treatment facility is beneficial to the County, independent of pending negotiations relative to the water rights?

MR. ROYBAL: Oh, most certainly it's beneficial, because right now we provide service to the Safety Complex, the County jail and the National Guard. So it is a beneficial -- and we do provide wastewater service to the penitentiary free of charge as a lease payment for the use of those facilities. So it is a benefit to the County in that sense, yes.

COMMISSIONER DURAN: My last comment is if this economic development park gets off the ground, any wastewater generated out of that facility would also be treated at this plant. Is that correct?

MR. ROYBAL: Mr. Chair, Commissioner Duran, that's correct. That was the plan, to use the wastewater treatment plant at the penitentiary for that purpose. But again, we haven't been able to get that extension processed and I think going forward with a five-year term gives us a little bit of opportunity to rethink our strategy and look at whether that is the most feasible approach to it at this point.

COMMISSIONER DURAN: I thought that was the last question but there's one more. Are you continuing the negotiations with the state relative to the water rights?

MR. ROYBAL: Mr. Chair, Commissioner Duran, I have had several discussions with Mr. Taylor on this and we're still waiting for something in writing from GSD as to whether they want to proceed forward with it or not. We haven't received that yet.

COMMISSIONER DURAN: I think, to be honest with you, I don't think they're going to give it to us. We're not planning anything based on any kind of agreement with them on those water rights, are we?

MR. ROYBAL: Mr. Chair, Commissioner Duran, we haven't done anything of that nature. That's a very uncertain situation, so we're not counting on that for anything, Mr. Chair, Commissioner Duran.

COMMISSIONER DURAN: That's it. Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Gary, one or two questions. The service that we provide to the National Guard facility, are we paid for that? Do we bill them for that?

MR. ROYBAL: Mr. Chair, yes. We bill everybody but the penitentiary.

CHAIRMAN SULLIVAN: Okay. Except the penitentiary.

MR. ROYBAL: That's correct.

CHAIRMAN SULLIVAN: But all the other entities that we bill are County

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entities. Right? The jail, the Public Service Complex.

MR. ROYBAL: And the National Guard. Everyone that uses that facility gets billed except for the penitentiary.

CHAIRMAN SULLIVAN: But the only one that we're actually making any money on is the National Guard because they're not part of the County's budget. Is that correct?

MR. ROYBAL: Well, Mr. Chair, excuse me if I don't understand your question. We do bill the Safety Complex and we do bill the jail for processing their sewage. And we also bill the National Guard. But to the extent that the monies for those payments come from the general fund, that's correct.

CHAIRMAN SULLIVAN: Only the National Guard is a separate entity from our general fund. So we make some money on the National Guard.

MR. ROYBAL: Mr. Chair --

CHAIRMAN SULLIVAN: We get some revenue that's not in the County budget.

MR. ROYBAL: We get revenue. I don't want to go forward and say we make money off of them because I don't think we're there yet. But we collect revenues from the National Guard, yes.

CHAIRMAN SULLIVAN: The lease requires us to pay utility costs and to maintain normal, routine maintenance of the facility. What about capital improvements? Are we obligated in any way during this five years to do any capital improvements to the facility?

MR. ROYBAL: Mr. Chair, yes we are. That is our facility. We have to make the capital improvements to keep it operational and to meet our permit obligations. So those capital improvements do fall on the County.

CHAIRMAN SULLIVAN: And how extensive are they going to be? Do they include just things like replacing pumps or does it include enlarging the lagoons, or what kind of capital are we looking at here?

MR. ROYBAL: Mr. Chair, I think we're looking at aerators that we're going to have to replace. There's normal maintenance that takes place in those facilities that we need to keep up with. I believe the plant was rehabilitated 13 to 15 years ago so a lot of the equipment is deteriorating and will require some replacement and some investments. I can't give you the exact type of capital investments that we need to make but there will be some into the future.

CHAIRMAN SULLIVAN: Do we have an estimate for what the five-year costs will be, the capital improvements?

MR. ROYBAL: Mr. Chair, there are some that we put into our budget this year that we anticipated, but I'm not sure, I couldn't give you a number because I don't have it in front of me. I can certainly get that to you.

CHAIRMAN SULLIVAN: How much are we anticipating for this year?

MR. ROYBAL: Mr. Chair, I don't have that.

CHAIRMAN SULLIVAN: \$100,000?

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MR. ROYBAL: I don't want to guess. But I'll get that information to you.

CHAIRMAN SULLIVAN: I guess I just am concerned that as we go down - I'm not concerned. I think this is a good trade-off, obviously, for us to maintain our own facilities, but as we get down the life cycle of all of this equipment it becomes more and more expensive to maintain and we're in essence buying the facility. So we probably need to be thinking about something longer term than five years, what we're going to do out there. It's a good deal for GSD as long as we keep maintaining their facility for them, but at some point in time perhaps we need to have a strategy that looks beyond the five years. And I know that's what you've been trying to negotiate. Am I correct?

MR. ROYBAL: Mr. Chair, that's correct. And with this five-year extension, if this moves forward, without the longer term immediately into place I think it gives us some opportunity to look at the strategy that we want to implement on a longer term basis.

CHAIRMAN SULLIVAN: Do we have any alternatives?

MR. ROYBAL: Yes, we could build our own wastewater facility close to Valle Vista. We do have a ten-acre piece of property that was purchased with the Valle Vista system that could potentially be a site for a wastewater treatment facility. We operate and own the wastewater treatment facility in Valle Vista and that's going to require some major rehabilitation to meet our EPA permit obligations. I believe that might run us, and we do have an estimate somewhere in the area of maybe \$60,000 to \$100,000 to upgrade that facility, just so that we can meet those permit obligations. So there are some alternatives out there, at least one that we're looking at right now to look at the feasibility. Well, not necessarily the feasibility but the potential of that site as a regional site.

CHAIRMAN SULLIVAN: Could we pump the Valle Vista system into this system?

MR. ROYBAL: Mr. Chair, yes we could, and that's one of the options we're looking at, instead of maybe rehabilitating that system, is running a pipeline with a lift station up to the state penitentiary system, which would obligate us more longer term to that facility.

CHAIRMAN SULLIVAN: Yes. Okay, any other questions for Mr. Roybal? Commissioner Duran.

COMMISSIONER DURAN: Is there any effluent that we can use from this system?

MR. ROYBAL: Mr. Chair, Commissioner Duran, right now, we don't have -- it's not treated sufficiently to environmental standards so that we could sell it for construction or irrigation at this point. We would have to do additional filtration of that effluent to use it for any type of construction or irrigation, other than to discharge into the property that we lease for the discharge. What we are looking at, and I'm sure you've all seen the buffalo out there grazing on that property. We are looking at possibly leasing the land to the buffalo -- I call him the buffalo guy, but his name is Monty, so that he can

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graze it and then potentially plant some grass for grazing and stuff and we would provide effluent for irrigation where we discharge it at a certain rate.

COMMISSIONER DURAN: How many gallons a day does that thing produce?

MR. ROYBAL: I believe we're treating approximately 140,000 gallons per day of effluent through that system. It's running about 50 percent capacity right now. It's about a 350,000 gallon per day system and we're running about 150,000, 160,000.

COMMISSIONER DURAN: And it just leaches into the aquifer?

MR. ROYBAL: No, we discharge it onto the field. Just right there by the penitentiary you see those fields where the buffalo are, we discharge it into that area, and I don't know if it leaches into the aquifer, but I'm sure it does. There is some potential recharge in the shallow aquifer from that. We haven't done any tests to see, but we do have monitoring wells around the site to look at the nitrate levels and there hasn't been any increase in nitrate levels from discharging that effluent onto that property.

CHAIRMAN SULLIVAN: Other questions? The only request I would have, Gary, is if the Commission approves this would be if General Services does make changes to it -- my understanding is they haven't agreed to this yet but because the deadline is already passed, I believe June 30, you're asking for the Commission's approval so that once GSD approves it it can move forward. But if there are any substantive changes, other than capitalizations or something like that or something which the general manager might consider substantive I'd certainly like it to come back to the Commission.

MR. ROYBAL: Mr. Chair, most certainly we'll come back to you if there's any substantive changes. But the proposal that was brought to them was very simple. It was just a change in the term.

CHAIRMAN SULLIVAN: Other questions? What are the wishes of the Commission then?

COMMISSIONER ANAYA: Move for approval.

COMMISSIONER DURAN: Second.

CHAIRMAN SULLIVAN: Motion by Commissioner Anaya, second by Commissioner Duran. Further discussion?

The motion to authorize an extension of the state pen wastewater treatment plant lease passed by unanimous [5-0] voice vote.

- X. C. 2. Request Ratification of a 90-day Extension of the Professional Services Agreement with Sudeen G. Kelly and Sheehan, Sheehan & Stelzner to Provide Legal Services/Consultation for the Santa Fe County Utilities Department.

MR. ROYBAL: Thank you, Mr. Chair. Before you is a request to ratify a 90-

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day extension of contract #20-017-UT between Santa Fe County and Sudeen G. Kelly and Sheehan, Sheehan and Stelzner, attorneys at law. This contract has been in place for four years and it terminated June 30th. What we did is we extended this contract, or the County Manager approved an extension of this contract for 90 days to allow us an opportunity to continue legal services in water related matters that are ongoing such as the Aamodt case and the water rights transfers and closings that we've been going through. And also providing legal assistance on some of the other water related issues that the Utility Department is undergoing at this time.

This would be for a 90-day period to allow the department to move forward with an RFP to issue another request for proposals for legal services related to water matters. And with that I stand for any questions.

CHAIRMAN SULLIVAN: Questions?

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Roybal, this is the same contract that we have with John Utton, right?

MR. ROYBAL: Mr. Chair, Commissioner Campos, he is a lawyer in that firm, yes.

COMMISSIONER CAMPOS: He's doing most of the work and he will continue to do most of the work for the County?

MR. ROYBAL: Mr. Chair, Commissioner Campos, that is my understanding.

CHAIRMAN SULLIVAN: Gary, are the rates the same? Is there any change in the rates?

MR. ROYBAL: Mr. Chair, no. It's the same contract just extended for 90 days and we do have an internal, a ceiling of \$25,000 for that 90-day period.

CHAIRMAN SULLIVAN: Other questions? Can I have a motion?

COMMISSIONER MONTOYA: So moved.

COMMISSIONER CAMPOS: Second.

CHAIRMAN SULLIVAN: Moved by Commissioner Montoya, seconded by Commissioner Campos.

The motion to approve the legal contract extension passed by unanimous [5-0] voice vote.

CHAIRMAN SULLIVAN: Mr. Roybal.

MR. ROYBAL: Mr. Chair, I'd just like to make one comment.

CHAIRMAN SULLIVAN: Remember, quit while you're ahead.

MR. ROYBAL: Well, this is a good thing.

CHAIRMAN SULLIVAN: This is a good comment. Go ahead.

MR. ROYBAL: I'd just like to advise the Commission that our water system, our line extension down to La Cienega was very instrumental in helping fight the fire that happened over the 4th of July weekend. Stan Holden, our Fire Chief, advised me that the

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system worked the way it should have. It was very instrumental in helping them fight and contain that fire. So the system, I just want to report works and is in good operating order and functioned the way it should have in that manner for fire protection. Thank you.

CHAIRMAN SULLIVAN: A lot of people had a lot of questions about that system and when the chips are down it's nice to know that it works the way it was intended.

X. E. Matters from the County Manager

1. Request Authorization to Submit a Grant Proposal to the U.S. Department of Education up to \$500,000 for a Re-Entry Program for County Jail Prisoners and Their Families "Home for Good" (Community & Health Development Department)

LINDA DUTCHER (CRAFT Coordinator): Mr. Chair, Commissioners, thank you. We have the opportunity to submit a proposal to the Department of Education at the federal level to provide some services which are similar to what we would have provided under the Roots and Wings proposal had we been funded for that. The advantage in this Department of Education proposal is that we can actually begin work with the prisoners at the County Detention Center before they're released as well as working with their families. That wouldn't have been true with the original proposal that went to the Center for Substance Abuse Treatment because they don't allow that. So I was very excited to see this opportunity.

You have an abstract and proposed budget. The abstract, as you will see shows that we would be working both with the prisoners before they're released, with their families before the prisoners are released and after, in terms of teaching them community re-enforcement and family training processes. We were adding a family strengthening program component, which basically teaches parenting skills for those who are parents. This particular program has been shown to also, as a side effect, reduce substance abuse in the parents, if that has been an issue, and we'd be including a job finding club to help people get employment, learn how to apply for jobs and case management and follow-up. I stand for questions.

CHAIRMAN SULLIVAN: Questions for Linda?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: I think this is a good program, Linda. I hope we can get some money and move forward with it. It brings the families together with the inmate before he gets released. Is that what this --

MS. DUTCHER: That will be dependent partly on security issues and the like at the Detention Center, but there's certainly some opportunity for that. One of the things that struck me as I was talking with people about what happens when you're in jail or when you leave jail is that there has not been available to the inmates any particular kind of planning. It's like, okay, in six weeks you're going to be walking out of here. Bye. Hope we don't see you again. That really struck me as a psychologist and as a citizen.

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COMMISSIONER ANAYA: I think it's a good thing.

MS. DUTCHER: Thank you for your kind words.

CHAIRMAN SULLIVAN: Commissioner Montoya, then Commissioner

Campos.

COMMISSIONER MONTOYA: Thank you, Mr. Chair. Linda, would this project be housed out at the current facility that you just moved in to?

MS. DUTCHER: Mr. Chair, Commissioner Montoya, this project in terms of the administrative part, I would be a potential administrator for it, but the actual activities of working with the prisoners would take place both out at the Detention Center and then later in the community at various locations, rather than our little building spot, if I understood your question.

COMMISSIONER MONTOYA: Okay. So the case managers would be out in the field as opposed to in an office.

MS. DUTCHER: Oh, yes. Well, they'd have to have an office too, as home base.

COMMISSIONER MONTOYA: Mr. Chair, Linda, regarding the training being provided by Robert Myers, who is he and who does he work for?

MS. DUTCHER: Mr. Chair, Commissioner Montoya, Robert Myers, Dr. Myers is the originator of the community re-enforcement and family training approach, and he's an associate professor down at UNM. So he's basically a sole source provider.

COMMISSIONER MONTOYA: And then my understanding in reading this is that Dr. Carol Kumpfer would also provide some training?

MS. DUTCHER: That would be in the family strengthening program, which she has originated at the University of Utah.

COMMISSIONER MONTOYA: Okay. So we would contract with these people to do that.

MS. DUTCHER: Yes.

COMMISSIONER MONTOYA: And they've agreed to do that?

MS. DUTCHER: I've had extensive telephone conversations with them and they will respond if we get the money.

COMMISSIONER MONTOYA: Okay. Thank you.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: Ms. Dutcher, have you talked to Greg Parrish about this proposal?

MS. DUTCHER: Mr. Chair, Commissioner Campos, I certainly have.

COMMISSIONER CAMPOS: Good. He's on board?

MS. DUTCHER: He's on board. We'll have a letter of support from him that goes in expressing the need for these kinds of services.

COMMISSIONER CAMPOS: Yes. Because his role is so critical that would be one of the first persons I'd want to run this by before doing anything else. Second question, are there any general fund implications?

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MS. DUTCHER: No, sir.

COMMISSIONER CAMPOS: Absolutely federal money?

MS. DUTCHER: It would be absolutely federal money and I wrote in that we would do some in-kind contributions in the sense that our Finance Department has to handle these papers and that sort of thing, but there are no salaries, equipment, anything like that.

COMMISSIONER CAMPOS: As far as the short-term stays, County jails have people that are there for a short period of time, is this program effective in those circumstances?

MS. DUTCHER: Mr. Chair, Commissioner Campos, we would not be targeting those people. They need to be in at least three months. Unfortunately there's plenty out there.

CHAIRMAN SULLIVAN: Linda, on the in-kind contributions, \$64,000 is estimated, some of which is staff time, three automobiles and office furniture and office space. You're housed where right now?

MS. DUTCHER: Mr. Chair, we're currently housed over in what's called, for want of a better name, the old magistrate court building.

CHAIRMAN SULLIVAN: That's where --

MS. DUTCHER: That's where the administrative piece is.

CHAIRMAN SULLIVAN: So we do have something other than staff time. We have cars and postage and things like that. Hard costs.

MS. DUTCHER: Yes. We have cars left over from the current CRAFT project.

CHAIRMAN SULLIVAN: I see.

MS. DUTCHER: Maybe left over isn't the best word.

CHAIRMAN SULLIVAN: Okay. And my other question was, does this target any of our youth at youth facility or is this just the adult detention facility?

MS. DUTCHER: Mr. Chair, this is the adult detention facility.

CHAIRMAN SULLIVAN: Is there a similar program for the youth or is there a possible similar program?

MS. DUTCHER: I am not aware under this particular funding opportunity that they would be. Those kinds of programs generally come out of the Juvenile Justice Department rather than the Department of Education. This is actually targeted at adults, the funding source.

CHAIRMAN SULLIVAN: Okay. Thank you. Other questions. Do we have a motion?

COMMISSIONER ANAYA: Move for approval.

COMMISSIONER MONTOYA: Second.

CHAIRMAN SULLIVAN: Motion from Commissioner Anaya, second from Commissioner Montoya.

The motion to authorize submission of a grant proposal passed by unanimous [4-0] voice vote. [Commissioner Duran was not present for this action.]

CHAIRMAN SULLIVAN: Are there other Matters from the County Manager?

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MR. GONZALEZ: I do have a few other matters, Mr. Chair. Informational items. Virginia Vigil is our representative for homeland security purposes and she just wanted to make a note for the benefit of the Commission and the public concerning some information that's come to our attention, and then I had a couple of other announcements and informational items. Very brief.

VIRGINIA VIGIL (Policy Analyst): Mr. Chair, members of the Commission, this is a quick informational matter and you may have already received this e-mail. I do belong to an alert e-mail list from the Department of Homeland Security and I checked with our public safety officer, James Leech about this particular e-mail alert. There has been an exorbitant amount of purchases of UPS uniforms out of the Internet, in particular on e-Bay in the last 30 days, so this e-mail alert system has gone out to just alert everyone to make sure that their UPS deliverer is actually the regular deliverer. If there's any question about that, that verification through IDs should be given and also make sure that the UPS deliverer does deliver in the standard UPS truck. There was some concern from the US Department of Homeland Security that we should be alerted about that. I stand for questions.

COMMISSIONER ANAYA: Is UPS going to change something, do something so that we could recognize the UPS guy? Maybe they could wear a pink hat or something.

MS. VIGIL: I think the alert has been intended for the public in general and I don't know that UPS has actually integrated any kind of response to this, but they do have valid IDs and those are standardized IDs and they should be willing to disclose those IDs and they should be verified through UPS, and if there's any question, they've asked that we contact our local sheriff. James Leech said this would be a really good piece of information, our public safety officer, to report to you all and to put out there for the public.

COMMISSIONER ANAYA: Thank you.

MS. VIGIL: You're welcome.

CHAIRMAN SULLIVAN: Thank you, Virginia.

MR. GONZALEZ: In addition, Mr. Chair, Stan Holden our Fire Chief has contacted me and indicated that the Taos fire has slopped over into Taos Canyon. To assist with the response, we are providing 18 firefighters and 6 engines. The state has made that request and the equipment and men are on their way. So I just wanted to let you know that.

I will be out of state the 9th through the 11th, the last three days of this week and Chief Holden will be the acting County Manager during that time. He'll be working out of my office and available in case anything is needed. I will leave numbers so that I can be contacted.

Also, on July 25th we have scheduled the first jail issues forum, which we have invited members of the bar, of the court and other folks who are involved with the jail issues as the opening of our dialogue on how to resolve some of the jail issues in terms of cost, use, and so forth. And that will take place out at the jail. It will be a morning session and we will be providing sort of a continental breakfast as well as lunch out at the facility.

