

COUNTY OF SANTA FE)
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BCC MINUTES
PAGES: 146

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SANTA FE

BOARD OF COUNTY COMMISSIONERS

REGULAR MEETING

July 11, 2006

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

SFC CLERK RECORDING 11/14/2006

**SANTA FE COUNTY
REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS**

July 11, 2006

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 3:05 p.m. by Chairman Harry Montoya, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

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

Members Present:

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

Members Absent:

[None]

V. INVOCATION

An invocation was given by Chaplain Jose Villegas

VI. APPROVAL OF THE AGENDA

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- B. Tabled or withdrawn items**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

JACK HIATT (Interim Deputy County Manager): Mr. Chairman, we have several changes. First of all, if you look on page 1, under the Consent Calendar, X. E. 1 is the consideration of emergency medical services tax. That's not been withdrawn; it's been moved off the Consent Calendar but it's been moved to Matters from the County Manager, XI. A. 1. You'll see this on page 2 under Matters from the County Manager.

Second, Mr. Chairman, under the Matters from the County Manager, the RFP for the federal lobbyist will be discussed under number 2 and number 3 has to do with emergency

procurement to deal with a low-water crossing on County Road 51. This may not have appeared on the original agenda.

Finally, Mr. Chairman, on page 3 under Land Use items, items 7 and 9 are both tabled. Number 7 is a CCDRC Case and number 9 is an EZ case. Both of the matters are tabled [inaudible]

CHAIRMAN MONTOYA: Okay, any other changes or Consent Calendar withdrawals? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, I think IX. A was changed, at least the wording of it was changed.

CHAIRMAN MONTOYA: Yes, from the original.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Under the public hearings, I believe there's going to be a lot of people here for the Paul Parker variance and I'd like to move that one up if we could to be maybe after item number 3, or 4, actually.

CHAIRMAN MONTOYA: After 4?

COMMISSIONER ANAYA: Yes. Mr. Chairman, it depends on how long you think 1 through 4 will take, actually. I believe there's going to be a lot of people here and I don't want them to wait around.

CHAIRMAN MONTOYA: Are there any comments particularly on 2 and 4?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think there will be a lot of people here for number 2, from the meetings and the e-mails and the telephone calls I've had, so there will probably be quite a few people here for that and the only other one I know that seems to be generating a lot of interest is number 8.

COMMISSIONER ANAYA: So if we put it after 4 that would be fine for me.
Move 6 to 5.

CHAIRMAN MONTOYA: Any other changes? Is there a motion?

COMMISSIONER ANAYA: So moved, as amended.

COMMISSIONER CAMPOS: Second.

CHAIRMAN MONTOYA: Motion and second. Discussion?

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

VII. APPROVAL OF MINUTES: June 13, 2006

COMMISSIONER ANAYA: So moved.

CHAIRMAN MONTOYA: Motion, Commissioner Anaya.

COMMISSIONER VIGIL: Second.

CHAIRMAN MONTOYA: Second, Commissioner Vigil. Any discussion?
COMMISSIONER CAMPOS: I abstain, Mr. Chairman. I was out on that meeting.

The motion to approve the June 13th meeting minutes passed by unanimous [4-0] voice vote with Commissioner Campos abstaining.

June 19, 2006

COMMISSIONER VIGIL: Move to approve.
CHAIRMAN MONTOYA: Motion, Commissioner Vigil.
COMMISSIONER SULLIVAN: Second.
CHAIRMAN MONTOYA: Second, Commissioner Sullivan. Any discussion?

The motion to approve the June 10, 2006 minutes as submitted passed by unanimous [5-0] voice vote.

June 6 and 17, 2006 (Special Canvassing Meetings)

COMMISSIONER VIGIL: Move to approve.
CHAIRMAN MONTOYA: Motion by Commissioner Vigil.
COMMISSIONER CAMPOS: Second.
COMMISSIONER SULLIVAN: Abstain.
COMMISSIONER CAMPOS: Oh, I'll abstain. That's the canvassing. I was not here.

COMMISSIONER VIGIL: I believe just Commissioners Montoya, Anaya and I were here. So I will move to approve.

COMMISSIONER ANAYA: Second.
CHAIRMAN MONTOYA: Okay. Motion, Commissioner Vigil, second Commissioner Anaya.