And then two other quick items. The economic development plan that the City is currently doing a study for, I've made some contacts with City staff, including the City Manager and given the emphasis that we've recently placed on economic development for the

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County, suggested that perhaps we might be a partner in taking a deeper look at what issues are being studied in relationship to the City's proposed economic development plan, which will come out of the consultant services. I just wanted to put that out there for the Commissioners to think about but it seemed to me that the plan already, the proposal will result in a report, already encompasses taking sort of a regional look at economic development and I know that some of the Commissioners have indicated that it might be wise to cooperate with and pool some resources with the City for that purpose and certainly not work at cross purposes. So that is currently in the works. I think there will be a meeting at the City Council chambers on the 15th of July to continue their discussion, their dialogue with the providers who are helping them to develop the plan.

And finally, the RPA, as some of you may be aware is also in the process of putting together an affordable housing task force. Just wanted to solicit any thoughts from the Commissioners on perhaps appointment from the County side to look at affordable housing in conjunction with the City.

Then finally, the Code rewrite session will be here in the County chambers on July 22nd at 1:00 to look at the Code rewrite. Thank you, Mr. Chair.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya, then Commissioner Campos.

COMMISSIONER ANAYA: Gerald, what time was the forum at on the 25th?

MR. GONZALEZ: That forum on the 25th will begin at 8:30.

COMMISSIONER ANAYA: Thank you.

MR. GONZALEZ: And that will be a continental style breakfast to kick it off.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: That answers my question, Mr. Chair.

CHAIRMAN SULLIVAN: Two for one. Other questions? Commissioner

Montoya.

COMMISSIONER MONTOYA: Gerald, regarding the economic development piece, is there any way that we can tie in with what the governor is doing with his new initiative and maybe utilizing some of that expertise that they have or are trying to gather at this point?

MR. GONZALEZ: Mr. Chair, Commissioner Montoya, there may be. I understand that the consultant that the City has retained is also supposed to make some contacts at the state level. Now, how far those go I don't know, but that's certainly input that we could provide if we didn't agree to participate as a partner in that study, certainly we could provide the information through comments. But I think that's a worthwhile suggestion. I know that we have also made some contacts with the economic development department in conjunction with what we're doing out at the economic development park.

COMMISSIONER MONTOYA: Because that may be an avenue to maybe get some additional interest in our specific park.

MR. GONZALEZ: Right. Appreciate that.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: Gerald and Commissioner Montoya, there is a

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guy named Lou Bachrach who has been given the task of trying to coordinate the state's efforts, the state's economic efforts with the City and the County. He's been involved in a couple meetings there expressing the governor's desire to try to coordinate the effort, not only with the City and the County but at the state level. And he has been attending our meetings, the meetings we've had relative to our business park and has been quite involved in the City's discussions on their economic plan and he has reported back to the governor about that. So he's definitely in touch with all the interested parties and the governor, with the main focus being trying to get the state behind the local effort.

MR. GONZALEZ: Laura Epler is the person in the County Manager's office charged with spearheading that effort and has remained in constant contact with Lou Bachrach, so we do have contact already.

COMMISSIONER MONTOYA: Good.

CHAIRMAN SULLIVAN: I see we have a guest from the legislature visiting us. Representative, would you like to come forward and make a few comments to the Commission? We're just about to go to an executive session so it's not very interesting at this point. We appreciate your coming.

COMMISSIONER MONTOYA: And his wife Carmen.

CHAIRMAN SULLIVAN: And his wife, Carmen. Thank you for adding that.

X. F. Matters from the County Attorney

1. Executive Session

- a. Discussion of Pending or Threatened Litigation
- b. Discussion of Bargaining Strategy Preliminary to Collective Bargaining Negotiations
- c. Discussion of the Purchase, Acquisition or Disposal of Water Rights
 - i. Wheeling Agreement

Commissioner Anaya moved to go into executive session pursuant to NMSA Section 10-15-1 (5, 7 and 8) to discuss the matters delineated above. Commissioner Duran seconded the motion which passed upon unanimous roll call vote with Commissioners Anaya, Campos, Duran, Montoya and Sullivan all voting in the affirmative.

[The Commission met in executive session from 4:20 to 6:10.]

Commissioner Duran moved to come out of executive session having discussed only the matters outlined in the agenda, and Commissioner Campos seconded. The motion passed by unanimous [4-0] voice vote. [Commissioner Montoya was not present for this action.]

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XI. Public Hearings

A. Project and Facilities Management Department

**2. Second Public Hearing on the 2004 - 2008 Santa Fe County
Infrastructure Capital Improvement Plan**

CHAIRMAN SULLIVAN: This is the second public hearing, isn't it?

REBECCA BUSTAMANTE (County Clerk): Tony says that after he presents it today at the public hearing he's going to bring it back at the next meeting.

CHAIRMAN SULLIVAN: For approval. Okay, so then we don't have a resolution number yet. Okay. While we're waiting for the staff report, we're on item A. 1, which is the second hearing for the County infrastructure capital improvements plan. There have been a number of hearings throughout the county to get public input on this and this is to develop a plan which goes to the state and ultimately to the legislature. It includes streets, housing, storm drainage, water quality, parks, trails, site acquisition, community facilities, renovation, equipment and so forth. So if there is anyone who is in the public, in the audience now from the public who would like to speak on the infrastructure capital improvement plan, this is their opportunity to do so. Would there be anyone who would like to speak regarding the infrastructure capital improvements plan? Yes, sir. Would you come forward and state your name, Mr. Dayton.

DON DAYTON: Mr. Chair, members of the Commission, I'm Don Dayton from Eldorado. One of the items coming up on the capital improvement plan is the senior citizen center for that area of the county, which would take in not only Eldorado but Glorieta and Galisteo. It is a very important item, I think, to take before the legislature. They have already approved money for the senior citizens center to complete the design and I understand that that design work will be done shortly. So it would be very orderly to move forward with the next request to the legislature in the coming session. So we strongly endorse that program. Thank you.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN SULLIVAN: Thank you, Don, and as I understand, there's also been a site evaluation study completed and a site selected for that. Is that correct?

MR. DAYTON: Yes. Our understanding is that the County would use the present County land where the library is now situated. There is plenty of room for the senior citizen center at that location.

CHAIRMAN SULLIVAN: That would be a regional senior center; not just an Eldorado senior center.

MR. DAYTON: Yes, for that whole end of the county. There are over 200 members of the senior citizens group in Eldorado alone and then we would expect a significant number from Glorieta and Galisteo also.

CHAIRMAN SULLIVAN: Thank you, sir. Is there anyone else from the public that would like to speak to the infrastructure capital improvements plan? If not, are there comments from the staff?

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MR. FLORES: I apologize for that, Mr. Chair. Basically, this is the second public hearing. Based upon the amount of community input, a number of projects we've received from the community, we are pushing back the adoption of the resolution and final public hearing to the July 29th meeting. At that time we'll come up with a final public hearing and the resolution for adoption so that we can submit it to DFA by July 31st.

CHAIRMAN SULLIVAN: You still have your Commission meetings. You haven't met with all the Commissioners yet.

MR. FLORES: The final lists are due back July 15th, but internal and any external requests that have not been submitted to date. That's next Tuesday. After that time we'll compile the draft list, meet with the Commissioners, bring forward our priority list as well as our funding options, and that gives me basically two weeks to bring the final plan to fruition to be brought before you on the 29th.

CHAIRMAN SULLIVAN: All right. Commissioner Duran.

COMMISSIONER DURAN: Tony, is the CDBG project part of this?

MR. FLORES: Mr. Chair, Commissioner Duran, it is a component of, however, the CDBG is project-specific. Certain HUD criteria, so I think we can identify through our ICIP a potential CDBG applicant and identify it on the plan but that's really a separate avenue for funding for one project. So we may leverage different dollars for our CDBG project.

COMMISSIONER DURAN: When does that CDBG process begin?

MR. FLORES: We'll get the rule out, Mr. Chair, Commissioner Duran, we'll get the rule in August with the applications due in November.

COMMISSIONER DURAN: Okay.

MR. FLORES: So it comes in after the submission of the ICIP plan.

COMMISSIONER DURAN: Okay. Thank you.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: Tony, I'd like to know in the past which districts had got the CDBG funding, so that we make sure that which other districts - I want to make things fair here. So maybe go back ten years.

MR. FLORES: Okay.

COMMISSIONER ANAYA: So I know. I don't know what it is.

MR. FLORES: Mr. Chair, Commissioner Anaya, I can tell you right off the top of my head, the former District 2 and District 3 have received, and District 1 as well have received the lion's share of any CDBG project for the past five years. I can go back and research further than that and see the exact number by district. I'd have to go make sure that we identify the new district versus the old district so that we be fair on where the project was located.

COMMISSIONER ANAYA: Okay. Thank you.

CHAIRMAN SULLIVAN: Commissioner Duran, if you're interested in the CDBG for this year, the Community Development Council will have public hearings on July

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23rd at 9:00 am in Albuquerque.

COMMISSIONER DURAN: Okay.

CHAIRMAN SULLIVAN: At the TVI Jay Auditorium in the Montoya Building, and that will be to get feedback on CDBG rules and regulations. So that's July, then after that --

MR. FLORES: They'll submit the rules.

CHAIRMAN SULLIVAN: They'll submit them and adopt them.

MR. FLORES: Absolutely.

COMMISSIONER DURAN: And we're eligible for CDBG this year?

MR. FLORES: Mr. Chair, Commissioner Duran, yes, we will be eligible for CDBG this year.

COMMISSIONER DURAN: Okay.

CHAIRMAN SULLIVAN: Any other comments, questions from the Commission?

COMMISSIONER ANAYA: And how much is that?

MR. FLORES: Mr. Chair, Commissioner Anaya, the maximum amount of funding -- they changed the rules. Maximum we can get for CDBG is \$500,000. We've estimated that for some of the prior facility projects we've had, we need between \$575,000 and \$675,000 to complete a project and get it off the list. Remember the CDBG is a two-year period. So the sooner we can get a project completely funded, the sooner we can get it built, closed and on to the next list.

CHAIRMAN SULLIVAN: Other questions or comments? If not, thank you, Tony.

MR. FLORES: Thank you.

CHAIRMAN SULLIVAN: And we'll complete that ICIP list at the next Commission meeting.

XI. B. Land Use Department

2. BCC CASE #03-4370 - Pomonis Land Division. Daniel Pomonis and Denise Wikoff, Requests Plat Approval to Divide 5.004 Acres into Two Tracts. The Tracts Will be Known as Tract C-1 (2.503 Acres), and Tract C-2 (2.501 Acres). The Property is Located within the Alameda Ranchettes Subdivision, off of Sloman Court Via Santa Fe County Road 70-A, within Section 25, Township 17 North, Range 8 East (Commission District 2) (FOR DELIBERATION & ACTION ONLY)

CHAIRMAN SULLIVAN: This was a case heard at the last land use public hearing meeting for deliberation and action only. It's not for public hearing again. There was a tie vote at that time so we now have five members present to rehear that. Staff?

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VICTORIA REYES (Development Specialist): Thank you, Mr. Chair. The Board of County Commissioners heard this case on June 10, 2003. The decision of the Board was tied with two votes to approve and two votes to deny. Under the Commission rules of order, the application is automatically tabled until the next meeting. This case is now coming before the Board for deliberation and vote only. The BCC minutes and staff report are attached in Exhibits A and C. The BCC should consider the discussion and issues as outlined in the June 10, 2003 meeting minutes to deliberate and vote on this case. Thank you.

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: I'd like to make a motion to approve this case.

COMMISSIONER ANAYA: Second.

CHAIRMAN SULLIVAN: Motion by Commissioner Duran and second by Commissioner Anaya. Discussion?

The motion to approve BCC Case #M 03-5133 failed by a 2-3 voice vote with Commissioners Duran and Anaya voting in the affirmative.

XI. A. 3. Ordinance No. 2003 - An Ordinance Amending Article XIV, Traditional and Contemporary Community Zoning Districts, of the Santa Fe County Land Development Code (Ordinance 1996-10) to Add a New Section 7, El Valle De Arroyo Seco Highway Corridor Plan.(First Public Hearing)

CHAIRMAN SULLIVAN: This is the first public hearing. We'll have a brief staff presentation and then we'll invite the public to make any comments that they would like. And Robert, if you could move those perhaps over by the recorder and the public could be able to see the maps as well. Okay, now can the Commission see them okay? Commissioner Anaya, can you see them okay, or no?

COMMISSIONER ANAYA: Not really. That's good.

CHAIRMAN SULLIVAN: If there's anyone in the public that wants to see these come on up to the front here and Representative Lujan and his wife and others who are interested in this item, I want to be sure you can see the maps. Just a minute, Robert. Let me get something administrative out of the way here. Are there any individuals who are here for item number four, which is the Ferbie Carriz variance, Case 02-5600? Is there anyone who is here for that? Because that was withdrawn by the applicant and will not be heard tonight. Okay, I don't see anyone here for that so we're okay. Excuse me, Mr. Griego. Go right ahead.

ROBERT GRIEGO (Planner): Mr. Chair, members of the Commission, this is the first of two public hearings regarding the proposed ordinance. There is no action required at this meeting. I'd like to briefly present the planning process, identify the area for the Highway Corridor Plan zoning district and then highlight the main points of the proposed ordinance and

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major modifications to the current land use code for this district.

The El Valle de Arroyo Seco Planning Committee developed the Highway Corridor Plan after several years of community meetings in accordance with the Community Planning Ordinance. All meetings were open to the public and several community events and community meetings were held to inform the community of the process and request community participation. The Board of County Commissioners unanimously adopted the El Valle de Arroyo Seco Highway Corridor Plan via Resolution 2003-4 on January 14th of this year. The County Planning Division staff has been meeting monthly with the planning committee since the adoption of the plan to draft the proposed ordinance. This proposed ordinance will codify the policies outlined in the plan and amend the Santa Fe County Land Use Development Code with specific regulations to be applied only within the El Valle de Arroyo Seco Highway Corridor Plan zoned district.

On June 26, 2003 the County Development Review Committee unanimously recommended approval of the Highway Corridor Plan zoning district to the Board. The El Valle de Arroyo Seco Highway Corridor Plan -- I'm going to move over to the map here -- begins at the northern border of the Pojoaque Pueblo. It runs north throughout to the eastern boundary of the Santa Clara Pueblo and lies just southeast of the intersection of US 84/285 with New Mexico 399 and New Mexico 106. The corridor is defined as -- the length of the corridor is 3.36 miles and is basically 300 feet on both sides of the right-of-way of the highway corridor based on property boundaries. So we approximated 300 feet as best as we could along, based on the property parcels data.

I'd like to go over the main points of the proposed ordinance and modifications to the Land Use Code. The home occupations section was slightly modified for this district and is allowed throughout the entire highway corridor district. The major modifications are it reduces the amount of employees for a home business from six to three and it requires standards for parking and standards for signs. The plan also creates a home business district. This is a new category which will allow -- the home business is defined as a small scale commercial use and is conducted from one's place of residence. This will modify Article III, Section 3 of the Code. Criteria for home businesses include the following: property must be contiguous to US 84/285; property must be 1.5 acres or greater; permitted home business activities are listed in the proposed ordinance; the proprietor of the business must reside onsite; there's a maximum of six employees for a home business; the square footage for home business must be limited to 2,000 square feet and outdoor storage areas to 1,000 square feet, or one half of the total home business square footage, whichever is less.

It provides standards for signs, water consumption restrictions for home businesses are .25 acre-foot of water per year for business uses on private wells. The wells must be metered. There is a trash management requirement. Noticing and submittal requirements for a home business. This plan also creates a commercial district. The commercial district proposed is the area north of County Road 88 all the way to the end of the highway corridor. It's approximately one mile in length. This area, properties for commercial must be contiguous to US 84/285 to be eligible for commercial zoning. This commercial district will replace the

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existing commercial node, which is a community node at the intersection of County Road 88 and US 84/285.

Standards for the commercial district, in the proposed ordinance there is a permitted and prohibited businesses for commercial development. There is a commercial connection, the water system requirement of water use restrictions for commercial uses. There is a commercial water resources plan requirement, standards for building height, lot coverage, square footage for commercial development, a maximum square footage for commercial development. Requirements for setbacks, lighting, signs, screening, noise buffering, landscaping and water conservation requirements for landscaping and site planning.

Other elements of the plan include standards for wireless communication facilities with cell towers. In this ordinance it's called wireless communication facilities. There's also a requirement for engine retarders. Engine retarders or the use of engine brakes is prohibited along the El Valle de Arroyo Seco highway corridor zoning district. There is also procedures for community review of non-residential and large-scale subdivision applications. There are procedures for a community plan and ordinance review and revision to make sure that the ordinance is not static and it gets reviewed every other year.

This concludes my brief overview of the presentation. There was a couple of items that the Land Use Administrator, Roman Abeyta wanted to discuss with the Board as well.

MR. ABEYTA: Thank you, Robert. Mr. Chair, I just want to real briefly add that this is and remind the Commission again that this is the first public hearing of two. I have had some calls from different property owners who have property that has been zoned but maybe does not have final development plan approval. Section 7.3 of the ordinance addresses that. It states that any development that does not have final development plan approval where such approval is required at the time of adoption of this ordinance shall comply with this ordinance. That could create a problem for property that the Commission has previously zoned commercial if it was outside of the commercial area. One thing that we will do and it's not uncommon with these ordinances is we will go back and before the second public hearing we will make sure that we've identified properties that have been granted a zoning approval or in some cases variances for commercial zoning.

We'll talk to our legal department and we may have to make an exception for those properties. So I just wanted -- and again, it's not uncommon for us to do that. An ordinance that comes to mind is the metro area highway corridor ordinance. We had situations where there were properties that were zoned or had some type of approval so as part of the adoption there were exceptions made for certain properties and I think there may be some people that testify before the Board of County Commissioners this evening that could have a situation like that or a similar situation. So I just want to remind the Board that we will look at that and we will come back with maybe a minor modification to this section of the ordinance and possibly other sections, depending on the testimony we receive this evening. Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Is that it, Robert?

MR. GRIEGO: I stand for questions from the Board.

CHAIRMAN SULLIVAN: Just a clarification, Roman, for my information.

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We're now doing an ordinance and the ordinance is based on an approved community plan, correct? So when those commercial areas or whatever they might be that are in the process of being rezoned or have variances given to them, how did we handle that in the master plan? Were they exempted in the master plan?

MR. ABEYTA: Mr. Chair, I don't know if that was -- we did do some analysis and maybe Robert can clarify that. We did do an analysis when we did the plan and we were able to identify some of the properties but there may be other cases that didn't get identified and again, we need to go back to legal and we need to make sure that the language -- right now as it stands, the ordinance proposes that whether you have a variance or just commercial zoning, if you don't have final development plan by the time this ordinance gets adopted and you're not in a commercially designated area that the ordinance sets out then you could lose that zoning. So that could raise some legal issues or questions for the County.

CHAIRMAN SULLIVAN: Or you could lose that potential zoning.

MR. ABEYTA: Or potential, right. You could lose the potential zoning.

CHAIRMAN SULLIVAN: It's not zoning until it's approved finally.

MR. ABEYTA: Well, no. The master plan zones the property.

CHAIRMAN SULLIVAN: But the master plan follows what we're looking at here on the map, correct?

MR. ABEYTA: Right. But if a master plan has been approved for an individual property before this ordinance goes into effect then the question is how does this affect the zoning that was already granted. And a case that comes to mind is in the case that a variance was granted, generally variances run with the land. And so again, it's something we need to research with the legal department before the second public hearing.

CHAIRMAN SULLIVAN: Because I recall, just for the sake of clarification that Steve Kopelman would frequently tell us that no zoning is final until the final approval is given and no vested rights are conveyed to the applicant. I assume that's what you're saying here in the ordinance. Is there some indication that that's not correct?