The motion to approve the canvassing minutes passed by unanimous [3-0] voice vote with Commissioners Sullivan and Campos abstaining.

VIII. MATTERS OF PUBLIC CONCERN – NON-ACTION ITEMS

CHAIRMAN MONTOYA: This is the point on the agenda where if anyone has any items that they would like to discuss or mention to the Commission, please come

forward.

DAN ANAYA: Good afternoon. My name is Dan Anaya and I live on 3352 Governor Miles Road, which is County. I was here a year and a half ago, Mr. Anaya was helping me at that time. Mr. Sullivan is our Commissioner for that district. Recently we've had a lot of traffic on this road and it's still continues to get more and more traffic, but I have a letter I wanted to read to you guys.

I would like to bring to your attention and ask for your assistance regarding the traffic on Governor Miles Road. I have lived on Governor Miles for the last few years. In the short time I have lived there I have seen an increase in traffic. I can only imagine the change long-time residents have seen in the last ten years. The posted speed limit is 25 miles per hour. It is rare to see a vehicle travel at the legal posted speed limit. If a vehicle is traveling at or near speed limit, you are sure to see a vehicle passing.

As you may be aware, Governor Miles does not have curbs nor sidewalks. However, it is used regularly by runners, cyclists, walkers, which include parents with small children. Cars, trucks, SUVs, school buses and semi-tractor trucks travel Governor Miles on a daily basis in excess of the speed limit without regard to the safety of residents or pedestrians. On any given day you may see two vehicles side by side drag racing. On many occasions I have reported this to the Santa Fe Sheriff's office and asked them to patrol. The Sheriff's office responds, however, the pattern of the behavior continues.

Through the research I have done by contacting your office and the City of Santa Fe I have found that the stretch of Governor Miles that which in the county is considered a private road, a private road which provides access to Pueblos del Sol, Nava Ade, Rancho Viejo, the Community College, Monte del Sol High School, not to mention others who are trying to avoid Rodeo Road. Two other new housing developments along Richards Avenue will begin construction and undoubtedly will create more traffic along Governor Miles.

Before there is any serious or fatal accident along this dangerous stretch of road I ask for you to strongly consider making a positive change by placing speed humps, traffic circles or some type of traffic calming system. I and other residents of Governor Miles are available to meet with you to discuss alternatives. If you have any questions, I can be reached. I have talked to someone here and they sent me a petition to do the speed humps and I've talked to Mr. Hiatt and we don't know if bringing in this petition, because if it's a private road, if it's going to help or not. The stretch of the road is only .4 miles.

Last year Mr. Anaya and I think James Lujan, at that time they got the road striped which has been striped now. But I'm seriously asking for some help. I have some stuff here from the City of Santa Fe. In less than a year, 47 citations on that road, and that's not them being there every day. I've contacted Mr. Sullivan. I've talked to the liaisons but never to Mr. Sullivan himself and there's many developments popping up over there now on the south side. I've strongly asked for your help. I don't know where to go from here anymore. The last time I was here I asked if I could - we all want to gate that road. You told us that we couldn't because it's a private - it's been there for a while.

We don't know how the road opened up on each end of the road, who did it or - but I

don't know where to go.

CHAIRMAN MONTOYA: Did you talk to James Lujan?

MR. ANAYA: Yes, and James Lujan keeps telling us that it's not a County maintained road. I'm just confused how thousands of cars use that road and it can't be maintained. I'm really baffled by it. In the winter they come, they lift up the grader blade and they bypass .4 miles, bring it down on the other road and they grade. I need your support and I need you guys to work for us, which we are county. I don't know where to go from here no more. I have a petition, I was told not to bring it in until we find out if it's actually a road or not.

CHAIRMAN MONTOYA: It sounds like this may need to go through the petition process of getting the road adopted by the County in order for us to do any further maintenance on it. Is that correct, James, or how would you suggest we proceed? Could we set up a meeting?

JAMES LUJAN (Public Works Director): Mr. Chairman, members of the Commission, that would be the only stretch of road that would become a County road in there. Like I said, it's on both sides City and we have no idea how that fell. It must be through a subdivision that was taken in at the time and they paved it. But if that's the wish of the Commission to petition to adopt it, we could look at that.