MR. ABEYTA: Mr. Chair, a specific case that comes to mind is one in where the Board granted a variance and that's a little difference in that variances run with the land, so that's what we need to research with the legal department. Maybe it's as you say, if a master plan was approved that zoned it, maybe the zoning goes away if the final development plan was approved. But if there was a variance that was granted with that zoning, again, the general rule or the advice we've received in the past is that variances run with the land. Therefore we would have to research whether or not we need to amend this section because of potential future litigation.

CHAIRMAN SULLIVAN: That variance being a variance at the master plan level?

MR. ABEYTA: Yes, to allow commercial zoning.

CHAIRMAN SULLIVAN: Not at the final level.

MR. ABEYTA: Right. But again, we need to research it and I'm sure you'll get testimony this evening from property owners that may have that situation.

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CHAIRMAN SULLIVAN: Right. Are there other questions of Mr. Griego or Roman?

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Griego, what about landscaping standards and water harvesting as part of this ordinance? Have you considered that?

MR. GRIEGO: Mr. Chair, Commissioner Campos, yes, we did consider it and we didn't want to place too much of a burden but we set some guidelines in here. If you look at the landscaping section --

COMMISSIONER CAMPOS: What page is that?

MR. GRIEGO: That is page 9, Section 7-14.

COMMISSIONER CAMPOS: How does this compare with the City landscaping ordinance standards?

MR. GRIEGO: The City landscaping standards are much more in depth. They have a couple of different ordinances and they go for several pages long. We just wanted to provide guidelines for this area right now so we have standards for native vegetation.

COMMISSIONER CAMPOS: They're pretty general.

MR. GRIEGO: Yes.

COMMISSIONER CAMPOS: But I think Mr. Abeyta might be able to help us on this discussion. Recently we had an EZA case where the discussion was that the landscaping standards of the County were really inadequate under these new dry conditions and that perhaps the County needed to adopt a new ordinance as far as landscaping, but I don't see that thinking translated to 7.14. Mr. Abeyta, could you address that issue?

MR. ABEYTA: Mr. Chair, Commissioner Campos, under 7.14.4.1 it states that all landscaping and revegetation shall use xeriscaping and/or native, drought-tolerant plants.

COMMISSIONER CAMPOS: I understand that.

MR. ABEYTA: But I think what you're getting at is maybe the number of plants and the type of watering.

COMMISSIONER CAMPOS: Exactly.

MR. ABEYTA: This ordinance does not go into that detail.

COMMISSIONER CAMPOS: At that meeting I think you were part of that discussion and you agreed that perhaps we needed to update our standards and maybe we should do it at this point.

MR. ABEYTA: Mr. Chair, Commissioner Campos, maybe we can go back. Again, this is the first public hearing so I don't know how it would prolong this process or this particular ordinance but that is something that we can look at.

COMMISSIONER CAMPOS: But landscaping, all the water that goes to landscaping is a lot of water, so that's an important issue. The other issue that's not addressed here is water harvesting. We're creating ordinances in different parts of the county. We're talking about water harvesting for the whole county but then we're creating all these ordinance that don't even talk about it. So that's the contradiction to me as far as policy.

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MR. ABEYTA: Mr. Chair, Commissioner Campos, part of the issue that we run into is there are no standards that have been adopted for the county for water harvesting.

COMMISSIONER CAMPOS: My point is why don't we start doing it with these zoning ordinances. You're going to have to come back and do it anyway.

MR. ABEYTA: Mr. Chair, Commissioner Campos, we can do it with this ordinance.

COMMISSIONER CAMPOS: We have to start some time, somewhere. I know for the revision of the major Code we're thinking about that standard.

MR. ABEYTA: Right.

COMMISSIONER CAMPOS: But then you're going to have to go back to all these communities and amend all these things piecemeal. Just a thought.

MR. ABEYTA: Well, it's a good point and maybe this is where we start. We can start with this ordinance. Again, I don't know how it would -- what kind of time frame the community has for this getting adopted and this may delay it but I couldn't imagine it would delay it much more than maybe 30 days. We could probably come up with something. If not by the August BCC meeting then maybe September. But I agree. Maybe if we get directed to then we should work on that for this ordinance.

COMMISSIONER CAMPOS: And the other issue, Mr. Griego, that's not addresses it seems is infrastructure for water and wastewater. Again, you're leaving it to wells and septic.

MR. ROYBAL: Yes, Mr. Chair, Commissioner Campos. What we tried to do with this ordinance is there is no -- well, there is a minor water system that is out there right now. The County is working with the community of Arroyo Seco as part of Cuatro Villas Mutual Domestic Water Users Association to develop a system for this area. And what we did through this ordinance was trying to require commercial development to hook up to that system when that system is in place. But right now, we don't have a system and we're working towards that through this process.

COMMISSIONER CAMPOS: As far as that system is concerned, what is the coverage of that system relative to the size of this district? Will it cover the whole district, that service area?

MR. GRIEGO: It's my understanding it has. We've received, there's a feasibility study that has been -- four of the five phases of feasibility study have been completed and it would cover the El Valle de Arroyo Seco area. We're still doing some additional work. There's going to be some test wells that are drilled and then, based on what, the final alternative for the water system will be determined.

COMMISSIONER CAMPOS: And that's water delivery, not wastewater, right.

MR. GRIEGO: Water delivery, not wastewater. That's correct.

COMMISSIONER CAMPOS: Strictly delivery. No thought about wastewater

at this point.

MR. GRIEGO: Mr. Chair, Commissioner Campos, no, we don't have that addressed.

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COMMISSIONER CAMPOS: Now, the big question here for policy purposes, are you trying to bring people here? Is this going to be like a cluster development where you want to have intense development in this area? Intense residential or whatever? Is that the design or hope? Or is that not the design of this plan?

MR. GRIEGO: Mr. Chair, Commissioner Campos, I don't believe that was the intent of this plan. What we did through the community planning process is we did a land use analysis and we determined the areas most suitable for commercial development based on what was already there, what had already been zoned. We wanted to create a new district and take out the node, because the node was covering a lot of the residential area there and so by creating this new district what we were able to do is try to say that this area is the most appropriate for that, based on both the current land uses that are there and the future, proposed land uses.

The Highway Department is in the midst of doing a major renovation of the -- well, they're doing a study for this area and the studies have shown that there's going to be at the New Mexico 399, they're proposing an interchange at that area with frontage roads and so this area, the northern area of the district is the most appropriate based on future plans and what's there right now.

COMMISSIONER CAMPOS: My question is, what's the policy here? Do we want to bring people in and cluster them within this area and provide infrastructure like we do in so many areas? This area has a lot of sprawl. It has a lot of wells and a lot of septic tanks and that's a big problem for the area. So do we want to bring people into the area and provide them with good infrastructure of water and wastewater? That's the policy we've been pursuing in other areas. We don't seem to be pursuing it in this area.

MR. ABEYTA: Mr. Chair, Commissioner Campos, I believe one of the main intents of this plan was to protect the highway corridor from what was happening as far as commercial development. Because the node concept that the County Code has currently isn't working in this area. So the focus wasn't so much residential density or that type of development but it was the highway corridor and how we can protect it from the existing commercial. So if you read the ordinance, you'll see that it doesn't address residential at all, and part of the reason is because the size of the district is limited to 300 feet on both sides of the highway. And again, the focus is commercial along that highway, and that was the concern that the community raised to us was we were concerned about commercial along this and given the fact that the highway is going to make improvements, we want to make sure we have a plan. And we know what's going to go where.

COMMISSIONER CAMPOS: I understand, Mr. Abeyta, but isn't staff raising the bigger public issue of adequate infrastructure and water there and cluster development to avoid sprawl. That's the bigger public issue.

MR. ABEYTA: Mr. Chair, Commissioner Campos, we are, as part of the Cuatro Villas planning, as far as water goes, we are doing that, and it's for more than just this highway corridor, but the northern area in general.

COMMISSIONER CAMPOS: But Cuatro Villas is only going to commercial

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developme . You're not requiring anybody else to hook up to it. You're just requiring commercial users.

MR. ABEYTA: Well, as far as this ordinance, and in that highway corridor, that's correct. Because again, the focus was commercial and not residential.

COMMISSIONER CAMPOS: I agree that this is a good plan, but I think it needs to be maybe broadened in the future. I think we can go with this plan now but we've got to address the bigger public interest issues in a more comprehensive way. This is a big issue, granted, but I think we need to look at it a little differently. That's all I'm suggesting. Thank you.

CHAIRMAN SULLIVAN: Other questions for staff?

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: I think the reality of this situation is that this particular corridor is never going to have the kind of infrastructure that you're talking about. There's no way of getting regional water out there. There's no way of getting a regional sewer system out there. It's just economically impossible to do that.

CHAIRMAN SULLIVAN: Other comments or questions from the Commission? One question or comment I had, Robert, was in the signs, 7.1.0, page 7 and page 8, you have a requirement of 70 square feet for free-standing signs, which is 7.1.0.5. You also allow building-mounted signs and you have no square footage limitation for those. Is there some thought to restrict building-mounted signs as well? Shouldn't there be?

MR. GRIEGO: Mr. Chair, I believe we do have a sign limitation.

CHAIRMAN SULLIVAN: It just says they won't protrude over five feet above the highest point of the structure and then you go on to say free-standing signs shall be a maximum square footage of 70 square feet with advertising permitted only on two sides of the sign.

MR. GRIEGO: Mr. Chair, yes. I think that we probably need to put a maximum sign square footage on the building-mounted signs as well.

CHAIRMAN SULLIVAN: Okay. Other questions? Okay, if not, this is a public hearing on the proposed plan. We would like to invite anyone who would like to speak on the plan, either in favor or in opposition or neutral to step forward and do so. Let's not be bashful.

COMMISSIONER DURAN: This is the first public hearing.

CHAIRMAN SULLIVAN: This is the first public hearing. You'll have another opportunity a month from now to do so again. Okay, I don't see anyone wishing to speak on the plan. Commissioner Montoya. Oh, there he goes. We weren't going to force you up here, Mr. Speaker.

REPRESENTATIVE BEN LUJAN: Good evening. Or good afternoon, I guess. Mr. Chair, Board of Commissioners, not having attended any of the other meetings, I guess there is some concerns that I think the Commission needs to take into consideration and one of them is that this is a traditional community. It's been designated as a traditional community and

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the lot sizes for that traditional community is 3/4 of an acre. And I see that there is a requirement for people that might be interested in having a home business, of having 1+ acre. I couldn't understand how much. An acre and what? One and a half acre in order to have a business on their property. And I don't know how many people have that acre and a half in that community. As lots were legally sold for 3/4 of an acre so a lot of people have that. So I don't know who we're kind of setting aside here that they might be able to have a business, folks that live in the community.

I guess the other concern is that it states that home — folks that would wish to have a home business would have to reside in that premises, and I think that we need to take a look at that also. We all pay taxes the same as everybody else whether we reside in that presence of that home or not, or that property. So I think that needs to be looked at. And I guess, 7.3 does state about commercial properties that have been zoned and I appreciated the comments from Roman that this needs to be looked at. Most of the Commissioners were here prior to the new Commission had my and my wife's and my family's .86 acres zoned commercial about two years ago. I have not come in for final plan for development of that lot and I understand that there is a question there whether then if approval is done, then I could very well be removed from that action that was legally and through public hearings and the whole nine yards given to me and my family. So I hope that is taken into consideration and those properties would be grandfathered in.

That existed at that time that that whole corridor should be zoned residential and commercial. I think it's only right for property owners along that corridor to have that same right as everybody else so I think it makes sense. I also am concerned about I guess that the signage, I don't know if it was specifically any aim taken at some other advertisement billboards that have been there for quite a long time, over 20 years and I would hope that that is also taken into consideration and those are also grandfathered in because of the fact that we can't just simply put restrictions on people to try to then conform to some legal conforming structures that have been in place. Thank you.

CHAIRMAN SULLIVAN: Thank you, Mr. Speaker. Any comments, Roman, you want to add to those particular items?

MR. ABEYTA: Mr. Chair, again, we will go back. We'll look at Section 7.3 and take into consideration the comments. As far as billboards, signs that have been on the property since before 1990 are grandfathered in and they will remain grandfathered in and legal non-conforming. That wasn't just considered as part of this ordinance but we did have an actual case in which we tried to have a billboard removed in the 90s. We went all the way to court and got a ruling that if it was there since before 1990 when our billboard ordinance went into effect, which actually prohibits them, then we have to allow them to remain grandfathered in. So they will not only be grandfathered in under this ordinance but under existing County Code they're grandfathered in. We won't allow somebody to place a new one that's not existing. That's clear. You can't do that, but if you have one that's been there, it can continue to remain there.

COMMISSIONER CAMPOS: Mr. Chair.

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CHAIRMAN SULLIVAN: Commissioner Anaya, then Commissioner Campos.
COMMISSIONER ANAYA: Is there a lot of residents, owners out there that have 3/4 of an acre?

MR. ABEYTA: Mr. Chair, Commissioner Anaya, that is the minimum lot size for a good portion of that area is 3/4 of an acre.

COMMISSIONER ANAYA: So then if they wanted to do a home occupation, it stipulates in here that they'd have to have an acre and a half.

MR. ABEYTA: There are two types of businesses. One is the home occupation and then the other is the home business. The home business would be a little more intense, therefore the thinking behind that, the community thinking was that if we're going to allow something more intense than a home occupation then the lot size should be a little bigger because you might need more area for parking and things of that nature, but we can look at that between now and our next public hearing again and then come back with a recommendation.

COMMISSIONER ANAYA: Yes, because I know that you could -- there's people that are out there that have a prime spot that have a 3/4 acre that they would like to do something and they could put a good business on 3/4 acre. It doesn't have to be a big one, but it can be a nice one.

So that's it for me. Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Other comments?

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: As far as the signs, Mr. Abeyta, you say there's a court ruling that says we can never regulate signs that were there before 1990. Is that right?

MR. ABEYTA: That's my understanding, yes.

COMMISSIONER CAMPOS: Okay. I guess the question then for you and for legal staff is to define our authority to regulate signs using that case as a guide plus other standards and present us with that information at the next hearing so that we have something to orient ourselves by.

MR. ABEYTA: We can do that, Mr. Chair, and the case was specific to billboards and not signs for a business located on the property itself, but it was specific for billboards because our ordinance said you have five years to remove all billboards and that's where we ran into a problem with that.

COMMISSIONER CAMPOS: We're they saying that five years wasn't long enough?

MR. ABEYTA: I think that the ruling was that if it's grandfathered in it can remain.

COMMISSIONER CAMPOS: Indefinitely.

MR. ABEYTA: Indefinitely.

COMMISSIONER CAMPOS: And that was a New Mexico Supreme Court decision?

MR. ABEYTA: I don't remember but it was specific to Santa Fe County and

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we can do that research.

COMMISSIONER CAMPOS: We need more information on that issue.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: I'm going to agree with the Speaker on the fact that if somebody had already gone through planning and zoning and if this gets approved, I think that they should continue on with what they had started and not have to go back. So I agree with the Speaker on that.

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: I think if you have criteria here for what qualifies for a home occupation or a home business that there should be no requirement on size unless you're going to provide us with a study indicating how many of those lots that are in existence right now are less than 1.5 acres. I've always maintained the position that living along that highway corridor is not the highest and best use of that property. I know some people live there; some people don't mind but as that highway gets improved, I don't think it's a place that I would want to raise my family with all those cars driving through there, and I think that the property owners along this corridor should be given the opportunity, if they decide they want to live there, that's fine, but if there are other opportunities for them based on what progress has done to their neighborhoods, I think we should give them that opportunity. And to limit it to 1.5 acres may turn out to be, it may not be the fairest thing to some people who have lots that are less than that.

So my suggestion, when this thing comes up for us to adopt would be to adopt the ordinance but to delete the paragraph that dictates the size of the lot and have the existing zoning be the determining factor in that. Thank you.

CHAIRMAN SULLIVAN: Roman or Robert, clarify to me, the area in gray, that's the area that you're proposing that could be either home occupations or home businesses. Is that correct?

MR. GRIEGO: Mr. Chair, no. That's not correct. And I have another map. We're working on developing another map for this. The map that's shown there was part of the - it's a little bit confusing. I've got another map here that I can show a little bit clearer. But basically, home occupations are allowed throughout the entire highway corridor. Home businesses, I'm sorry. Home occupations and home businesses would be allowed throughout the entire highway corridor.

CHAIRMAN SULLIVAN: Okay. And home occupation wouldn't require that they get more land than 3/4 of an acre.

MR. GRIEGO: That is correct, Mr. Chair.

CHAIRMAN SULLIVAN: It's a home business, the way it's currently written, would require 1.5 acres.

MR. GRIEGO: That is correct.

CHAIRMAN SULLIVAN: Well, then, what is the green area?

MR. GRIEGO: The green area is the area north of County Road 88, which is the proposed commercial district. So that would replace the current commercial district at County Road 88.

CHAIRMAN SULLIVAN: And then what is the gray area?

MR. GRIEGO: The gray area is a proposed home business district but it goes all the way up. And that's why the map is a little bit confusing. I have another map.

CHAIRMAN SULLIVAN: Oh, okay. So as you said, you can have home businesses or home occupations either place, any place in the corridor. You can only have commercial in the green area, if I'm reading you right.

MR. GRIEGO: Mr. Chair, that is correct. This map shows crossed hatch areas of the home business district all the way throughout the corridor for areas that are contiguous to US 84/285. If they're not contiguous, they're not eligible for home business.

CHAIRMAN SULLIVAN: And then is there a requirement on people in the commercial area that they have an acre and a half or some minimum acreage if you want to have a larger establishment as defined under commercial establishment?

MR. GRIEGO: No, there is not. That's according to the County Code. There's not a requirement for land use. However, basically, the intent, I just want to get back to the intent of the plan a little bit, was to allow the property owners along the district, because as Commissioner Duran stated earlier, it is next to a highway so what we wanted to do was create some way for property owners to get some use of their properties other than residential to allow business for the area without having a complete strip development along the entire highway corridor.

I also wanted to address some of the points about the lot size for that. One of the reasons that we did the lot size of 1.5 acres has to do with the access issues. It is a long a highway. There are plans for renovation of the highway but right now we're concerned, there are concerns that there might be, if the property is too small there could be some safety concerns along there. We've been working with the Highway Department on this. We're actually developing a memorandum of understanding with the Highway Department regarding some of the access issues. They've reviewed the ordinance and we're still working with them about what the access issues are. So we have a memorandum of understanding that we'd like to bring to this Commission regarding the Highway Department but those are concerns, the access along the corridor.

CHAIRMAN SULLIVAN: Okay, other questions of staff?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Griego, just for the record, David Romero called me and he was unable to be here. He received a letter, apparently today and I will be getting you the correct address. He was requesting if there was a possibility of extending that green section about 200 feet to include his. He would like to be included in the commercial zone so I'll get you that information as well, but that was a request that he made to put that forward.

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MR. GRIEGO: Okay, Commissioner Montoya, I think we would like to hear from the property owners along there. If that's correct he will probably be in the current commercial node so it wouldn't be a stretch, I don't think, to include that area.

COMMISSIONER MONTOYA: Okay. Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Other questions? If not, thank you, Robert. That will conclude the first public hearing on this. There's a question from the back. Come right up. Don't be bashful.

PATRICIO GONZALES: Mr. Chair, members of the Commission, first of all I'd like to thank all of you for the opportunity to appear before you and I guess my request is a couple things. One, and I think Commissioner Montoya touched on it a little bit. I think this map is a little bit deceiving in that the purple area right here, there's many, I think there's ten to 13 businesses that are already commercial that run all the way up probably to the Pojoaque tribal lands, so I'm wondering why we couldn't just zone or allow for commercial use all the way in into Arroyo Seco, just because there are so many businesses that exist there already.

The other concern I have is why, if the Highway Department is looking at expanding the Highway Department and taking land, I think that creates a couple issues in that, one, why would anybody want to live, I think, as a resident, next to where there'll be a six-lane highway if that's what they're proposing. And the other issue is that if the highway does come in and take someone's property. For example, I have an acre and a half out there in Arroyo Seco. If they take some of my land well then that will kick me out of the home business district or complying with it. So I think these are a couple issues that maybe it would be the community planners or whoever it is that are planning this and maybe the Commission can consider whether extending the commercial use. Again, I thank you for the opportunity.

CHAIRMAN SULLIVAN: Thank you. Would you like to give us your name, sir.

MR. P. GONZALES: I'm sorry, sir. My name is Patricio Gonzales.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: Patricio, could you show me where, when you say commercial, existing, could you point that out or is that in the red?

MR. P. GONZALES: Well, I believe for example you have the church that's out there and you also have the Knights of Columbus. You have Rio Grande Camper Sales. There's a real estate and construction excavation business. There's Dave's Cabinets. You also have Myers Steel Company, which is out there. Juniper Hills Mobile Home. You have a tag, heavy equipment and electrical company out here. You also have another mobile home and you also have the winery that's up here as well. And that runs all the way from I'd say where Travelland borders all the way down. So that was one of my concerns is the Commission might consider.

COMMISSIONER ANAYA: Thank you.

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Campos.

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COMMISSIONER CAMPOS: Question for Mr. Gonzales. Do you have a cell tower in this area?

MR. P. GONZALES: Yes, I do.

COMMISSIONER CAMPOS: Where is it? Could you point it out to us?

MR. P. GONZALES: I'd say it's probably about right here.

COMMISSIONER CAMPOS: Now, if the proposal, how would it affect your cell tower property if at all?

MR. P. GONZALES: The proposal that's before the Commission?

COMMISSIONER CAMPOS: That you're making right now, staying commercial all the way through the district.

MR. P. GONZALES: I'm saying if the Highway Department comes in and takes, widens, takes some of my property, that would cut down on my property as far as allowing me commercial use or home business district use.

COMMISSIONER CAMPOS: How does it affect your cell tower?

MR. P. GONZALES: Mr. Chair, Commissioner Campos, it doesn't affect my cell tower at all.

CHAIRMAN SULLIVAN: Other questions?

MR. P. GONZALES: Thank you, sir.

CHAIRMAN SULLIVAN: Thank you, Mr. Gonzales. Mr. Speaker come up and speak so we can get you on the record.

REP. LUJAN: The other requirement that states you must reside in home businesses.

CHAIRMAN SULLIVAN: Right. I recall your mentioning that, we marked that down for discussion and consideration.

NANCY WILLIAMS: My name is Nancy Williams and I've lived in Arroyo Seco all my life. The community out there, the reason for this plan, the Highway Corridor Plan, is because we did not, like they said, want to see the sprawl in that area. We've tried to set it up so that everybody has an opportunity to use their property and that's the reason for this. We have put restrictions on it because of water, because of parking, because of safety issues, and everything else. But we're not trying to put anybody out of using their property.

Also, you're talking, there's been talk about things that are already there, those items are already grandfathered in and we have no intention of having them redo their areas or anything of that sort. The other thing is we had wanted to take the node that was a County node and instead of having it the big circle there at County Road 88, because of all the commercial property up towards Española, elongated up that way, because we do have an awful lot of residences. And I guess my feeling is is that, and a lot of the people in Arroyo Seco, they don't want to see the area turn into a sprawl. They've moved out there to have the open spaces and that's what we would like to keep, but in doing this plan, the community tried to be fair to everybody, including the residents that live out there and want to have this as an open area. Thank you.

CHAIRMAN SULLIVAN: Thank you, Ms. Williams. Anyone else who'd like

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to address the corridor plan? All right. Thank you, everyone for your comments. They're well taken and appreciated.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: Thank you. Just a question of Roman. In terms of the majority of this is not mixed residential/commercial, Roman?

MR. ABEYTA: Mr. Chair, Commissioner Montoya, there is some, yes, there's residential lots. There's residential homes, and there is some commercial throughout there, so there is a mix of commercial and residential throughout the corridor.

COMMISSIONER MONTOYA: So is this going to help alleviate some of that mixed use or --

MR. ABEYTA: Mr. Chair, Commissioner Montoya, I think the main thing it does is it eliminates the node concept and will limit the type of commercial that can go south of that intersection now. Whereas before you could have more commercial south of the intersection and so that would eliminate and hopefully concentrate any future commercial north of the intersection.

COMMISSIONER MONTOYA: Being that there is some commercial there already, what if you were to look at some residential/commercial type zoning?

MR. ABEYTA: Mr. Chair, Commissioner Montoya, the ordinance is going to allow us to have mix. You can have a home business south of that intersection and it is a little more than a home occupation. The ordinance does list the type of uses that would be allowed. For example, book stores, grocery stores, small-scale businesses that can't be permitted under the current ordinance under home occupation will be allowed as home businesses. So it will still allow for a mix of residential and limited commercial south of the intersection.

COMMISSIONER MONTOYA: Depending on the size of the lot you have.

MR. ABEYTA: Right now, depending on the size of lot unless that's removed. Because right now as the ordinance stands it's 1.5 acres.

COMMISSIONER MONTOYA: Okay. Thank you, Mr. Chair. Thank you, Roman.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: Roman, I have a little bit of a concern here in that, and I understand that the community may want to prevent sprawl. I'm not sure that it's a matter of preventing sprawl. The way that you combat sprawl is through cluster development and infrastructure. And that doesn't work out there. I do understand the concern that they want to develop strip development from occurring and I think there are ways of doing that. But if staff has taken the position that beyond the commercial area, that the highest and best use from a planning point of view is residential, I would disagree with you. It's a major highway corridor and there may be people who have spent all their lives there but the future is not residential. I think what we should put, in my opinion, what I think staff should be doing is trying to help them deal with how progress have affected their neighborhood and try to come up with something that maintains some integrity for that area and that would be to prevent strip

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development, to find use -- and I think you have done that, but my main concern is that we are promoting residential use along that corridor south of the commercial district, and I'm not sure how fair that is to those that aren't in the upper, the northern part of that corridor where you're proposing to put all that commercial development.

MR. ABEYTA: Mr. Chair, Commissioner Duran, I think we are trying to accomplish what you have just stated. Because right now, under the current Code, if you're not within that district you're restricted to just the home occupation because that district doesn't run all the way south to the end of the planning area. The commercial district right now ends within 500 feet or maybe 1000 feet of that intersection. So right now, what we're trying to do is because of the comments you made, you do have property along the highway so we amended the Code, or we are attempting to amend the Code to allow more than just a home occupation, to allow a home business. And if you look at the use list, you're allowed grocery stores, book stores, bed and breakfast, offices, medical offices, automotive repairs, restaurants, small restaurants could be allowed. So I think we're trying to do what you are suggesting. Because right now, as the current Code reads, if you're not within that commercial district and you're south, you're stuck with residential or home occupation and we've expanded that a little bit. Not to the extent that you could have a real intense commercial business, but you can do some commercial.

COMMISSIONER DURAN: Thank you. Thank you, Mr. Chair.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: You talked about expanding the highway. Have you talked to the Highway Department? I know we've got a lot of businesses there now and how are we going to address getting off onto those businesses from the highway?

MR. ABEYTA: Mr. Chair, Commissioner Anaya, we are currently working with the Highway Department. We are planning on developing a memorandum of understanding with them so that we can share information, one of which would be proposed frontage roads and access points. And I believe one of the Highway Department's concerns was the acre and a half, that if we're going to allow more businesses south of the commercial district, even though they're home businesses, we should still have a large enough lot so that if the highway has to go in and condemn some property, maybe there will be situations where there's enough where they can do their condemnation and not affect the business that's on the property. So that's kind of where the acre and a half has come from also. It's come from our discussions with the Highway Department.

COMMISSIONER ANAYA: Thank you.

CHAIRMAN SULLIVAN: Other questions, comments? Comment from the public?

REYES GONZALES: My name is Reyes Gonzales. I only have one question, but it may have an a, b, and c.

CHAIRMAN SULLIVAN: You and Commissioner Duran should get together.

MR. R. GONZALES: I'm the owner of Rio Grande Campers that sits right

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about here, right around this corner. There's nine sisters and brothers that have a lot of land here and they have a deal that the first 300 feet here are commercial and they're selling it as commercial. I bought it as commercial. I used to have my lot over here, closer to the end here, but because of the space I had to buy further down. And I bought it as commercial and most people, they are not selling this for residential; they're selling it for commercial.

Then of course they have -- see, the father had nine brothers and sisters. He gave them each 32 acres. That's a lot of land. And part of that is being sold as commercial and the other part is residential. So I wonder what's going to happen to that. The corridor is good. Everybody is for it, but are we going to be forced to pay more taxes or less, or what? If the highway takes more or less control of the whole thing. That's about the only thing I needed to ask.

CHAIRMAN SULLIVAN: I don't know if there's a specific answer to that question. About paying more taxes, the answer to that is yes. You always have to pay more taxes; you never pay less.

MR. R. GONZALES: Well, if anybody could answer --

CHAIRMAN SULLIVAN: But I think, Roman, is your business already permitted in that area?

MR. R. GONZALES: Oh, I've been in business since 1970.

CHAIRMAN SULLIVAN: So it's already permitted in there.

MR. R. GONZALES: The business is separate from the home.

CHAIRMAN SULLIVAN: But if it's already zoned and permitted and you have a business license --

MR. R. GONZALES: Oh, it's permanent. Since 1970.

CHAIRMAN SULLIVAN: No, I'm saying permitted. Do you have a permit to operate.

MR. R. GONZALES: Oh, yes. License, yes.

CHAIRMAN SULLIVAN: Then my understanding, Roman, is that you would be grandfathered in. In other words, you wouldn't --

MR. R. GONZALES: But what's going to happen to the covenant of the rest of the land there?

CHAIRMAN SULLIVAN: The rest of the land that's not permitted for commercial would then have to abide by the new --

MR. R. GONZALES: In other words, when they made a covenant that so much of that land was going to be commercial, it's not any good.

CHAIRMAN SULLIVAN: My understanding is that it's still commercial, it's a form of commercial, but there are limitations on that commercial as shown in the ordinance. So it's not residential; it's what they call home business but as Mr. Abeyta said, it includes restaurants and as I recall, auto repair shops, and offices and things like that. So there is a zoning limitation on the kind of commercial that you could put there and there's restrictions on commercial that you couldn't put there in the other areas. So if you were to buy some other land, say next to your property or something, it would have to abide by the new restrictions.

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MP JONZALES: That's what I wanted to know.

CHAIRMAN SULLIVAN: That's my understanding. Correct me if I'm wrong,

Mr. Abeyta.

MR. ABEYTA: Mr. Chair, that's correct.

CHAIRMAN SULLIVAN: Thank you, sir. More comments from the public.

Ms. Sigstedt. Where did you come from?

CAROLYN SIGSTEDT: Well, I was watching on TV and I ran down here and basically, I'll have more to say, I think in a month but I just want to put a few people to task. The Highway Corridor Plan was worked on a long time and it's supposed to have some meaning and I was watching this on TV and I was just kind of -- I thought the point of a Highway Corridor Plan was to -- I mean we don't -- do we want commercial on our highways, just connecting Española to Santa Fe? Is that what we're going for or was the idea to try to hold that down a bit? I also thought that the idea of Arroyo Seco being a traditional community was not to be overly imbalanced in terms of commercial and then, my understanding in terms of the water in that area south of Española, not only in terms of the aquifer being delicate in terms of how much water is there but also just what the quality of that water might be in the future. These are -- oh, and one more point, which is that this major highway is being built there and we all know that egress and ingress for a ton of small businesses, unless it's well thought out, is dangerous to the public good.

So lastly, I might just add that, I mean it's work but we have transfer of development rights and things like this that can be perhaps be a tool to help with families that feel their land is unjustly orphaned. But anyway, those are just some comments and I would ask Commissioner Montoya to contact, as best he can, his constituents in Arroyo Seco to try to get them here for the public hearing. I would also ask that the people that worked on the highway corridor be invited to take part in this dialogue. I don't think this is a simple issue, and at this point in time, any development, first and foremost has to be tied to water. So those are my comments.

CHAIRMAN SULLIVAN: Thank you, Ms. Sigstedt. Anyone else? I see another hand in the audience.

MARILYN MEYER: Respected Commissioners, my name is Marilyn Meyer and I too live in Arroyo Seco. I moved there 42 years ago. Arroyo Seco is a traditional community and our thought was that we did not want along the corridor big box stores and things like that. At the same time, we didn't want to deprive people along the corridor from the commercial use for their property. So we think that we have done this fairly, that there are many opportunities to develop the property as a home business.

The reason we went to an acre and a half, if we were going to the home business concept, 3/4 of an acre is not big enough. We were afraid you would end up with a house and a front yard full of wrecked cars that they're working on. There would be no place for parking, there would be no consideration for the beauty and the appearance of anything on less than 1.5 acres. So that was our thinking on that. And as I say again, we did not want to deprive the people who have property along the highway from selling it or using it for commercial use. At

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the same time, we wanted to protect the landscape.

The water situation, Cuatro Villas Water, that's Santa Cruz, Cuarteles, La Puebla and El Valle de Arroyo Seco, that's four communities that will be covered by this water system from the top, from the southern boundary, all the way to the boundary with Española. So the whole area potentially will be covered in the water system. Joining the water system is voluntary for the homeowners. The way we have put it in this ordinance is it will be mandatory, when it's in effect, for anyone that wants to do a commercial venture. I hope that's answered a few questions and please keep in mind that it is just along the corridor. We're not dealing with the community, we're not dealing with residences anywhere except 300 feet right along the corridor. Thank you very much.

CHAIRMAN SULLIVAN: Thank you. Other comments, questions?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: Robert, how were people notified about this? As I mentioned earlier, David Romero wanted to be here. He got his notice today in the mail.

MR. GRIEGO: The notification process, what we did was we sent out letters to everybody within the El Valle de Arroyo Seco corridor. No, I'm sorry, throughout the entire community of El Valle de Arroyo Seco based on the address databases that we had from the County Assessor's Department, the Rural Addressing and one other database. What we did is we sent out the letters. There was a lot of rural routes, a lot of boxes that the post office no longer delivers to so we tried to clean up the database as good as we could. We sent out 766 letters to the community. The community has been involved though. We sent out numerous mailings throughout the planning process to inform the community that this process was going on, including newspapers and such. So I don't know if that answers your question.

COMMISSIONER MONTOYA: Yes, it does. I guess maybe my next question would be how else could we get some of those -- because we have about a tenth of a percent of that 760 people that were notified. What else can we do to get more people here?

MR. GRIEGO: I think that we can put the advertisements in the newspaper which we were planning on doing. We need to get that. The *Rio Grande Sun* is a good option because they're a local newspaper in that area and we've used them in the past for meetings. So we can do that and we can also have this posted. We actually posted the El Valle de Arroyo Seco corridor plan on the website of the County and through mailings. I'm not sure what else we can do.

COMMISSIONER MONTOYA: Is it possible to get phone numbers for some of those people? I'd be glad to call some of those folks, invite them to the next public meeting in August.

MR. GRIEGO: Yes. We can try to get some of that information. Actually, what I understand from GIS is they're doing some different things where they'll be able to access more information. We may be able to get phone numbers from that. If so, then we'll be able to have a much better database which we'll be able to work from.

COMMISSIONER MONTOYA: If you could and then just let me know.

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MR. GRIEGO: Certainly.

COMMISSIONER MONTOYA: Okay. Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Other questions of staff or comments from the public. Okay, thank you very much for your participation.

MR. ABEYTA: Mr. Chair, for the record, staff would like to not bring this back until the September meeting so that it allow us more time to go back and research some of the questions that we got from both the public and the Commission, and then also take a look at the advertising. Thirty days is probably not enough time for us to do all of that. So staff would like to not hold the second public hearing until September 9th, if that's okay with the Commission.

COMMISSIONER DURAN: Fine with me.

CHAIRMAN SULLIVAN: I'm sure that would be fine. I had mentioned the next meeting in a month, so it will be two months for the information from the public.

- XI. A. 5. **CDRC CASE #A/V 03-5620 - Bobby Armijo Appeal Variance.** Bobby Armijo, Applicant, is Appealing the County Development Review Committee's Decision to Deny a Land Division of 16.20 Acres into Four Lots, Each Consisting of 4.05 Acres, for a Family Transfer, Which Would Result in a Variance of Article III, Section 10, (Lot Size Requirements) of the Land Development Code. The Property is Located at 428 Ojo de la Vaca, within Section 30, Township 15 North, Range 11 East (Commission District 3)

JAN DANIELS (Review Specialist): Thank you, Mr. Chair. Bobby Armijo, applicant, is appealing the County Development Review Committee's decision to deny a land division of 16.2 acres into four lots, each consisting of 4.05 acres or less for a family transfer, which would result in a variance of Article III, Section 10, lot size requirements of the Land Development Code. The property is located 428 Ojo de la Vaca, within Section 30, Township 15 North, Range 11 East, NMPM, Santa Fe County Commission District 3.

At its regularly scheduled meeting of May 29, 2003, the CDRC met and denied the request by a 2-3 vote as follows: Voting for were members Romero and Bassett, voting against were members Lopez, Gonzales and Vice Chair Dayton. The applicant is requesting a variance of the lot size requirements of the Land Development Code in order to allow a family transfer land division of 16.25 acres into four lots. The property is located at 428 Ojo de la Vaca within the Homestead Hydrologic Zone. Article III, Section 10 of the Land Development Code states the minimum lot size in this area is 160 acres per dwelling. Lot size may be reduced if the applicant can demonstrate adequate water. The minimum lot size for a family transfer is 20 acres.

Currently, the property is vacant. A non-operating well has been drilled on the

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property. The applicant's main intent is to split the property for a family transfer to ensure that his children have a share of the land.

Staff recommends denial of the appeal, based on Article III, Section 10 of the Land Development Code, which states that the minimum lot size in this area is 160 acres. Staff also recommends that the request for a variance be denied. The use of the Code is to set minimum lot size in this area at 160 acres. The minimum lot size for a family transfer is 20 acres.

Should the BCC decide to approve this variance, the staff conditions are listed in Exhibit E.

CHAIRMAN SULLIVAN: Questions for staff? If not, is the applicant present? If you'd like to have the Clerk swear you in, please.

[Duly sworn, Bobby Armijo testified as follows:]

BOBBY ARMIJO: My name is Bobby Armijo. I own the 16.2 acres up in Ojo de la Vaca. I inherited from my father-in-law, Henry Rodriguez, and his father, Erineo Rodriguez homes. I added the land. My intentions are to give each one of my children four acres and keep four for myself. I want my children to have something that their great grandfathers homesteaded. If allowed to do a family transfer, I would make sure that the deeds, the land would not be sold out of the family. I want the family to keep this land.

I just also want to mention that I do have two wells up there. One well I share with my brother-in-laws and the other well is mine. And then I have a 3,000 gallon storage tank. And I also want to mention that land here around Santa Fe is getting so expensive and the kids can't really afford to really buy stuff like that so I just want to give them four acres where they can build a nice little house and live out there. Thank you.

CHAIRMAN SULLIVAN: Any questions for the applicant? Commissioner

Anaya.

COMMISSIONER ANAYA: Mr. Chair, how deep is the well that you have?

Both wells?

MR. ARMIJO: One well is about 480, I think it is and it's pumping like 11 gallons per minute. And the other is 520 and it's pumping 10 gallons per minute.

COMMISSIONER ANAYA: I believe that the lot split, it was 80 acres before and then they split it.

MR. ARMIJO: Yes. My father-in-law has five kids and he split it between his five kids which we all got 16.2 acres.

COMMISSIONER ANAYA: What about the other kids? Are they planning on coming and doing lot splits?

MR. ARMIJO: I'm not sure.