CHAIRMAN MONTOYA: Commissioner Campos, Commissioner Vigil.

COMMISSIONER CAMPOS: Mr. Lujan, could you give me a little background? This is Governor Miles between Cerrillos and Richards?

MR. LUJAN: Governor Miles between Richards and I believe Camino Carlos Rey to the east.

MR. ANAYA: It's Camino Carlos Rey all the way down to Richards Road. You are correct.

MR. LUJAN: The stretch you're talking about is between Richards east and Carlos Rey. On the other side of this road is city also. Nava Ade is in the city limits. And Pueblos, all those are city streets. It's just these .4 of a mile that are not city limits or city streets.

COMMISSIONER CAMPOS: And it's clearly not a public road at this point?

MR. LUJAN: At this point it's not a public road.

COMMISSIONER CAMPOS: And it was paved pursuant to -

MR. LUJAN: I believe through the subdivision. We have no knowledge of it. I don't have any knowledge of it. Maybe Robert Martinez.

COMMISSIONER CAMPOS: But something that the City did requiring the paving?

MR. LUJAN: To the best of my knowledge. I have no background on that, how it got paved.

COMMISSIONER CAMPOS: Okay. Do you have a suggestion? I don't want to recommend anything without having input and evaluation from staff. Have you had an opportunity to do that?

MR. LUJAN: I've talked to the City and asked them why they don't take it in because they have their City sewer under that road and I believe they have a City water line. And when they tore it up and replaced it, nobody wanted to do it and they left a stretch without stripes so it was directed by the Commission to go ahead and stripe it, which was a very minor cost to the County but we did stripe it. I suggest that the City take it because they have their utilities under it and anytime they need to repair or maintain them, they would have to come back to the County to get permission to go in to maintain their sewer lines. So that's the best suggestion I would have.

They currently have City utilities through there.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chairman. The other issue that I think needs to be looked at is all of the property around there is city owned. Is that correct? All of the subdivisions around there?

MR. LUJAN: To the best of my knowledge it is City.

COMMISSIONER VIGIL: And I think there is a state statute that if the property is owned by a particular municipality or local government division then the road in fact automatically reverts to that municipality or local government division. So I don't know if there's some legal research that needs to be done here but I think there's some more information we need with regard to that and it does make sense to me that perhaps the City isn't [inaudible] because it is privately owned, perhaps by the developer at this particular point in time and the developer would have to quitclaim the deed or there would have to be some kind of a transaction where that would go over to the City if the City in fact chose to put it in their inventory as a City maintained road.

But I'm also concerned about giving staff direction on a private road or road that isn't actually County, and I'm concerned that we even go out there and stripe the road and do those kinds of things because that exposes us to the liability and in many people's minds gives the perception that there's some kind of ownership on the part of the County, and I'm not too sure that that ownership actually exists. So I think there's some more information we need to get before we even go with any kind of direction with regard to the County. I'd like to see if it legally can be within the authority or the ownership of the City, and second of all, if it's private owned, if the private owner is planning to dedicate it as a public road.

CHAIRMAN MONTOYA: Okay. Thank you. Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. I'm wondering if we could do something like draft up a resolution. With all the things that you just said and pass it through the Commission to give to the City on why we think that they should take that road over. And maybe that's a start. I don't know.

COMMISSIONER VIGIL: And Mr. Chairman, if I might be able to respond. I'm perfectly willing to do that but I don't know that we have the answers right now. Once we do, if we can, and those answers are there, I'm certainly willing to support something that would let the City know that this might be a transaction that they should consider.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Just a question for Mr. Lujan. Is this land contiguous to the city or is there county -

MR. LUJAN: Mr. Chairman, Commissioner Campos, it is.

COMMISSIONER CAMPOS: So it's right next to the City.

MR. LUJAN: Yes. Like I say, they do have City utilities in that stretch of road. So they must have an easement from somebody to have run their utilities through that. Because that's why they tore it up to replace the sewer line. I think it was three years now or so. So they do have City utilities.

COMMISSIONER CAMPOS: I just don't see how this is going to resolve Mr. Anaya's problem. The traffic is still going to be there. It's really an unfortunate issue. So whatever we do here in response to annexation it doesn't solve his problem, it doesn't address his problem.