COMMISSIONER ANAYA: The reason that I ask is that I had a number of phone calls from the area, the residents that live there, and they're concerned about the water issues up there and concerned about future people coming in and splitting, which would end up in 20 lots at four acres apiece. So that's the concerns that were raised to me.

MR. ARMIJO: Actually, the neighbors that are around me, I know them pretty

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good and they were all for it. The only one, probably that would do something, because Forest Trust is on one side of my property and Forest Trust, they want to preserve all that stuff and huge acres and stuff like that.

COMMISSIONER ANAYA: Thank you. And this is a question for staff. What are the acreages surrounding this particular, these five tracts?

MS. DANIELS: To the northwest side, there is a tract that is about maybe an eight-acre tract and a two-acre tract. To the west and northwest there are about seven or eight ten-acre tracts, some 20-acre tracts. Down, then there's nothing for about a mile south, then about a mile south there's a scattering of 10-acre tracts. I have a parcel map if you'd look at it.

COMMISSIONER ANAYA: I'd like to see it.

COMMISSIONER MONTOYA: Mr. Chair, on that point.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: Minimum lot sizes are supposed to be 160 acres and there's a whole bunch of 10-acre tracts already. Sounds like there's been a lot of lot splitting going on. What happened?

MR. ABEYTA: Mr. Chair, Commissioner Montoya, I believe a lot of these lots were created before '81 and then from '81 to '89 you could family transfer any size that you wanted to a child or grandchild. So therefore a lot of the lots were created before '81 or before '89 when the minimum was 40 acres or 20 acres for family transfer.

COMMISSIONER MONTOYA: So when did the 160-acre minimum size evolve?

MR. ABEYTA: It went into effect in 1981 but you were allowed to go down to 40 acres if you agreed to water restrictions of a quarter acre-foot. Anything smaller than that, between '81 and '89 could be created through family transfer to whatever size you wanted. In this case there was a family transfer of 16 acres. In other cases there were probably 8 acres, 10 acres, and so it wasn't until after '89 where the family transfer rule changed and said, no, for family transfer all you can do now is half the minimum, which is 20 acres. So if you do the research, you'll find that these lots were created before '81 and before '89 by family transfer.

COMMISSIONER MONTOYA: Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: For staff, actually for Mr. Armijo, in the minutes of the CDRC case it says that the property is currently vacant and a non-operating well has been drilled on the property. And in your statements earlier, you said that you had two wells. So my question is, those two wells that you stated that you had, one pumping ten and the other 11, are both those wells located on the 16-acre tract that you're trying to subdivide?

MR. ARMIJO: No. One of the wells I share with my brother in law, so we drilled it all together. There's 16-acre lots, the 80 acres, you see. And it's right next to me actually, about 100 feet.

COMMISSIONER DURAN: So that would be north of it, right? I'm looking at this map and it says it's 396 feet pumping it says 13 gallons per minute. So you're saying that

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one of the wells is on the property just north of it.

MR. ARMJO: Yes. The one that belongs to Joe and Gloria Serrano, yes.

COMMISSIONER DURAN: And then where's the next one?

MR. ARMJO: The other one's on my property on the very top of my property.

COMMISSIONER DURAN: Which is that? Is that the next tract above it?

MR. ARMJO: Yes. There's three tracts on the top there. The first tract is mine.

COMMISSIONER DURAN: Okay. Thank you.

CHAIRMAN SULLIVAN: Other questions? Okay, this is a public hearing. If there's anyone who would like to speak in favor or in opposition to the application, now's the chance.

[Duly sworn, Andrew Gallegos testified as follows:]

ANDREW GALLEGOS: Mr. Chair, members of the Board. My name is Andrew Gallegos. I'm speaking on the behalf of my wife, Andrea Gallegos and I. We are both lifetime residents of Santa Fe and we are trying to maintain residence in Santa Fe. The cost of being a land and property owner in Santa Fe has risen beyond our means and we're trying to maintain that we can own a piece of land that we can settle on. We are a young family trying to get started out. This is a heavily wooded area. Very mountain area. You cannot see any houses in any of this area so it would be very secluded. We are the only ones interested in living out here right now and we are just seeking an opportunity to get started in life and this is what we want to do. It's something that her great grandfather homesteaded so there is sentimental value there and like I say, we just want to get started in life and this would give us a great opportunity to do and be residents, maintain residence in Santa Fe. Thank you.

CHAIRMAN SULLIVAN: Thank you, sir. Anyone else who'd like to speak regarding this application?

[Duly sworn, Carolyn Sigstedt testified as follows:]

MS. SIGSTEDT: My name is Carolyn Sigstedt. I lived 21 years in Ojo de la Vaca, so I actually know this area. I went out to Ojo de la Vaca in 1972, lived without electricity or water for a number of years and raised my children. At any rate, that whole area originally started out as kind of an illegal subdivision and they wouldn't bring electricity in because the roads were substandard and so just a lot of stuff happened in the early days in that area. It's a beautiful area but it is again, a very delicate area when it comes to water. The water for the most part is shallow and many of the people in the Galisteo Creek area just do hand-dug wells and dig right into the creek.

When you get further away from the river there's a lot of sulfur. Basically, as the lawyer indicated, much of the subdividing took place prior to 1989, which is when the law was passed. And everybody knew that that law was going to be passed and everybody and their uncle subdivided everything they could down to whatever they could. And at present people don't have water and are actually trucking it in and putting it in large tanks. So this is true. There are plenty of homes there that don't even have water. So if you want to be responsible for further furthering a situation like this, in my opinion, no property out there should be less

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than 20 acres and optimally, more like 40. That's my comment.

CHAIRMAN SULLIVAN: Thank you, Ms. Sigstedt. Other comments or questions? Okay, if not, then we're back to the Commission. Commissioner Duran.

COMMISSIONER DURAN: I have a question from Mr. Armijo. Would you be opposed to two lots of eight acres? If it was a matter of -- there is some concern that the four lots, the five lots could turn into, if we approve it --

MR. ARMIJO: But if you have three kids, what do you do?

COMMISSIONER DURAN: You give the two vacant lots to the one and you give the other one that you live in, leave the other one to them. That wasn't my question. My question was, would you be opposed to two eight-acre lots, and I guess you would be.

MR. ARMIJO: I'd probably much rather just leave it at 16 then. Otherwise I might cause something between my family because I'd give one to one and the other and I wouldn't want that. They're all my kids. So I would probably leave it just at 16 then.

COMMISSIONER DURAN: Okay. Thank you.

CHAIRMAN SULLIVAN: Other comments? I did get a call last summer from at least one resident in Ojo de la Vaca. The community tank had run out, requesting the Fire Department to bring water in. I checked with the Fire Department; they said they weren't able to do that because they don't have a tanker for potable water. I know there's some water issues out there but I'm not familiar certainly from having lived there or anything of that nature. Okay, so what's the pleasure of the Commission with regard to CDRC Case A/V 03-5620?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: Since I did receive a lot of phone calls from that area concerning the lot size and probably we would set precedents in that area. And I know Andrew Gallegos very well and this is a very difficult decision for me, so I know that you, Mr. Armijo want to give to your children, but in this area, without water and even the fire protection, if we were to divide that and then the other family members come in and divide that, you're creating kind of a subdivision there. I know your intentions are well but at this point I'm going to have to deny this case.

CHAIRMAN SULLIVAN: There's a motion before the Board. Is there a second?

COMMISSIONER MONTROYA: Second.

CHAIRMAN SULLIVAN: Second. Is there discussion?

The motion to deny CDRC Case #A/V 03-5620 passed by unanimous [5-0] voice vote.

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- XI. A. 6. **EZ CASE #DL 03-4480 - Conservatorship of J. Anthony Peperas, Jr., Land Division. The Conservation of J. Anthony Peperas, Jr., Applicant, Request a Plat Approval to Divide 5.13 Acres into Two (2) Tracts. The Tracts Will Be Known as Tract 2A-1B (2.56 Acres), and Tract 2A-1A (2.56 Acres). The Property is Located within the Piñon Hills Subdivision, at 97 Calle Francisca, within Section 25, Township 17 North, Range 8 East (Commission District 2)**

MS. DANIELS: The conservatorship of J. Anthony Peperas, Jr., applicant, requests plat approval to divide 5.131 acres into two tracts. The tracts will be known as Tract 2A-1B, 2.568 acres more or less and Tract 2A-1A, 2.563 acres, more or less. The property is located in the Piñon Hills Subdivision at 97 Calle Francisca, within Section 25, Township 17 North, Range 8 East in Commission District 2.

At its rescheduled meeting of September 18, 2002, the BCC met and denied the request based on relevant issues regarding increasing the number of lots in a non-conforming subdivision as it relates to infrastructure. At its regularly scheduled meeting of June 12, 2003, the Extraterritorial Zoning Commission met and passed the request for a land division unanimously. The property is located within a subdivision that was approved by the BCC in 1964. This subdivision is legal non-conforming as it does not meet current subdivision standards for fire protection, roads, water and liquid waste. The described property lies within the Basin Hydrologic Zone where the minimum lot size is 2.5 acres with a quarter acre-foot per year per lot water restriction.

The following lot sizes are proposed. Tract 2-A-1A is 2.568 acres more or less, has one dwelling with well and septic, and 2-A-1B is 2.503 acres, more or less, is vacant. The application was reviewed for the following: access, water supply, liquid and solid waste, terrain management, fire protection, archeological and environmental review.

Staff's recommendation is all existing infrastructure such as fire protection, water and liquid waste systems and roads within the Piñon Hills Subdivision have been constructed in accordance with the subdivision standards that were in place in 1964 at the time of approval. Infrastructure requirements in 1964 were not as comprehensive as today's standards, thus the Piñon Hills Subdivision is legal non-conforming. It is staff's position that the redivision of lots within the Piñon Hills Subdivision will diminish the performance of existing infrastructure by potentially doubling the density and therefore intensifying the non-conforming status.

Prior to allowing creation of additional lots within Piñon Hills, the subdivision should be upgraded to current subdivision standards. With respect to the size and number of lots, an upgrade to Piñon Hills would require, among other things, a fire protection plan and existing roads to be substantially improved. Therefore staff recommends denial of this request as proposed. Mr. Chair, may I enter the conditions into the record?

CHAIRMAN SULLIVAN: Yes. These are assuming the request is approved.

[The conditions are as follows:]

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- 1.. The applicant must record water restrictive covenants simultaneously with the plat of survey imposing .25-acre ft. per year per tract. Water meters for each subject parcel must be installed to monitor water use. Annual water consumption reports must be submitted to the County Hydrologist by the 30th of June of each year.
2. A shared well agreement must be approved by the County and executed prior to plat recordation. The plat must indicate shared well easements.
3. The applicant must contact Rural Addressing for assignment of addresses for the proposed tracts.
4. The EZO regulations require a solid waste fee be assessed for all newly created parcels. The fee for this subdivision is \$96.00.
5. Retention ponds will be required for these tracts at the time of development.
6. The applicant must obtain approval from NMED for the proposed liquid waste disposal plan.
7. Easements for all natural drainage ways must be provided.
8. Terrain management improvements in accordance with Santa Fe County regulations will be required for the proposed dwellings.
9. The applicant must comply with the Fire Marshal Review.
10. Submit a disclosure statement per County Code.
11. Submit a school impact report per County Code prior to plat recordation.
12. The applicant must address all minor redline comments by the County Subdivision Engineer as shown on the plat of survey and terrain management plan. These plans may be picked up from Jan Daniels, Development Review Specialist with the Land Use Department. These plans must be resubmitted with the Mylar prior to recordation.

CHAIRMAN SULLIVAN: So ordered. Questions of staff? If not, is the applicant present. Have the Clerk swear you in, please.

[Duly sworn, Anthony Peperas testified as follows:]

ANTHONY PEPERAS: Mr. Chair, Commissioners of the Board, my name is Anthony Peperas, Sr. My request for a lot split last year was denied at this same Board and several things have been done since last September. First of all, my reason for doing this lot split, last year I was requesting four 2.-acre+ tracts, because I have ten acres. I have two five-acre lots. One of them, I have three boys and my two older sons, one's 17, one's 15 and they're getting to that age where I want to set this up right for them in case anything would happen to me. I don't want my wife or my children to have to go through any legal matters or fighting or what have you about the property.

This property has been in my family for 35 years-plus in '63, my uncle Robert Rios purchased this property and it's been in the Rios family since then and I'd like to keep it that way. It's not for the purpose of resale or making a profit or any of that sort. The west end of Calle Francisca, which makes my north line property, where I get my access to my property from, has been brought up to County standards. The County has gone out, adopted the road and they built it up three feet. They made it wider. They put basecourse. So all the County Road

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north that I access from has been brought up to a standard since the denial last September.

Also there is access, the access to get to the proposed splits goes in, is from the vacant lot, and I have a plat here, and it crosses over into the tract with the house on it. I don't know if you can see that, Chairman, Commissioners, but this is where I access from now and it has a gravel road, 20-foot wide that comes into the driveway of the house. I have the well there and septic is down here. I was listening to Mr. Armijo before and as he stated, it's hard for the younger people in Santa Fe to stay living here. Again, my family has been here for generations. The rest of my family has property on Canyon Road and Monte Sol at the woodyards, the Rios Woodyard. I've been taught all my life from them to preserve the land, don't abuse it and keep it in the family as long as you can.

So these are my reasons for doing the split. I want my kids to have an opportunity to live here and stay here if that's what they choose. And to this point that is what they choose. They want to stay by me and my wife. I just now was able to read this new report and the conditions. I briefly read over it and the conditions that were set. I agree to all of them. There has been a few homeowner association meetings since last September and Commissioner Duran attended one of them and the County Hydrologist attended the same meeting. I've been to the last three association meetings and I had some opposition within the subdivision last year. And some of the concerns, well, the main concerns were the water and the density of the roads out there. And of course the subdivision isn't up to current standards. It doesn't conform with current standards now.

In the last meetings, the people that do show up within the subdivision, which is I think about 70 percent of the residents, we've been, the board of the association, between Alameda Ranchettes and Piñon Hills Subdivision that border each other, has kind of been taking a vote on what people feel as far as lot sizes. I'm asking for 2.5, which is what the County allows. I'm not asking for a variance. Most of the feelings in these meetings, the residents, the majority agree that 2.5 wouldn't be too small for them. There were concerns about getting any smaller and I too have concerns. I myself wouldn't like to see lots go below 2.5 acres in that area also, because there is a concern about the water out there, which is one of the main concerns of most of the residents and the opposition I got last year.

I too am for preserving the water and not making the lots any smaller. Me and my family live there now. I heard earlier with the Armijo that a lot more water would be used on this lot split. Well, speaking about that, if my children would move next to me on these lots, they grew up with me the whole time there. Other than if they get married or have family, there wouldn't be any more use of the water because the same amount of people are going to be living on that property, whether the lot is split or not.

You know what most likely happens in Santa Fe with people I know, my relatives, their children end up living next to them or with them at any rate, therefore increasing water usage if they get married or have kids. The only difference is they don't legally have a separate piece of property. The majority of people I know that the kids want to stay with their family, that's the way it's done. So at any rate, Mr. Chair, Commissioners of the Board, these are my reasons for wanting this lot split.

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CHAIRMAN SULLIVAN: Thank you, sir. Questions of the applicant? Okay, if not, this is a public hearing. Is there anyone in the audience who would like to speak in favor of or in opposition to this application? I don't see any. What are the wishes of the Commission?

COMMISSIONER DURAN: Move for approval, Mr. Chair.

CHAIRMAN SULLIVAN: There's a motion for approval from Commissioner Duran.

COMMISSIONER DURAN: With staff's recommendation.

CHAIRMAN SULLIVAN: With staff recommendation, conditions.

COMMISSIONER ANAYA: Second.

CHAIRMAN SULLIVAN: Motion and a second. Is there discussion of the motion?

The motion to approve EZ Case #DL 03-4480 failed by a 2-3 voice vote with Commissioners Duran and Anaya casting the affirmative votes.

- XI. A. 7. **BCC CASE #M 03-5133 - Brumby's LLC Transfer of Dispenser Liquor License.** Brumby's LLC, Phillip Saltz, Agent for Allan and Stacy Crossingham, is Requesting a Transfer of Ownership and Location for a Dispenser Liquor License. The Property is Located at the Intersection of Avenida Vista Grande and Caliente Road, within Sections 9 and 16, Township 15 North, Range 10 East (Commission District 5)

MS. REYES: Thank you, Mr. Chair. The State Alcohol and Gaming Division has granted preliminary approval of this request. In accordance with Section 60-6B-4 NMSA of the Liquor Control Act, legal notice of this request has been published in the newspaper, and the Board of County Commissioners are required to conduct a public hearing on whether or not the proposed transfer of ownership and location for a dispenser liquor license should be granted. Wolf Canyon and Century Bank F.S. B. presently own the liquor license. Master plan approval was granted by the Board of County Commissioners on July 10, 2001, for a pub/restaurant, theater complex with 3 screens, live performance stage, a multi-purpose room, office space, open-air markets/farmers markets, and a coffee drive-thru.

The request is in accordance with the zoning approval granted by the BCC, and staff recommends approval for transfer of ownership and location of a Dispenser Liquor License.

Mr. Chair, staff would like to add a condition upon approval:

1. Santa Fe County records indicate that past due fees in the amount of \$1,000.00 are owed to Santa Fe County for the liquor license. This fee shall be paid in full prior to the County signing the State application for the liquor license transfer.

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CHAIRMAN SULLIVAN: Thank you, Ms. Reyes. Questions of Ms. Reyes?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: I guess we can apply that condition. Or is that illegal?

STEVE ROSS (County Attorney): Mr. Chair, Commissioner Anaya, it's a little unclear whether a condition like this would stand some detailed judicial scrutiny but it's my understanding that the applicant doesn't have a problem with it. So as a practical matter it may serve in this case.

COMMISSIONER ANAYA: Okay. Thank you.

CHAIRMAN SULLIVAN: Other questions of staff? Okay, is the applicant present?

[Duly sworn, Stacy Crossingham testified as follows:]

STACY CROSSINGHAM: Stacy Crossingham, representing the Village at Eldorado and Brumby's, LLC, which is the restaurant and pub in question. We'd like to request that that \$1,000, which will be paid per our contract by the seller, instead of referring to it as a fee, that it be referred to as a tax, a liquor license tax, for tax purposes.

MR. ROSS: Mr. Chair, members of the Commission, it is a tax.

CHAIRMAN SULLIVAN: Any other comments, Ms. Crossingham?

MS. CROSSINGHAM: No.

CHAIRMAN SULLIVAN: I have a question, Ms. Crossingham. In your master plan approval, as I recall, you had a fairly limited water budget and one of the conditions that you brought forward was that you were going to, in the restaurant serve drinks that were in bottles and cans, so that you didn't have to do dishwashing in order to meet that water budget. That's in the minutes, if you need to go back and check that, you're welcome to.

COMMISSIONER DURAN: I don't remember that.

CHAIRMAN SULLIVAN: I remember it very clearly. And so if you have a full dispenser's license, then I assume that you'll be serving mixed drinks and beer and whatever and other things in glasses that require dishwashing and I wonder how that will impact your water use budget.

MS. CROSSINGHAM: Okay, Mr. Chair, we have already been approved for final development plan and our water budget was proposed and presented to you at that time, which was approved not only by the County Hydrologist and the State Engineer's Office, there was discussion about severe conservation. There was no description of how we were going to do things and I will go back and look at that but that's not what's on the agenda today.

CHAIRMAN SULLIVAN: Okay, well, if you disagree with that then perhaps maybe the thing for us to do is to table it because I can bring forward the minutes.

COMMISSIONER DURAN: Mr. Chair, I think you are totally out of line in this matter. This is not about the water usage about there. This is about the transfer of the liquor license.

CHAIRMAN SULLIVAN: Well, if the transfer of the liquor license is going to

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void the approval or the conditions on which the development was approved and I'm questioning whether they --

COMMISSIONER DURAN: I think you're out of line. I want a legal opinion on this please.