COMMISSIONER ANAYA: I think that once we establish who owns the road then he can go to that particular body and discuss the traffic issues.

COMMISSIONER CAMPOS: We have those problems everywhere in the county.

COMMISSIONER ANAYA: Yes, I know, but if the City does take it in then at least -

COMMISSIONER CAMPOS: Then nobody will do it anyway. It's way out there.

COMMISSIONER ANAYA: It's not way out there. It's near the city. Right on the edge.

CHAIRMAN MONTOYA: Why don't you meet with James and try to figure out and see what direction you could go to determine who owns it.

MR. ANAYA: So what I'm hearing from you is am I going to be back here in six months or a year again after I've been? This is my second time already back. Are we going to go somewhere with this or we're just tossed out in limbo now?

CHAIRMAN MONTOYA: No, we're going to go somewhere with it. We just have to determine who owns that property, whether or not the County can adopt it, and if so, then you need to go through that adoption process. If it's the City, then maybe like Commissioner Anaya suggested, that we give something to the City saying this is your jurisdiction. You're the one that needs to address your request. So we're going to do something with it but I think this needs to maintain some sort of continuity so that it doesn't fall through the cracks.

MR. ANAYA: And as far as the Commissioners, I've tried contacting Mr. Sullivan and I've never really gotten any response from him. I'd like to work with him but I never get no calls back from him. I'm always speaking to someone else. I would really appreciate a call back from him to listen to our concerns there. I really would appreciate that. Thank you for your time.

CHAIRMAN MONTOYA: Okay. Thank you, Dan. Now, any other matters of public concern?

IX. MATTERS FROM THE COMMISSION

A. Discussion and Possible Direction Concerning PNM's Miguel Lujan TAP ("ML Tap") Transmission and Distribution Project and the County's Underground Ordinance (Commissioner Montoya)

CHAIRMAN MONTOYA: I had brought this for discussion purposes and this is in response to a letter that we received back on June 23rd from PNM. Steve, do you want to kind of just take a lead on what we should consider on this?

STEVE ROSS (County Attorney): Sure, Mr. Chairman. Remember back in the meeting February 14th, a variance was denied for the PNM Miguel Lujan line extension. The denial of that variance meant that PNM needs to underground pursuant to our County ordinance a portion of that line. Since the date of that meeting, I understand that the EZA did the opposite. In other words, they did not require PNM to go underground in that portion of the line that runs through the Extraterritorial Zone. So we have kind of an interesting situation where in the County portion the line will have to be undergrounded and then the EZ portion the line will remain on above-ground poles.

The County does have an ordinance requiring undergrounding in all cases, not just in neighborhoods but in cases where high voltage transmission lines are involved like this particular line, the ordinance does require those lines to be undergrounded. I think what prompted this item on the agenda, Mr. Chairman, was that you received as I did a copy of a note or letter from PNM discussing the next steps concerning this action. There is a rate rider. PNM electric rate number 22 that's been approved by the Public Regulation Commission. That rider permits recovery from local customers of an undergrounding project if certain criteria are met.

What the June 23 letter from PNM proposes is that the County pay PNM the difference between the cost of an overhead power line and the County portion and the cost of undergrounding. In the event that within the 60-day period that PNM sets out in the letter the County indicates it's unwilling to pay those costs directly to PNM, PNM notes that they anticipate making a filing with the Public Regulation Commission to seek to recover those rates from local ratepayers as opposed to the state wide rate base.

When you and I discussed this the other day you indicated that this may be an anomalous situation and maybe it's time to think about number one, ways to remove this burden from PNM, or number two, have a larger discussion of whether our undergrounding ordinance, particularly for high voltage lines remains something that's appropriate and beneficial.

CHAIRMAN MONTOYA: Thank you, Steve. Any discussion?

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Was the intention of this item of the agenda for

us to reconsider – it is .2 miles that are required to be undergrounded, if I am to understand this correctly, in the county? Or how many miles is it?

MR. ROSS: Mr. Chairman, Commissioner Vigil, it's .2 miles. Two tenths of a mile.

COMMISSIONER VIGIL: Two tenths of a mile. And the entire project is 1.8? Is that correct? I don't have all of that information in front of me.