CHAIRMAN SULLIVAN: Well, just a minute. You're not the Chair here and I'm entitled to finish my questioning of the applicant and then I'll be glad to recognize you. My question is, if this is the case, and I'm not saying that I couldn't be wrong, whether then you want to or need to go back and need to add this as a condition and revise that water budget and take this additional water that you'll need from some other area.

MS. CROSSINGHAM: Mr. Chair, I was just presented with the water budget that I did present with my final development plan. I'd like to approach you to give it to you because it does not state that information. And I do feel that this is not what's on the table tonight. We've already got our approval.

CHAIRMAN SULLIVAN: I understand you have approval for a water budget which I believe was 2.8 --

MS. CROSSINGHAM: Would you like to see what I submitted?

CHAIRMAN SULLIVAN: I've seen the water budget.

MS. CROSSINGHAM: Well, I'd like to show you that you're incorrect.

CHAIRMAN SULLIVAN: Well, I'd be glad to look at that again, but I'm saying that the testimony --

COMMISSIONER DURAN: Mr. Chair, again, I think you are out of order.

CHAIRMAN SULLIVAN: Well, the applicant is asking me to look at it and I appreciate your opinion, Chairman Duran.

COMMISSIONER DURAN: Perhaps you shouldn't be the Chair anymore if you're take this kind of attitude.

CHAIRMAN SULLIVAN: Well, Commissioner Duran, if you'd like to discuss that at a later date, let's keep our --

COMMISSIONER DURAN: No, I think what I'd like to do is maybe bring it up right now to ask to remove you as the Chair.

CHAIRMAN SULLIVAN: I see.

COMMISSIONER DURAN: You are definitely out of order here.

CHAIRMAN SULLIVAN: You're not out of order. You're entitled to question the applicant just as soon as finish.

COMMISSIONER DURAN: This is about the liquor license. It's not about the water budget. Are we going to discuss whether or not we're going to approve the transfer of the liquor license or are we going to talk about the water budget. This issue was not published as the water issue. This was published as a liquor license transfer.

CHAIRMAN SULLIVAN: I understand.

COMMISSIONER DURAN: And I would like a legal opinion on that. Right now, please.

CHAIRMAN SULLIVAN: We would be glad to do that. Mr. Ross.

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MR. ROSS: Mr. Chair, Commissioner Duran, there would be a problem with notice if we started addressing other subsidiary issues here. And another issue which you need to understand is that the statute that permits the local bodies to approve or disapprove these liquor license transfers gives the local body only 30 days to address the matter, following today, which is the date of the public hearing. So tabling the matter, delaying the matter, will only mean that the state gets the final decision on whether to transfer of the liquor license, not yourselves. So that's something to consider.

COMMISSIONER DURAN: So the point of the fact is that we are here to discuss the liquor license transfer, not the water budget. Is that correct?

MR. ROSS: Correct. We could not make a decision on the water budget.

COMMISSIONER DURAN: So point of order, Mr. Chair. I strongly suggest that we stick to the published agenda and move to the public hearing.

CHAIRMAN SULLIVAN: I think I have the answers that I need. Thank you, Commissioner Duran. Are there any other questions of the applicant? Did you have a question, Commissioner Campos?

COMMISSIONER CAMPOS: No. It was answered.

CHAIRMAN SULLIVAN: All right. This is a public hearing. Are those who would like to speak in favor of or in opposition to the transfer of this liquor license?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: Move for approval with the County condition, that I believe it was the seller to pay the \$1,000 tax refund? Or tax.

COMMISSIONER DURAN: Second.

CHAIRMAN SULLIVAN: Motion and a second. Is there discussion?

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Mr. Chair.

COMMISSIONER CAMPOS: Question for legal. Commissioner Sullivan has raised an issue about whether this applicant will be in compliance with the water budget based on discussion. What would be the proper forum to raise that issue? I know we can't do it today, but how would we do it?

MR. ROSS: Well, you would have to, I guess, reconsider the decision you made last year concerning the zoning, the final development plan.

COMMISSIONER CAMPOS: Okay. Thank you.

MR. ROSS: And another thing I'd like to point out is that we have to conduct the public hearing. I'm not sure that we've completed the public hearing. I know there's a motion and a second on the floor, but I think we need to complete the public hearing as well to make this action valid.

CHAIRMAN SULLIVAN: I think Commissioner Anaya was looking out in the audience and didn't see anybody coming forward but let me just formally ask again if there's anyone who wants to speak in favor of or in opposition to this application. If not, we'll formally close the hearing and we'll consider Commissioner Anaya's motion, which was

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seconded by I believe Commissioner Duran. Discussion? Further discussion?

The motion to approve BBC Case #03-5133 passed by majority [4-1] voice vote, with Commissioner Sullivan casting the no vote.

- XI. A. 9. **CDRC CASE #Z 03-5080 - New Mexico Vigas and Timbers.**
Dennis Duran, Applicant, James Siebert, Agent Request Master Plan Zoning within a Designated Commercial District to Allow the Sales, Storage and Processing of Vigas and Timbers on a 7.03 Acres Tract. The Property is Located off Law Road, West of Cowboy Lane and South of US 84-285 Intersection, within Section 18, Township 20 North, Range 9 East (Commission District 1)

DOMINIC GONZALES (Review Specialist): Thank you, Mr. Chair, Commissioners. On May 29, 2003, the CDRC granted master plan zoning approval for the processing of vigas and timbers on a 7.3-acre lot. The applicant is requesting master plan zoning within a designated commercial district to allow the sale, storage and processing of vigas and timbers.

Existing development: There is currently a double-wide manufactured home, a 5,500 square foot steel building, a septic tank on the property. The property is served by an onsite well which serves the existing home. A six-foot high chainlink fence encloses the majority of the property. The property was previously utilized as a storage yard for a construction contractor.

Recommendation: Staff's position is that the applicant in accordance with Article III, Section 4, commercial and industrial non-residential districts, and Article V, Section 5, master plan procedures of the County Land Development Code. Staff recommends master plan approval for the commercial zoning with a designated community center, commercial district to allow the sales, storage and processing of vigas and timbers subject to the following conditions. May I enter them into the record?

CHAIRMAN SULLIVAN: So entered.

[The conditions are as follows:]

1. The master plan shall be recorded with the County Clerk's office.
2. All staff redlines will be addressed; original redlines will be returned with final plans.
3. The applicant shall complete a reconnaissance geo-hydrologic report before the applicant moves beyond the master plan.
4. The applicant shall comply with all Fire Marshal requirements.
5. All outside lighting on the property shall be shielded.
6. The applicant shall submit a drainage and grading plan to be approved by staff with

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- preliminary and final development plans.
7. The applicant shall submit a permit from the Environmental Department showing the system to be adequate for a residence and the proposed building.
 8. The applicant shall submit a signage plan to be approved by staff with Development plans.
 9. The applicant shall submit a landscaping plan to be approved by staff with preliminary and final development plan.
 10. Required improvements shall be completed prior to issuing business registration or submit financial surety as approved by staff.
 11. Compliance with applicable review comments from:
 - a. State Hwy Dept.
 - b. County Public Works
 12. Provide fence screening along south property line and portion of west and east property line.
 13. Provide landscaping around existing buildings, parking and pond area.
 14. Address off-site road improvements.
 14. Submit Fire Review Fee.

CHAIRMAN SULLIVAN: Questions of staff? I don't see any. So is the applicant or the applicant's representative here?

[Duly sworn, Jim Siebert testified as follows:]

JIM SEIBERT: My name is Jim Siebert. My address is 915 Mercer. I'm representing Dennis Duran, who's been a long-time member of the business community in the Española Valley. He's presently located on the Santa Clara Pueblo and the Pueblo has asked, or is not willing to renew his lease. He's looking at locating his property. This particular tract of land actually was used for commercial purposes as both a contractor's yard and excavating company up into the year 2000. Prior to that it had been used for approximately 25 years for a commercial use by the Law family.

We agree to all the conditions as stated by staff, and I'll answer any questions you may have.

CHAIRMAN SULLIVAN: Questions for Mr. Siebert?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Siebert, this is on the south side of US 84/285? I'm trying to figure it out on the map here.

MR. SIEBERT: Well, it's to the -- as you're driving to Española it's on the left hand side.

COMMISSIONER MONTOYA: Okay, so it is to the south then.

MR. SIEBERT: It's actually, if you know where the County yards are, the fire station and the County yards, it's directly behind that.

COMMISSIONER MONTOYA: Oh, directly behind that. Behind that car lot

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there?

MR. SIEBERT: I don't remember a car lot. It's largely vacant land.

COMMISSIONER MONTOYA: Right. Right.

MR. SIEBERT: The County kind of piles a lot of tires there.

COMMISSIONER MONTOYA: Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Other questions, comments? Questions of the applicant? If not, this is a public hearing also. Are there any individuals who would like to speak in favor of or in opposition to this application? I don't see any, so we'll close the public hearing and go back to the Commission for action or discussion.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: I'd like to move for approval.

COMMISSIONER DURAN: I second that.

COMMISSIONER MONTOYA: With the conditions as stated.

CHAIRMAN SULLIVAN: Okay, there's a motion for approval with staff conditions and a second. That motion is from Commissioner Montoya, second, Commissioner Duran. Further discussion.

The motion to approve CDRC Case #03-5080 passed by unanimous [5-0] voice vote.

COMMISSIONER DURAN: We're not related, by the way.

COMMISSIONER CAMPOS: Do you want to recuse at this point? A belated recusal.

COMMISSIONER MONTOYA: That was an ab...tion?

COMMISSIONER DURAN: No, I voted for it.

CHAIRMAN SULLIVAN: Let the record note that Dennis Duran is not related to Commissioner Paul Duran.

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- XI. A. 10. **EZ CASE # S 02-4022 Tesuque Hills Subdivision: Chuck Bryant, applicant, C.R. Walbridge & Associates, agent, request final development plan and plat approval for a residential development in accordance with the previously approved master plan. The development will consist of 45 single family lots of 1 acre in size, and 6 condominium units on 5.18 acres, for a total of 51 units on 51.76 acres. This request includes a variance of Section 3.5.4.g.2 of the Extraterritorial Subdivision Regulations to allow the approach to an intersection to exceed 3 percent grade for 100 linear feet. The property is located immediately west of US Highway 84-285, within Section 1, Township 17 North, Range 9 East within the 2-Mile EZ District**

WAYNE DALTON (Review Specialist): On May 8, 2003, the EZC granted preliminary development plan and plat approval for a residential development consisting of 45 lots and 6 condominium units on 51.76 acres. This approval also included granting a variance of Section 3.5.4.g.2 of the Extraterritorial Subdivision Regulations.

On June 12, 2003 the EZC granted final development plan and plat approval for a residential development. This development will be completed in three phases. Phase 1 will consist of 27 lots. Phase 2 will consist of 18 lots. Phase 3 will consist of 6 condominium units. The applicant is requesting a variance of Section 3.5.4.g.2 of the Extraterritorial Subdivision regulations to allow the approach to an intersection to exceed three percent grade for 100 linear feet in 12 locations. There are four locations at four percent, four locations at five percent, one location at 5.5 percent, two locations at six percent and one location at 7.95 percent.

The applicant has submitted a response to the variance criteria set forth in the Extraterritorial Zoning Code attached as Exhibit E. The geo-hydro report has been submitted which demonstrates that there is sufficient water to support 51 lots for 100 years at an average annual water usage rate of .25 acre-foot per year.

Recommendation: Staff recommends that consideration of the variance of Section 3.5.4.g.2 of the Extraterritorial Subdivision Regulations to allow the approach to an intersection to exceed three percent grade for 100 linear feet, should not exceed five percent of the minimal variance. Staff recommends final development plan and plat approval for a residential development consisting of 45 single family lots of one acre in size and six condominium units. On June 12, 2003, the EZC met and acted on this case. The decision of the EZC was to recommend final development plan and plat approval subject to the following conditions. Mr. Chair, may I enter those into the record?

CHAIRMAN SULLIVAN: So ordered.

[The conditions are as follows:]

1. All redline comments must be addressed, and original redlines must be returned.
2. Road names and rural addressing must be approved by the County prior to recording the final plat.

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3. The applicant will submit Homeowner's Association Bylaws, Articles of Incorporation, Water Covenants, Disclosure statement, restrictive covenants, maintenance agreement, and shared well agreement subject to Staff review and approval prior to recording the final plat.
4. The standard County water restrictions, final homeowner's documents, disclosure statement and Development Plan must be recorded with the final plat.
5. The developer must pay the solid waste fee in accordance with subdivision regulations (\$28.05) per lot, prior to recording the final plat.
6. All lots are subject to the Santa Fe County Fire and Rescue Impact Fees. This must be clearly noted on the final plat.
7. Residential Fire suppression systems are required to be installed in all houses; this shall be noted on the plat.
8. A signage plan must be submitted for review and approval prior to final plat recordation.
9. Water use on this property will be restricted to 0.25-acre-foot per lot. Water restriction covenants must be recorded with the final plat. A water meter must be installed for each lot annual readings must be submitted to the County Hydrologist by September 30th of each year.
10. The applicant shall submit a financial guarantee, in the amount approved by the County, for all improvements including fire protection, road improvements, Water system, Drainage improvements, retention ponding and landscaping/re-vegetation prior to grading permit issuance. The financial guarantee for landscaping and re-vegetation will be kept until the plantings have taken, for a minimum of one year.
11. The applicant shall address solid waste removal and septic maintenance in covenants, and notes on all documents regarding nitrate removal septic systems.
12. Compliance with applicable review comments from the following:
 - a) State Engineer's Office
 - b) State Environment Department
 - c) State Historic Preservation Office
 - d) Soil & Water District
 - e) State Highway Department
 - f) County Hydrologist
 - g) County Development Review Director/Technical Review
 - h) County Fire Marshal
 - i) County Public Works
 - j) Santa Fe Public School District
 - k) State Historic Preservation
13. The applicant shall pay a fire review fee in the amount of \$1,500 in accordance with Santa Fe County Resolution N. 2001-114, prior to recordation of the plat.
14. All lots shall be required to have individual on site retention ponding, if

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15. impervious surface area exceeds 7,000 square feet, this shall be noted on the plat. All utilities shall be underground, this shall be noted on the plat, covenants, and disclosure statement.
16. A final fire inspection is required for the subdivision. No permits for building construction will be issued until improvements for roads, drainage and fire protection have been completed as required by Staff.
17. The applicant shall delineate proposed trail easements and submit trail detail on the plat including public trail easement along US 84/285 and submit trail detail. Roads shall be dedicated to the Homeowners Association and granted for limited public use.
18. The maintenance agreement will include maintenance of roadways, drainage structures, and fire protection.
19. No further division of this land will be allowed, this shall on the plat and in the disclosure statement.
20. No more than 50 percent of building footprint shall exceed slopes between 20 and 30 percent. This shall be noted on the plat and on the disclosure statement.
21. Cluster well water system plans shall meet minimum design standards for a community water system and shall be certified by a registered engineer prior to recording the final plat.
22. Guest houses shall not be permitted on the property. This shall be noted on the plat.
23. Septic systems with nitrate removal shall be utilized within this development. This shall be noted on the plat and in the disclosure statement.

CHAIRMAN SULLIVAN: Questions of staff?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: Wayne, is the developer looking at water conservation issues and water catchment systems, water harvesting? Anything like that?

MR. DALTON: Mr. Chair, Commissioner Anaya, the applicant will be required in the covenants to do water conservation appliances in the homes. I believe any further issues the applicant can answer that question.

COMMISSIONER ANAYA: Mr. Chair, I guess this question goes to Roman. Are we -- I know I've brought it up about three months ago about water conservation, water catchment systems, harvesting. Are we still looking in'o that, to develop something?

MR. ABEYTA: Mr. Chair, Commissioner Anaya, as part of our County Code rewrite we are but it's becoming pretty apparent to me that we're going to need to look at that a lot sooner than that.

COMMISSIONER ANAYA: Yes. Okay.

CHAIRMAN SULLIVAN: Other questions of staff? Commissioner Duran.

COMMISSIONER DURAN: Mr. Chair, Roman, can't we put this on an emergency ordinance basis?

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MR. ABEYTA: Mr. Chair, we may be able to. We'd have to look into that.

COMMISSIONER DURAN: I think we need to.

MR. ABEYTA: Okay.

COMMISSIONER DURAN: Thank you.

CHAIRMAN SULLIVAN: Any other questions for the applicant?

COMMISSIONER CAMPOS: Question.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Dalton, give me an idea where this is. I didn't find a good location map in the packet.

MR. DALTON: Mr. Chair, Commissioner Campos, this is -- are you familiar where Sangre de Cristo Estates is located?

COMMISSIONER CAMPOS: North of town?

MR. DALTON: Yes. North of town, it borders Sangre de Cristo Estates, right off US 84/285.

COMMISSIONER DURAN: Before the Opera.

COMMISSIONER CAMPOS: Okay. Another question about the variance on the grades. Why couldn't the developer meet standards? Is it a question of cost? Question of aesthetic appearance? What is it?

MR. DALTON: Mr. Chair, Commissioner Campos, I'm not too sure on why he couldn't meet the grades. Maybe the applicant can better answer that question.

COMMISSIONER CAMPOS: Okay. I appreciate that. Thank you, Mr. Dalton.

CHAIRMAN SULLIVAN: I had a question, if you're finished, Commissioner.

COMMISSIONER CAMPOS: Yes, sir.

CHAIRMAN SULLIVAN: Mr. Dalton or Roman, either, in the staff report it mentions storage, fire storage of a 60,000 gallon water tank with two draft hydrants. In the Fire Marshal's approval or review of this subdivision, he states not less than 60,000 gallons above twice the estimated peak daily domestic usage of the system. So that would indicate, as is pretty common, that you satisfy the estimated peak demand, two days worth, during the peak use season, plus 60,000 gallons for fire protection. So is there a discrepancy there or is the Fire Marshal's report the one that controls here?

MR. ABEYTA: Mr. Chair, the Fire Marshal's report will control it, so maybe the staff report kind of indicates that the applicant will comply with all other requirements. They have to comply with the storage tank requirements also.

CHAIRMAN SULLIVAN: So the storage tank would be something in excess of 60,000 then to meet the Fire Marshal's condition. The other question that I had was this size of a subdivision requires the purchase of water rights. Has the applicant or does the applicant plan to purchase water rights for the subdivision?

MR. ABEYTA: Mr. Chair, we had this discussion with the EZA when they had originally approved the master plan, because this is in the two-mile and the EZA had originally imposed a condition requiring water rights. The applicant challenged that. Our legal department looked into whether or not that County Code requirement applied in the two-mile EZ area and

it was the County Attorney's opinion that it did not. We reported back to the EZA. The EZA removed that condition. Since then the EZA has ordered us and actually has approved an ordinance that will require it from this point forward with these projects, but to answer your question, water rights are not required for this subdivision.

CHAIRMAN SULLIVAN: Okay, so the EZA has, so we could attach it as a condition now, because the EZA has approved it.

MR. ABEYTA: Mr. Chair, I would say that you probably could not because the EZA knew that this case was going to go forward, allowed it to go forward and was specific when they had -- I believe the EZA -- the EZA's intent was to allow this project to go forward but to make the ordinance apply to future projects. I guess the Board could impose a condition like that but we'd be back where we were at with the EZA where we'd get a legal opinion that may say that the Board didn't have the authority to do that.

CHAIRMAN SULLIVAN: I see. So we have 51 units but it's your feeling and understanding, not legal opinion, but your feeling that the applicant isn't required to obtain any water rights to satisfy that.

MR. ABEYTA: Per the ordinances, no, he's not required, because again, he's in the two-mile EZ and I don't even know if that ordinance as it's written now has gone into effect yet. The EZA just passed it recently, I think a month ago. Maybe two months ago.

CHAIRMAN SULLIVAN: Okay.