MR. ROSS: Mr. Chairman, Commissioner Vigil, I don't recall, but that's about right. It's not a very long line.

COMMISSIONER VIGIL: Okay. I'm recalling the case and the action we took on it. I think the County ordinance, Mr. Chairman, is appropriate in many ways. However, I would like staff to study its alternatives to this ordinance, particularly when the communities such as Agua Fria, who participated in hearings with regard to this and met with PNM representatives and actually created some negotiations for the overheads to occur. I think I remember representing their interest by my vote in allowing the transmission lines to go overhead on the county side. And then it went to the EZA and the same issue was considered there. Again, it didn't make sense to me if that community who has to live with the outcome of these lines recommended that they be overhead that I represent a different interest than my constituents.

The point too was voted on by the Board of County Commission by I believe by a 3-2 vote. I don't recall specifically. So if you're asking by this item on the agenda that we renote and reconsider this, I certainly would like to. I do believe that we have to comply with our ordinances, but I do not believe that this particular ordinance allows for flexibility with communities or for certain circumstances where the overhead lines would be far more appropriate than the underground lines.

It's really also very difficult because many of these cases have not been tested. I think Rio Rancho just had a decision made and that decision still doesn't clarify things for me on undergrounding. And I think perhaps there may be a test case but I don't think this would be it. So I think in this particular case, Mr. Chairman, if you're asking that we reconsider our decision on that, I would vote in favor of that.

COMMISSIONER ANAYA: Second.

CHAIRMAN MONTOYA: Is that a motion?

COMMISSIONER VIGIL: I will make it a motion.

CHAIRMAN MONTOYA: Motion and a second.

COMMISSIONER CAMPOS: Mr. Chairman, it's out of order because the period for reconsideration has long past and the amended agenda states that this is for possible discussion and direction only. So I think it's out of order and shouldn't be considered at this point. What I would like to state though is when this matter when to the EZA and two Commissioners voted to allow a variance without any factual basis to support it, we really have to question whether we should – I think that vote undermined this ordinance because they refused to enforce it and they chose instead to kind of legislate by variance as opposed to saying, okay, let's look at this again.

I think what we need to do now is have staff analyze this and make an appropriate recommendation, probably in the next 30 days. That's how I would prefer to handle it.

CHAIRMAN MONTOYA: Commissioner Sullivan, then Commissioner Vigil.

COMMISSIONER SULLIVAN: Mr. Chairman, I don't - I agree with Commissioner Campos that it's not in order to reconsider this. I think it is an ordinance that we've passed. If we want to change our ordinance then we should consider that on a countywide basis and say what are the pros and cons of changing the ordinance and what would be special conditions when undergrounding could be excluded, similar to the process that we went through on the cell phone ordinance where we changed the height variance, the height requirement of the County ordinance to allow cell phone towers but only in certain areas and only under certain conditions. So I think we'd have to have that kind of analysis.

Nothing is going to happen here immediately. The letter that PNM has written is basically just a threat. They say that a) they're not going to build the line now, and b) they're not going to start any construction until they receive a decision from the PRC. So I think if we want we can take some other actions once we get a ruling from the PRC because there is a question at the level of the PRC whether their regulation pertains to 15 kV lines or not, the way it's written. And then there's also an issue here of whether there is a health and safety factor involved in this particular section of line. So I wouldn't say that it's a slam-dunk as PNM implies in their letter. And I would say also that we have time to consider it once the PRC takes action on it, amend our ordinance if we want or whatever other action we want to do. I don't think this is an emergency situation. This is a form letter that they're required to send to us to give us 60 days notification.

CHAIRMAN MONTOYA: Okay. Commissioner Vigil.

COMMISSIONER VIGIL: I would like to rephrase my motion, see if Commissioner Anaya is willing to second it. I don't believe we're going to get full consensus on this issue so I think we're going to have to vote what we think will be in the best interest of our elected capacity. So to rephrase my motion, it would be to give staff direction to bring forth an agenda item for reconsideration of the decision that was made on the .2 mile BCC action that was taken on this.

COMMISSIONER ANAYA: Second.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: I think it's the same motion. How is it different, Commissioner?

COMMISSIONER VIGIL: I was actually willing to reconsider the item itself tonight but I do believe it has to be noticed appropriately.