MR. ROSS: Mr. Chair, members of the Commission, maybe I can help you a little bit with this. The New Mexico Constitution prohibits a body such as the EZA from changing the rules in a particular case that's pending before a body. The legislature can't pass a law to affect the outcome in a given case. That would certainly be the case here where the EZA approval of a new ordinance took place while this very matter was pending. That's something to keep in mind.

CHAIRMAN SULLIVAN: Okay. Another question that I had again on water, which is always a concern. Either Wayne or Roman, I'm not bypassing either one of you, just whoever wants to respond. My understanding also is that this size of a subdivision requires a community water system. Can you explain to me how just drilling wells satisfies the community water system requirement?

MR. ABEYTA: Mr. Chair, I can't explain that and I don't know if Mr. Dalton can either. The hydrologist looked at it, acknowledged that it was a community water system, but what the standards are for that or how this qualifies I can't answer that.

CHAIRMAN SULLIVAN: Do we have some definition of what a community water system is?

MR. ABEYTA: The Extraterritorial Zoning Ordinance defines a community water system -- I have a definition here, Mr. Chair, if you'll give me a minute. A community water system is defined as a water supply system which serves five or more dwelling units or commercial units through facilities which are under central or common ownership and/or management. That's the current definition in the EZ for a community water system, and that was part of the issue that the EZA had was it did not include -- the County Code definition

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includes a water system under common ownership and/or management using permitted water rights other than wells permitted. That's the definition in the County Code. That's not the definition in the EZ where this project is located and that's why we were given the opinion at the time that the EZA could not require water rights. It still qualifies as a community water system because he serves five or more units but he is not required to have water rights. That's a County Code definition and not an EZA definition. But since then the EZA has changed the definition.

CHAIRMAN SULLIVAN: I understand the water rights part, but getting to the EZA definition of the community water system, it says a community water system serving five or more units, under what kind of ownership?

MR. ABEYTA: Central or common ownership, and/or management.

CHAIRMAN SULLIVAN: What will be the central management of this? How does that work with these wells?

MR. ABEYTA: Mr. Chair, perhaps the applicant could discuss that.

CHAIRMAN SULLIVAN: Okay, we'll ask the applicant to explain that to us.

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: Just on that particular note, I've dealt with this before in the past, and they are wells that are shared by three or four lots and that pretty much meets the Code.

CHAIRMAN SULLIVAN: But, Commissioner Duran, is somebody centrally managing and monitoring these?

COMMISSIONER DURAN: Well, there's one individual that is in charge of the wells and it has a meter and its own electric meter and they send a bill out for -- maybe the applicant knows better but I was involved in one and the one individual that was in charge of the well that shared four houses sent everybody a bill, had the meter put in the four property owners' names and that I think met the Code.

CHAIRMAN SULLIVAN: So if there were five or six of these clusters of wells, then would each group of four take care of their own electricity?

COMMISSIONER DURAN: Well, there'd be one meter for the well. One electric meter and -- no, I take that back. I know there's one electric meter.

CHAIRMAN SULLIVAN: For each well.

COMMISSIONER DURAN: Right. I think it's pretty vague.

MR. ABEYTA: Mr. Chair, if I may add, the Extraterritorial Subdivision Regulations allow a clustered well system to qualify as a community water system and then there's a definition for a clustered well system. The memo from the State Engineer's Office acknowledges that and refers to that section of the Subdivision Regs that allow a cluster well system.

CHAIRMAN SULLIVAN: And is that regulation one of the things that the EZA is changing?

MR. ABEYTA: The EZA is going to require, the EZA dealt with water rights.

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It will still allow a clustered well system to qualify as a community water system but you would need water rights.

CHAIRMAN SULLIVAN: What can we here in the BCC do? I think a community water system is clearly a central water system that serves everyone, that has a storage tank, that has a central management entity. It may have more than one well, depending on how it needs to be served and how big it is but everyone is metered and you can enforce conservation measures and things of that nature. How can the County Commission deal with that issue?

MR. ABEYTA: Mr. Chair, because this property is located within the two-mile Extraterritorial Zone, the Board's authority is limited to final plat approval only. And so the zoning for the property and the standards, the development standards are governed by the Extraterritorial Zoning Ordinance. So what would have to happen is the EZA would have to authorize or direct staff to change those standards in the zoning ordinance to disallow the use of a cluster well system as a community water system.

CHAIRMAN SULLIVAN: Commissioner Duran was just suggesting that why don't we have the Commission send a letter to the EZA requesting that they consider that change.

MR. ABEYTA: Right and direct them.

CHAIRMAN SULLIVAN: Would that be something that the Commission would be supportive of? I see some heads nodding. So perhaps we could draft a letter from our signature requesting that the EZA look at the issue of what constitutes a community water system.

MR. ABEYTA: We'll do that, Mr. Chair.

CHAIRMAN SULLIVAN: And on the same subject while we're on it then, I believe it also requires a community liquid waste system for subdivisions of this size and I know there is one in the condominiums, I think there's six condominiums that I saw, or eight, and the rest are septic tanks. So do septic tanks qualify as a community liquid waste system?

MR. ABEYTA: Mr. Chair, I need to refer to the sub regs again but I don't believe they -- again, the definition or the requirements for community water and sewer systems is different than the County Code and I don't believe one is required. It's not required unless you go below a one-acre minimum in the EZ. You don't need to do a community sewer system or a cluster sewer system. So you can have a community water system and individual septic tanks with one-acre lots.

CHAIRMAN SULLIVAN: In the EZ.

MR. ABEYTA: In the EZ. But in the County Code, you're right. You can't do that, after a certain number of lots. But in the EZ it gives no number; it regulates it by the size of the lots and not the number of lots.

CHAIRMAN SULLIVAN: I see. And is this something we also need to discuss with the EZ?

MR. ABEYTA: Mr. Chair, it probably is something we need to discuss. One of the difficulties and one of the reasons why this has never been changed in the EZ is because in

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order to change the Subdivision Regulations for the EZ area, that takes an action by both the County Commission and the City Council.

COMMISSIONER DURAN: Forget it.

MR. ABEYTA: And so once you get into the City process I think it's a little more difficult than the Commission process. That's why these standards have never been changed. We can change the zoning ordinance as much as we can and try to get it to -- try to tie down an applicant that way, but we need to take a look at how we can fix it so that maybe we don't have to go to the City Council for amendments.

CHAIRMAN SULLIVAN: But when EZ made the change that they made recently regarding water rights, they didn't have to go to both the City and the County for that.

MR. ABEYTA: Right. Because it just had to do with the definition for a community water system. That's in the zoning ordinance. But once you start talking about numbers of lots and size of lots you're dealing with the sub regs.

CHAIRMAN SULLIVAN: So the water system definition, the EZA could handle themselves without getting the joint powers --

MR. ABEYTA: Exactly.

CHAIRMAN SULLIVAN: But the liquid waste system is a zoning, acreage issue.

MR. ABEYTA: As far as when you apply it to subdivisions, yes.

CHAIRMAN SULLIVAN: Okay. Thank you. Are there any other questions of staff? If not, is the applicant here?

[Duly sworn, Clif Walbridge testified as follows:]

CLIF WALBRIDGE: My name is Clif Walbridge, 1421 Luisa Street, Santa Fe, and I'm here representing Chuck Bryant, the owner who is also here. Firstly, we're in agreement with all the conditions of staff. Secondly, regarding the domestic water storage, the shared well systems each have a 1200 gallon tank that is separate from the 60,000 gallon tank of fire protection. So the way the systems work, there's 1200 gallons at each of the shared wells in a separate tank. So I think that the -- normally, what I think the Fire Marshal was quoting was if you have a fire tank and a domestic combined, you need to have extra storage in the tank to take care of domestic use, but in this case the fire protection tank is strictly a tank sand-alone, and the storage of water for potable water is at each of the wells.

Thirdly, the homeowners association manages and will be managing all of the well systems, so that's really the central agency that manages the wells. The homeowners association, for example, in Sangre de Cristo Estates, which is done the same way, they handle maintenance, they read meters, they get the bills from the electric for the shared wells. So the homeowners association is that management control.

Fourthly, the liquid waste systems, we're using nitrate removal, advanced treatment on the septic tank prior to going into the leach field. So we've added that to it, the nitrate removal.

Lastly, I'd like to talk about the variances. The Extraterritorial Zoning Commission, they approved variances at their meeting of up to five percent grade at intersections, with the exception of one location where they approved the 7.95 percent. The staff had recommended

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five. We had asked for a couple of others. We could make those work and they worked out okay to do it at five percent but there's one location where the road, after the road comes into the subdivision, it has to go up over a fairly high ridge and there's one street there that services three lots off the main road and the main road needs to be at that 7.95 percent grade in order to get up over the hill. The run from the bottom to the top is over 1000 feet, so if you take it down to five, that represents about a 25, 30 foot loss of vertical and it requires a major cut through the ridge and the Extraterritorial Zoning Commission approved that. So we're requesting the variances we ask for just to the five percent, except for that one location, which would have a pretty severe impact on the terrain.

Commissioner Campos, Mr. Chair, the reason for the request for variances, and this is just at the intersections, is that the terrain is fairly rough. We have trouble at times on ground that is fairly flat, four or five percent, and sometimes ask for variances in the four percent, five percent range. This is fairly rough terrain. It's very hilly and to do it, it just would cause such a problem with the terrain if you held it to the three percent. The City ordinances do not have any requirement on grade. In fact, they do some grades that are 15 percent right off of intersections. The ASHTO standards, which are kind of the basis of the County Code, recommend that, they recommend three percent at intersections and it says right in that code that if you get into hilly terrain you can go up to six percent. I think that's where the staff is saying five percent is a reasonable grade. This one, this particular run of road at 7.95 percent is something that would really cause a lot of trees taken out and a lot of retaining walls and it would just not work with the land.

And again, the intersection is a short cul-de-sac that just serves three houses that comes out onto that road. That's all I have to say. I stand for questions.

CHAIRMAN SULLIVAN: Questions for the applicant's representative?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Walbridge, what about water conservation?

Have you discussed that at all?

MR. WALBRIDGE: I just discussed that with Chuck Bryant. Of course we're doing all the water conservation fixtures and things but I believe what you were talking about, Commissioner, was the water harvesting. When Chuck builds houses, he typically does that but he doesn't always necessarily build the houses. So he just told me tonight that we will add the water harvesting techniques to the CC&Rs to require people to do it in that subdivision.

COMMISSIONER ANAYA: Great. Can we add that as a condition?

CHAIRMAN SULLIVAN: You certainly can if you want.

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: Just for the sake of clarity and detail. Tell me what the standards are for water harvesting you're talking about.

MR. WALBRIDGE: It would be catchment of waters coming off house canals. You can take care of water on the surface in a rock-filled catchment area and when that

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overflows you put straw bales to put water flow. What you're trying to do is disperse the water around so that you're slowing down the velocity and you're keeping it on the lot. You do it with swales that run with the contour.

COMMISSIONER CAMPOS: You're talking about permaculture?

MR. WALBRIDGE: Yes.

COMMISSIONER CAMPOS: You're not talking about cisterns. About collecting water in a cistern for use later?

MR. WALBRIDGE: I haven't discussed with Chuck whether or not we require cisterns. I think in some cases there may be situations where that might be appropriate, depending on the siting of the house and where the water comes down. If it's close to an edge where you can't really have a way where you can build a swale or you can create that kind of harvesting, there may be situations in that rough terrain that a cistern might be appropriate.

COMMISSIONER CAMPOS: I'm not even sure if that -- you're pretty sure that that qualifies as harvesting, what you've just described?

MR. WALBRIDGE: I believe so.

COMMISSIONER CAMPOS: Because in the past we've talked about collection in a cistern for use onsite. I think that's what Commissioner Anaya has been talking about. I just wanted to make sure we all were talking about the same thing.

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN SULLIVAN: Let me just clarify first with Commissioner Anaya. Is that what you were talking about?

COMMISSIONER ANAYA: Mr. Chair, yes. I'm talking about cisterns and I saw the applicant nodding his head over there that they would do that. But all the other stuff that Mr. Walbridge was talking about, I sure would go with that also.

CHAIRMAN SULLIVAN: Now, at some point there's been discussion in other approvals of limiting landscaping water to water that's collected through water harvesting or other means. Is that what we're talking about here? What are we going to do with the water that we harvest? Is it just for landscaping?

COMMISSIONER ANAYA: For landscaping, just so we're not using drinking water.

CHAIRMAN SULLIVAN: Okay, so is your suggestion or would your addition to the conditions be that water for landscaping only be from the harvesting or just that whatever they collect from harvesting --

COMMISSIONER ANAYA: What other place would you put the water that you collect?

CHAIRMAN SULLIVAN: No, I'm saying that water of course would go to landscaping, but is your landscaping limited because we have done that in other approvals that have come by to the water harvesting, or is it okay to use potable water for that as well?

COMMISSIONER DURAN: They have a water budget.

CHAIRMAN SULLIVAN: I'm just trying to clarify what we're getting at here in terms of --

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COMMISSIONER ANAYA: Well, what I don't want is an extravagant, a big garden or a bunch of trees and then when it doesn't rain, then you have to use domestic water to water that. So they'd have to, I'd like to see it cut down. I'd like to see the water that they catch, to limit themselves on their plants and trees or whatever they're going to do so that they don't have to use the domestic water.

COMMISSIONER DURAN: Mr. Chair, I have something that might help us here. Are you not in the Aamodt lawsuit area? You are. So you are subject to water restrictions. They are. They're on the north side of Tano Road. So you are restricted to the amount of water you can use for outside landscaping, unless you're -- I can't imagine that you have pre-moratorium wells that you're using there.

[Duly sworn, Chuck Bryant testified as follows:]

CHUCK BRYANT: I'm Chuck Bryant. Your question again?

COMMISSIONER DURAN: Are you not subject to the Aamodt lawsuit?

MR. BRYANT: Yes.

COMMISSIONER DURAN: Okay. And is it your understanding that in that lawsuit you are restricted as to the amount of water you can use for outside usage? Are you familiar with it?

MR. BRYANT: Of course. Currently, the State Engineer has proposed a partial settlement of the Aamodt lawsuit which allows people that are using .7 acre-foot or less to utilize that water outside. We've limited the water to approximately 1/3 of that or one quarter acre-foot, or .25. And also we are using the water from the nitrate reducing septic systems. The nitrate reducing septic system cleans up the water to about 98 or 99 percent pure and then we can, if we wanted to, we could put a chlorinator and a dechlorinator where then you could actually sprinkle with it. But sprinkling in this area is not necessarily a good idea. So basically, what we're proposing is that everything will be a drip system, everything will be subterranean. But we'll use all of the water that goes through the domestic system, if you will. Just the household use. All of that goes into the nitrate reducing system, which is then cleaned up, and then that is used for the watering. And it takes approximately a third of an acre-foot of water to run a household.

COMMISSIONER DURAN: Okay. Just so that I understand your suggestion, Commissioner Anaya, so it's not confused with further restricting the water budget that you're required to work within, we want to make sure that you adopt water conservation measures and catchment systems and harvesting systems, harvesting techniques so that you can use as little potable water as possible for outdoor usage. Is that --

COMMISSIONER ANAYA: That's correct.

COMMISSIONER DURAN: Okay. And again, I think, Roman, it's important that we move quickly on this and I don't know if we can create an ordinance that would actually require subdivisions to conform to that but I think we could adopt an ordinance that would attach to our building permit process that would catch all those subdivisions that have been approved.

MR. ABEYTA: Mr. Chair, Commissioner Duran, we could do that. We've

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also, we've been involved with the State Engineer's Office. They are coming out with brochures dealing with water catchment for residential. So we'll take the information that we have from there and we'll incorporate it into an ordinance.

COMMISSIONER DURAN: Okay. And then just one last thing. The cistern system is one way of doing it, getting that rainwater off the roofs and other areas, but it requires a pump and it's a little bit more expensive. There's other techniques that are available. For instance, a pumice wick type system where the water drains off of the roof into kind of a pumice so the water wicks up into the landscaping. And I've seen that. I just want to make sure that we incorporate all of the new ideas and techniques.

MR. ABEYTA: Okay.

CHAIRMAN SULLIVAN: I think again, just as a clarification, Commissioner Anaya, you indicated that one requirement would be to have a cistern, and I think all of these other conservation measures are important as well. Is that still your thinking? Because I just wanted to clarify how that applies to the condominiums. Are there six or eight condominiums?

MR. BRYANT: It's six.

CHAIRMAN SULLIVAN: There are six condominiums. So would we make a requirement that there be a cistern for the six condominiums? Or would we leave that to the staff to figure out as a part of their permit approvals?

COMMISSIONER ANAYA: Mr. Chair, I guess it depends on how the condominiums are built. If we could put six in we should do it. Or if you could put one in so all of them could use it we could do that. I guess that's up to the staff.

CHAIRMAN SULLIVAN: So that could be left to the permitting staff to work with them on that.

COMMISSIONER ANAYA: Maybe a bigger size cistern for those six condominiums.

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: Just from a legal point of view, we don't have ordinances, nor do we have requirements that we can actually -- I mean creating an ordinance here tonight is -- I understand putting conditions on things but to require someone to do all this when we really have no basis to do that, do you find that putting this kind of condition on the approval would be appropriate? Or would it be more appropriate to ask them to participate in the request of the Commission to have all the homes in this subdivision conform to our water conservation guidelines that will be imposed at some point. I'm just trying to make sure that we're not doing something here that's unenforceable.

MR. ROSS: Yes, you certainly don't want to impose a requirement that has no basis whatsoever and of course what you've suggested is that the applicant participate in voluntarily arriving at some sort of solution. That's always preferable. Just imposing a condition that we can't support could be problematic or the applicant could have a problem with it. So I agree with you.

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COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: Yes, that's why I asked earlier if we could impose that condition, because I know we don't have an ordinance to back it up. Thank you.

CHAIRMAN SULLIVAN: So it's not reasonable that we can conserve water via cisterns then? But it's okay to do it by other ways? Or your opinion is that we have no basis to require conservation measures whatsoever, other than asking for compliance?

MR. ROSS: Mr. Chair, I was taking Commissioner Duran -- since I don't know the Code that well, I was taking him as knowing that we don't have requirements that would apply to this and I guess I would defer to Roman on exactly what, but if we don't have anything to base a requirement on this on, it certainly would be difficult to defend. Were we to work with the developer and get work through some sort of a voluntary approach to the problem, the issue of enforceability isn't true. So that's what I was --

CHAIRMAN SULLIVAN: Let's just ask the developer if he's okay with putting cisterns in. I understand you don't build all the houses, or requiring that as a condition of your sale of the lots.

MR. BRYANT: Mr. Chair, we already require that in Sangre de Cristo Estates. That's part of the covenants. If you want to water outside, you have to have a cistern.

CHAIRMAN SULLIVAN: Okay. So it seems to be a standard that you have adopted personally.

MR. BRYANT: Yes, it's something that I wrote into the Sangre de Cristo Estates covenants years ago.

CHAIRMAN SULLIVAN: And would that be --

MR. BRYANT: Well, it's going to be the same covenants.

CHAIRMAN SULLIVAN: So you would be agreeable to that same condition for this Tesuque Ridge?

MR. BRYANT: Yes. Well, they're going to be subject to the same covenants.

CHAIRMAN SULLIVAN: So, I think we've solved that problem, Commissioner Anaya and Commissioner Duran. Are there further questions from the Commission for the applicant? Mr. Bryant, I had one condition. One of the documents that they gave us was a letter from a Mr. Fox who was asserting a claim that he, that all the lots had to be a minimum of 2.5 acres as a part of a sale agreement and I'm not familiar with it. Could you perhaps comment on that?

MR. BRYANT: Well, Mr. Fox is incorrect. The language in the covenant that I agreed to sign with Mr. Fox was that the land development would be similar to Sangre de Cristo Estates and that the property adjacent to and just north of Mr. Fox's lot would be subject to the Sangre de Cristo covenants and bylaws.

CHAIRMAN SULLIVAN: Other questions for the applicant? If not, this is a public hearing and if there are those in the audience who'd like to speak in favor of or in opposition to this project, I appreciate your coming forward. I don't see any, so we'll close the public hearing and move the matter back to the Commission for deliberation or action.

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COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: I move for approval of EZ Case #S 02-4022, Tesuque Hills Subdivision with staff's recommendations, with the understanding and condition imposed by Commissioner Anaya, which would be that the single family homes would have a cistern system and I'm not sure how you're going to do it with the condominiums, but some kind of shared or common -- is that what you had in mind? -- some kind of a common cistern system for the condominiums?

MR. BRYANT: Commissioner Duran, yes, we'll work with staff on whatever works engineering-wise and whatever works for the condominiums.

COMMISSIONER DURAN: Okay. That's my motion.

COMMISSIONER ANAYA: econd.

CHAIRMAN SULLIVAN: Okay, there's a motion and a second. Any further discussion? So that would be condition 24 then. Commissioner Campos.

COMMISSIONER CAMPOS: Do we need any clarity for legal as far as variances? The motion was to approve subject to conditions. Do you read that to mean including variances?

COMMISSIONER DURAN: As submitted.

MR. ROSS: Mr. Chair, Commissioner Campos, it seems that the staff recommendation was --

COMMISSIONER CAMPOS: You're saying that variances don't have to be treated separately.

MR. ROSS: I wouldn't think so.

COMMISSIONER DURAN: So there's no doubt, Mr. Chair, I'd like to make my motion to include the variances. Would the second agree?

COMMISSIONER ANAYA: Yes.

CHAIRMAN SULLIVAN: Okay, the motion to include the variances, which as I understand is to exceed at several points the three percent grade for 100 linear feet, but not to exceed a five percent grade.

COMMISSIONER DURAN: Except for one point, where they have to go to maybe 7.9.

CHAIRMAN SULLIVAN: Is that correct? I was just reading off the staff's recommendation.

COMMISSIONER DURAN: As stated in the public hearing.

CHAIRMAN SULLIVAN: So there's one point where you exceed the five percent grade, Mr. Walbridge, and it's seven percent or something of that nature.

MR. WALBRIDGE: Mr. Chair, yes. We're requesting one location of the road at 7.95 at the intersection, percent grade.

CHAIRMAN SULLIVAN: And all other do not exceed --

MR. WALBRIDGE: And all the others would be held at no more than five.

CHAIRMAN SULLIVAN: No more than five percent.

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COMMISSIONER DURAN: So that would be part of my motion.
CHAIRMAN SULLIVAN: Okay, and would that be okay with the seconder?
COMMISSIONER ANAYA: Yes.
CHAIRMAN SULLIVAN: All right. Further discussion?

The motion to approve EZ Case #S 02-4022 passed by unanimous [5-0] voice vote.

COMMISSIONER MONTOYA: Mr. Chair.
CHAIRMAN SULLIVAN: Commissioner Montoya.
COMMISSIONER MONTOYA: Just a quick -- County Clerk Becky notified me that the Ochoa family here in Santa Fe has a nephew, Nathan Hardin, who's returning from Iraq today and he and another marine are the last two individuals from New Mexico to return from the war, and they were part of the Delta unit and stayed behind to make sure that all the equipment was put on the ships to be sent home. So I just wanted to make that announcement as people are walking out. I forgot. Sorry, Becky. Should have said it sooner.

- XI. A. 11. **EZ CASE # 99-4622 - Village Plaza. Great Western Investors (Richard Montoya), Applicant, Santa Fe Planning Group, Agent Request Final Plat and Development Plan Approval for a Mixed Use Development which Will Consist of 86 Residential Units and 51,000 Square Feet of Commercial Area on 48.3 Acres. The Property is Located South of the Intersection of SR 599 and County Road 62, within Section 31, Township 17 North, Range 8 East (2 Mile EZ District)**

VICKI LUCERO (Review Specialist): Thank you, Mr. Chair. On June 12, 2003, the EZC recommended approval of the request for master plan, preliminary and final development plan amendment, as well as preliminary and final plat approval. On June 24, 2003, the EZA granted approval of the request for an amendment to the previously approved master plan, preliminary and final development plan.

The request before the BCC is for final plat approval only for a mixed use development consisting of 86 residential lots. This project lies within the Highway Corridor Area, and is designated as a non-residential use. This development must conform to the Highway Corridor design standards. Under the Highway Corridor Plan there is a provision to allow the Transfer of Development Rights from designated sending areas to designated receiving areas at a more suitable location.

The property in question qualifies for the transfer of development rights program. The applicant owns 23.18 acres of land within the TDR sending area. This property is located within an area that was designated as a potential commercial node by the EZO prior to the highway corridor plan. In this specific area the applicant will be allocated twelve

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TDRs per net sending acre to be developed at one of the receiving areas as designated in the TDR Ordinance. The applicant wishes to transfer 50 TDRs to the residential area previously approved for 36 lots to allow a total of 86 lots. This parcel is within receiving area #5 as designated in the TDR Ordinance.

This project was reviewed for access and roads, terrain management, water, fire protection, liquid and solid waste, traffic and archeology.

Recommendation: This application is in conformance with the Extraterritorial Subdivision Regulations as well as with the Highway Corridor Ordinance and Transfer of Development Rights Ordinance. Staff's recommendation and the decision of the EZC was to recommend approval of request for final plat and development plan subject to the following conditions. Mr. Chair, may I enter the conditions into the record?

CHAIRMAN SULLIVAN: Yes, please.

[The conditions are as follows:]

1. Master/development plan and final plat with appropriate signatures must be recorded with the County Clerk.
2. All redline comments must be addressed; redlines must be returned.
3. A contract from a licensed solid waste disposal service must be submitted prior to final plat/development Plan recordation.
4. All utilities must be underground.
5. A detailed lighting plan with cut-sheets showing the light fixtures must be submitted prior to final development plan/plat recordation. The applicant must demonstrate that illumination will not exceed 0.50 foot-candle 10 feet from the property line.
6. The applicant will be required to submit a financial guarantee, in an amount approved by the County, for all improvements including fire protection, roads, retention ponding and landscaping prior to grading or construction permit issuance. The financial guarantee for landscaping and revegetation will be kept until the plantings have taken, for a minimum of one year after installation.
7. County Road 62 and South Meadows Road must be conditionally dedicated to Santa Fe County.
8. Location of the solid waste disposal dumpsters must be shown on the plans. Dumpster must be enclosed by a 6' high stucco wall with a gate.
9. This development must comply with the Highway Corridor Design Standards including but not limited to the following:
 - a) Only drought tolerant species of trees and shrubs shall be planted outside protected courtyards.
 - b) Site walls shall be constructed of stone, stucco, or a combination of both with solid wood, including coyote fences with stone or stucco posts.
 - c) Maximum height for site walls shall not exceed 6 feet in height.
 - d) Parking and security lights shall be no higher than adjacent buildings or have a maximum height of 17 feet whichever is less.

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- e) Architectural design standards
- 10. Road names and rural addressing must be approved by the County prior to recording the final plat.
- 11. The standard County water restrictions, final homeowner's documents, and disclosure statement as approved by staff must be recorded with the final plat.
- 12. The developer must pay the solid waste fee in accordance with subdivision regulations, prior to recording the final plat.
- 13. All lots are subject to the Santa Fe County Fire and Rescue Impact Fees. This must be clearly noted on the final plat.
- 14. The TDR easement must be recorded prior to final plat recordation.
- 15. A deed of transfer of the development rights from the sending area must be recorded prior to final plat recordation.
- 16. Written confirmation that the development rights on the sending area property have been extinguished must be submitted to the TDR Manager prior to final plat recordation.
- 17. A deed restriction designating the sending area as permanent open space must be recorded prior to final plat recordation.
- 18. Restrictive covenants shall address development standards as set forth in Section 14.D.5.c (Transfer of Development Rights Standards) of the EZO.
- 19. The developer must have a pre-construction meeting with the Technical Review Division Staff prior to final plat recordation.
- 20. The developer shall pay a fire review fee in the amount of \$2,575.00 in accordance with Santa Fe County Resolution No. 2001-114, prior to the recordation of the Final Plat/Development Plan.
- 21. Development plan submittals shall include the following:
 - a) Design plans for accel/decel lanes as recommended in traffic report
 - b) Facilities for park/playground
 - c) Trail section
 - d) Address pedestrian access in parking lot
 - e) Flood plain limits
 - f) Final plat as approved by staff
- 22. Compliance with applicable review comments from the following:
 - a) State Engineer
 - b) State Environment Department
 - c) Soil & Water District
 - d) State Highway Department
 - e) County Hydrologist
 - f) Development Review Division Director
 - g) Technical Review Division Director
 - h) County Fire Marshal (Site development Plan & Building Plans)
 - i) County Public Works

MS. LUCERO: Thank you, Mr. Chair. I just wanted to add as well that this project will be required to utilize water harvesting, graywater and other water conservation measures as imposed by the EZA. It was a condition imposed by the EZA and which the applicant agreed to. Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Questions of staff?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: Vicki, so does that mean exactly what the last applicant went through, they would agree to?

MS. LUCERO: Mr. Chair, Commissioner Anaya, that's correct. They did agree to looking into water harvesting and water conservation measures.

COMMISSIONER ANAYA: Thank you.

CHAIRMAN SULLIVAN: Looking into.

MS. LUCERO: They didn't specify specifically what types of measures that they would use but it would be subject to both City and County staff review and approval.

CHAIRMAN SULLIVAN: Questions of staff?

COMMISSIONER DURAN: Didn't we do this at the EZA last month?

MS. LUCERO: Mr. Chair, Commissioner Duran, yes, that's correct.

COMMISSIONER DURAN: And we had a lot of discussion about that.

MS. LUCERO: That's correct. Yes.

CHAIRMAN SULLIVAN: And did you set a condition?

COMMISSIONER DURAN: I don't remember. I think they satisfied Pfeffer and Councilor Lopez and everyone else. Are you on that committee?

COMMISSIONER CAMPOS: Yes.

COMMISSIONER DURAN: I think Commissioner Anaya is the one that brought it up.

COMMISSIONER ANAYA: I just want to make sure.

CHAIRMAN SULLIVAN: I was just questioning what "looking into" means. Perhaps when the applicant comes up we can clarify that. Other questions of staff? Is not is the applicant or the applicant's agent present?

[Duly sworn, Scott Hoeft testified as follows:]

SCOTT HOEFT: Scott Hoeft, Santa Fe Planning Group, P.O. Box 2482, Santa Fe, New Mexico, 87504. Regarding the condition, Vicki did say looking into. I was a little uncertain as to exactly how that condition was phrased at the time. I think we can clarify it tonight if you wish to, Commissioner. I don't have the actual read of that condition but we are more than willing to work with, I believe it was Commissioner Anaya's request at the EZA.

In the interests of time, I know that Commissioner Duran, Commissioner Anaya and Commissioner Campos were there at that EZA. I do have a presentation but I will refrain unless Commissioner Sullivan and Commissioner Montoya would like to learn in detail about some issues of the case.

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COMMISSIONER MONTOYA: Could you keep it under an hour?

CHAIRMAN SULLIVAN: Could you make it more than an hour.

MR. HOEFT: I could do it in five minutes if you would like or I can stop right here and just stand for questions.

COMMISSIONER MONTOYA: Actually, Mr. Chair, I read the packet and I don't have any questions.

CHAIRMAN SULLIVAN: I did read it also, Mr. Hoeft and I do have one question also, but I don't think we need the full presentation for myself unless any of the other Commissioners would like to hear it again.

MR. HOEFT: So I'll stand for questions.

CHAIRMAN SULLIVAN: Okay, Mr. Hoeft is here for questions. Questions for the applicant?

COMMISSIONER DURAN: I have a couple, Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: So there's going to be 86 residential lots. Can you tell me what the size of those lots is going to be?

MR. HOEFT: They range in size. The average size is 5,000. They range in size from 5,000 to 7,000 or so. So the average size is in the 5,000 square foot size.

COMMISSIONER DURAN: And the City has agreed to a water extension service contract with you?

MR. HOEFT: That's correct.

COMMISSIONER DURAN: Are all of those going to be affordable?

MR. HOEFT: They're all going to be regulated by the HOP Housing Opportunity Program by the City of Santa Fe. They'll all be Type B, which means that they'll be under \$270,000 for a final product. If they're going to sell land, it will be under \$80,000 for a final piece of land.

COMMISSIONER DURAN: With all utilities?

MR. HOEFT: That's correct. Type B is regulated under \$270,000 for housing, under \$80,000 for land.

COMMISSIONER DURAN: Will they be going through one of the, like the Neighborhood Housing, they call it something else now, Housewise, or Homewise. Will they be participating with them on that or just conforming to the HOP program?

MR. HOEFT: Conforming to the HOP program.

COMMISSIONER DURAN: Okay. That's great. Thank you.

CHAIRMAN SULLIVAN: Other questions? The questions I had, Mr. Hoeft is what type of housing be on these? Will this be modular housing or mobile homes or what will it be?

MR. HOEFT: This is subject to the Highway Corridor Plan. The Highway Corridor Plan, to the best of my knowledge prohibits mobile homes. They have to have stucco siding. Stick-built is what we're anticipating on the product, so I would not anticipate to see mobile homes, per se.

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COMMISSIONER DURAN: What was that? I'm sorry.

MR. HOEFT: Commissioner Sullivan asked what type of housing will be on the site when completed and he asked if it was going to be modular or mobile homes and I indicated that the Highway Corridor Plan prohibits modular homes. We have to do stucco siding on homes. I guess you could have some type of modular home but they have to be in appearance like a regular stick-built home.

CHAIRMAN SULLIVAN: Are you within, what part of the highway corridor is this in? I understand a portion of it is in one section, which is the TDR portion that gets transferred to the other section, but are you within the setbacks, or explain that to me.

MR. HOEFT: We are in the scenic corridor district of the Highway Corridor Plan. The northern portion of the site is in some required and desired setbacks, of which we've met of the Highway Corridor Plan. I don't know if the southern portion of the site is in, I believe the entire site is in the scenic corridor district. The northern portion of the site is within the required and desired setbacks of the highway corridor.

CHAIRMAN SULLIVAN: So the residential is in the southern part.

MR. HOEFT: That's correct. And if you were to look on the Highway Corridor Plan, for example, you would see where we have shown as commercial red dots for commercial and the southern portion of the site is residential. We are consistent with the master plan which was approved in 1999.

CHAIRMAN SULLIVAN: But the corridor plan allows residential in this?

MR. HOEFT: Yes. Yes, it does.

CHAIRMAN SULLIVAN: And then I recall a comment, and I'm looking at drawing 6-A. There was a comment that the change to this drawing was that the road to the north was eliminated.

MR. HOEFT: That is correct.

CHAIRMAN SULLIVAN: Is that -- do you want to come up here a second? Is that the road that I've circled here, that accesses the frontage road.

MR. HOEFT: No.

CHAIRMAN SULLIVAN: What road are you talking about?

MR. HOEFT: There was a road in the previous plan that went from here up to here.

CHAIRMAN SULLIVAN: Oh. Okay. So this is the final drawing here. So you're still going to have two accesses to the frontage road.

COMMISSIONER DURAN: To 62?

MR. HOEFT: No.

CHAIRMAN SULLIVAN: The two accesses, that's okay with Traffic?

MR. HOEFT: Yes.

CHAIRMAN SULLIVAN: In terms of distance.

MR. HOEFT: That is correct. Yes. If you would like further clarification I have a plan here that I can pass out real quick that would I think help the situation.

CHAIRMAN SULLIVAN: Whatever you like. Okay. Thank you. So that's the

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north road.

COMMISSIONER DURAN: A is the original, you said? Okay, I see it. Are you through, Mr. Chair or do you still have --

CHAIRMAN SULLIVAN: No, go right ahead, Commissioner Duran.

COMMISSIONER DURAN: Scott, I was wondering, I know this is off the highway corridor and the architectural guidelines don't really affect the housing --

MR. HOEFT: No, they do, Commissioner.

CHAIRMAN SULLIVAN: They do?

MR. HOEFT: We are subject to the highway corridor. The architectural guidelines will be consistent with the Highway Corridor Plan.

COMMISSIONER DURAN: You said there would be a problem with requiring that you do stick-built on these lots? I mean, at \$80,000 a lot, if that's the basis. This is going to be very visible from the highway and I have seen -- it would just be nice to be able to have stick-built houses here rather than -- I think it would be aesthetically pleasing to have stick-built.

MR. HOEFT: I would say for all intents and purposes, and maybe Roman can help me with this, based on the highway corridor standards, of which this development is subject to, I think they will look like stick-built in all intents and purposes. I can tell you that the owner is talking with developers to do stick-built, Centex Homes, for example. I don't know though what the final group will be and I --

COMMISSIONER DURAN: Well, modular homes come in and they put them on three-foot foundations, three feet above the ground. I would just like to see stick-built homes there. If he's already talking to people about it, I'd like to make that a condition of approval.

CHAIRMAN SULLIVAN: I would just ask, Commissioner Duran, are we not in the same situation that you brought up in the last case which was we have an ordinance that requires a certain type of construction.

COMMISSIONER DURAN: Yes, but I'm the one that's doing it this time.

CHAIRMAN SULLIVAN: Oh, I see. So that makes it different. Of course.

COMMISSIONER DURAN: I stand corrected. You're absolutely right.

MR. HOEFT: I will say for the record that we will do all we can to make -- and I know, I can tell you that the owner is leaning in that direction.

CHAIRMAN SULLIVAN: I don't say I disagree with the Commissioner. I think stick-built give a better sense of ownership and place. It may or may not be more expensive but I'm not sure that we can require it.

MR. HOEFT: If we can have it as part of the final list of recommendations or conditions without it actually being a condition would be a nice thing to have if that's feasible.

CHAIRMAN SULLIVAN: Let's add it as a conditional recommendation. How about that? I'm serious. Let's add a condition that says it is the recommendation of the Board of County Commissioners that -- Is that legal, Mr. Ross?

MR. ROSS: Absolutely.

CHAIRMAN SULLIVAN: He says that legal.

COMMISSIONER DURAN: Okay, good. Let's do it.

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CHAIRMAN SULLIVAN: All right. Any other questions of the applicant? If not, this is a public hearing. Not seeing too many people who are apparently wanting to speak in favor of or in opposition to the last case of the evening, I'll close the public hearing and ask the Commission what action they would like to take with regard to this case.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: Move for approval with staff recommendations and County conditions.

CHAIRMAN SULLIVAN: And how about with Commissioner Duran's recommended condition? Did you miss that?

COMMISSIONER MONTOYA: I missed that, Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Duran, do you want to --

COMMISSIONER DURAN: We recommend that they consider doing stick-built houses on it.

CHAIRMAN SULLIVAN: We added a condition that says the Board of County Commissioners recommends, refers and recommends, how about that? That the housing be of stick-built construction.

COMMISSIONER MONTOYA: Not a problem.

CHAIRMAN SULLIVAN: Okay. The maker of the motion is agreeable that that condition be added to the conditions. Is there a second to that motion?

COMMISSIONER ANAYA: Second.

CHAIRMAN SULLIVAN: Commissioner Anaya will be the seconder of that motion. Is there further discussion?

The motion to approve EZ Case #S 99-4622 passed by unanimous [5-0] voice vote.

CHAIRMAN SULLIVAN: Is there any other business, Mr. Ross, Mr. Abeyta?

MR. ROSS: No, thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Ms. Bustamante?

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ADJOURNMENT

Chairman Sullivan declared this meeting adjourned at approximately 9:16 p.m.

Approved by:


Board of County Commissioners
Jack Sullivan, Chairman

Respectfully submitted:

Karen Farrell, Commission Reporter



ATTEST TO:


REBECCA BUSTAMANTE
SANTA FE COUNTY CLERK