COMMISSIONER CAMPOS: There's an appeal. The question is whether it can be reconsidered at all at this point since the decision is made and time is passed. That was my initial objection, basis for my statement that it was out of order. It seems to be the

same motion.

COMMISSIONER VIGIL: No, giving staff direction to do that, to bring it forth if it's possible is the direction I think -

MR. ROSS: Mr. Chairman, members of the Commission, I would make the same recommendation to the whole body that I made to you, Mr. Chairman, and that is a motion to reconsider is not in order under our rules of order beyond 30 days after the decision is made. The way to undo an action like this in this context would be to draft an ordinance that amends the current undergrounding ordinance and eliminates transmission lines from the application of the ordinance and makes that ordinance retroactive to the application in the PNM case. That's the only procedural mechanism I can see to accomplish what is desired.

COMMISSIONER VIGIL: Okay. Then I would withdraw the motion as stated because it is procedurally not possible, and restate the motion to give staff direction to amend the ordinance in consideration of this item for these particular lines and to notice and to bring it forth before the Commission. Is that going to work, Steve?

MR. ROSS: Mr. Chairman, Commissioner Vigil, I think that would work.

COMMISSIONER ANAYA: Second.

CHAIRMAN MONTROYA: As long as we're okay, would anyone object to that direction? We may not formally act on it but -

COMMISSIONER CAMPOS: I think we can only give direction. Can I speak?

CHAIRMAN MONTROYA: Sure.

COMMISSIONER CAMPOS: I'm going to defer to Commissioner Sullivan and I'll speak after him. You were going to speak?

COMMISSIONER SULLIVAN: No, go ahead.

COMMISSIONER CAMPOS: I'm not sure where I want to go with this, what my direction would be. I want to know how much investment of time it would take staff to get into this proposal or if you could come back to us and maybe take a read from the Commission if there's any support for this amendment before you get engaged into a lot of work because I don't know if there is support for an amendment. I know Commissioner Anaya and Vigil since the beginning have been very supportive of a variance for PNM but I think we need to know whether there's support from the Commission before you guys do much work on this. So I'm not sure I would support that direction. I don't know what other Commissioners think.

CHAIRMAN MONTROYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: To paraphrase what I said before, I don't think this is the time for it. I don't think we have the information that we need now. What we really need first is a decision from the PRC as to whether 15 kV lines come under Rule 22. We don't have that. Once we have that, then we could - we wouldn't know how to amend our ordinance now. We would have to say is 15 kV over or under. Quite frankly, we could amend the ordinance and still not do it the way we wanted to do it. I think from a

practical standpoint, undergrounding of transmission lines is becoming more and more feasible and is a good idea, and particularly in urban areas where we do have safety issues of traffic being impeded by poles and other potential for lines to fall down in storms and tornadoes and heavy winds like we've had this spring. The chances of that happening are not major but the more we develop the more the potential exists.

So I think before we throw the baby out with the bathwater in our undergrounding ordinance, I think it's a good ordinance. And we need to research it and decide if we want to make an exception for PNM and write an ordinance for them specifically. But I still think the time to do that is once we know whether this in fact falls within Rule 22 or not and I don't know that yet.

CHAIRMAN MONTOYA: Okay. Any other discussion on this?
Commissioner Vigil.

COMMISSIONER VIGIL: I just would be cautious about the way this is characterized because this isn't pro or against PNM and my vote would never represent that as a primary interest. My vote represents what my constituents have requested me to represent in that district and only that. I also think that Commissioner Sullivan's direction is really just accomplishing the same thing we can accomplish right now and you're actually taking this case to the PRC on a .2 mile issue, which in mind is going to create more confusion than not. We've taken action by several other bodies to give most of this line overhead as the Agua Fria community requested. And I think even if we did away with undergrounding and the required overheading, that's not the direction I think we want to take. I don't think we want to.

I agree with Commissioner Sullivan to the extent that the undergrounding does actually create a benefit and that's the direction it's going but in my mind, as my constituents have asked me to represent, this is not the case and this is not the time to do it. So I would have the same motion, that we give staff direction to go ahead and look at amending the ordinance - exclusively for this case? I don't know. But I'm not in favor of polling the Commission to see what direction we want to take because that would violate the Open Meetings Act. We cannot take any kind of action or polls outside of this body's own discourse throughout our own procedure. I think that decision needs to go forth in giving staff direction to look at amending the ordinance.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. I think that this body needs to look at the ordinance again. You've got a situation here where the overhead is running hundreds of miles, and then it comes into Santa Fe County and we want to underground it for .2 mile? To me that doesn't make sense, so I definitely am in support of relooking at the ordinance and possibly changing it. Thank you.

CHAIRMAN MONTOYA: And I'll add before we get to another round or comments, my comment and the reason that I brought this up for discussion and exactly as Steve has mentioned also. If we're going to look at what we're doing in terms of this ordinance and enforcing it and we're always getting variance requests and then granting

them, then do we need the ordinance or do we need to look at other ways of the way we're doing it. When I voted for the motion to deny the variance request, I was going on what's in our books and what's in our ordinance. It wasn't my intent to produce any additional financial hardship to the County or to any of the constituents that reside in Commissioner Vigil's district and potentially, that's what could happen. We don't know. It hasn't gone to the PRC. So that's the reason that I wanted to have this discussion and look at it from the big picture as opposed to just this case. This case would be affected and impacted by what we would do but it is not on the premises of trying to look at it solely from this perspective on this case. Any other discussion? I think we have some potential direction.
Commissioner Campos.

COMMISSIONER CAMPOS: What is your direction?

CHAIRMAN MONTOYA: To go with the suggestion that Steve had which was - Steve, would you please restate that.

COMMISSIONER CAMPOS: Was that to consider a new ordinance? So my question was then, is there a basis for the redraw at this point, or a reconsideration? I agree with Commissioner Sullivan. It's not timely. The ordinance is fine the way it is, and we can wait for PRC and that would trigger the need for action. At this point there is no need for action, I don't think. And I think the ordinance is probably based on sound public policy. So I'd like to get some idea.

CHAIRMAN MONTOYA: I'd like to see us start working on it right now. By the time we get to the point where we need to act on it, August 23rd is going to be come and gone. So I think we should start on it now so we will at least be able to amend it and see how the decision comes out of the PRC.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Let me just pass along a discussion I had with PNM about this line. They stopped by at my office and gave me a design of the line and of course in the past we had heard that you couldn't underground 15 kV lines; it couldn't be done. It was unsafe. But now they've found a way to do it and once it's been required. Their comments to me were in terms of the amount of time it would take for PRC to act would probably be about a year once they actually make a request for a hearing and go through the process and the notice and so forth. So again, I don't think there's an urgency here to change our ordinance and I would hate for that to impact other things that come up in the meantime that staff has to deal with that require undergrounding. So I don't think August 23rd - that's just when the 60-day notice is up and then they begin their process with the PRC. That process will take at least six to twelve months from that point in time, after which we have time to decide if we want to change our ordinance or not.

A lot of interesting information may come out of that hearing itself that would help us that would help us in drafting any changes to the ordinance. So I'd like to see how that plays out before I go through the ordinance draft, is my feeling on it.

COMMISSIONER CAMPOS: I concur with that.

CHAIRMAN MONTTOYA: Okay. So we have –

COMMISSIONER VIGIL: Three Commissioners giving one direction and two giving the opposite.

COMMISSIONER SULLIVAN: I think, Mr. Chairman, Commissioner Vigil, you've advocated for this project in the past and did so again today. I think this is a reconsideration and I would question if that's in order.

COMMISSIONER VIGIL: Mr. Chairman, I think my statement and my new motion asks for staff to look at the ordinance as it exists towards amending it with regard to cases similar to this one where we're dealing with such a minimal amount of undergrounding.

COMMISSIONER SULLIVAN: Mr. Chairman, could the Commission be more specific? In my five and a half years we haven't had any other cases like this at all, so what would be your direction to staff on cases similar to this, and then secondly, what would be your direction to staff on small distances, .2 mile is a lot of distance if it's unsafe or if it's unsightly, particularly if it's in an urban area. So I think that you need to be more specific about your direction here.

COMMISSIONER VIGIL: I think the direction is specifically to look at amending the ordinance, Commissioner Sullivan, to consider whether or not we're going to be as strict as we are with the ordinance and require undergrounding in all cases, or look at other situations where undergrounding may not be appropriate and identify those cases, such as what I think the facts of this case bring forward, have staff work with the Public Regulatory Commission to identify the situations under which it might be more appropriate to consider overhead instead of underground. Because the ordinance itself is very strict on its face and I don't think it's going to serve us any good to just vote on an ordinance because of its strictness. I think part of our responsibility is to look at all of the variables with regard to this case and in particular this case. So I think if the staff could work together with the Public Regulation Commission to identify cases in which maybe exceptions could be made so that we're not put in a position where a utility company has to come before us and request a variance for a variety of factual situations. I think it needs to be studied a little more in depth.

COMMISSIONER ANAYA: Second.

CHAIRMAN MONTTOYA: Commissioner Sullivan, then we'll move on.

COMMISSIONER SULLIVAN: I guess I would respond that we have a process like that. Every one of these cases is unique and we have a process for a variance, and that's specifically what variances are for, to address unique conditions. That was the case. PNM came forward requesting a variance. The variance was denied based on the ordinance. So it's not that there's not a process available. The process was there and it was carried forward and it was concluded. I'm at a loss to see how the staff can draft an ordinance saying any 15 kV lines that are brought forward in Santa Fe County of .2 mile or less in length are automatically excluded. I think that's a silly ordinance. I think that's what the variance process is meant to address is bringing specific facts forward that are

unique circumstances and that's what happened in this case. I think we have a lot of other things for the staff to be doing right now, rather than wrestling with this philosophical issue. Let's let the PRC and their lawyers wrestle with it and then we can make changes to our ordinance.

CHAIRMAN MONTOYA: Okay. I think again, three Commissioners have spoken in terms of at least taking a look at that and regarding Commissioner Sullivan and Campos' concerns, Steve, if it comes to a point where you feel that this is something that doesn't need to be done immediately well then [inaudible] that we need to do to make sure that we have something that again, is going to be something - I do recall one other - and Commissioner Sullivan, I don't remember exactly when it was, but there was another occasion about relief from undergrounding at some time and we decided it wasn't going to happen. So it has happened before. So in my recollection this is the second time. So we'll take your read on it in terms of how we proceed and you can let us know.

IX. B. Resolution No. 2006-115. A Resolution Regarding Immigration Reform (Commissioner Montoya)

CHAIRMAN MONTOYA: The resolution that's included in your packet which I'd like to thank Lisa Roybal for drafting it. This is essentially requesting that this Commission look at supporting some efforts congressionally in terms of some immigration reform that would allow immigrants, workers, their families to pursue US citizenship, assistance to reunite families, reduce immigration backlogs, a temporary worker program to provide workers with full labor and civil rights protection and the opportunity to pursue legal permanent residency in the United State, provide an equal opportunity for immigrant students to pursue a college education, actively promoting the civic integration of newcomers, protecting our nation's security and public safety be effective and fair immigration enforcement measures, and including the discussion of the fundamental cause of migration to the United States the need for sustainable social and economic development in the communities where migrants originate.

I move for approval of this resolution.

COMMISSIONER ANAYA: Second.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Is this a NACo resolution or in conjunction with NACo? Could you give us some context?

CHAIRMAN MONTOYA: No, this is more in line with the NALEO, the National Association of Latino Elected Officials.

COMMISSIONER CAMPOS: Okay. And is this supporting any particular legislation pending before Congress?

CHAIRMAN MONTOYA: No.

COMMISSIONER CAMPOS: It's just a general statement.

CHAIRMAN MONTOYA: Correct. A general statement with the principals being the main items to support.

COMMISSIONER CAMPOS: Have you had other counties or municipalities in the country adopting a similar resolution?

CHAIRMAN MONTOYA: There have been others, yes.

COMMISSIONER CAMPOS: Any in New Mexico?

CHAIRMAN MONTOYA: Not that I'm aware of.

COMMISSIONER CAMPOS: Okay. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chairman, I appreciate your bringing this forth because it is a particularly politically hot topic, however, I must say, I don't think I'm ready to take action on this subject at this particular time. I think there are issues that we do have to state principles on but the way this particular resolution is drafted, there is a particular section that caused me concern and that is the section, I guess the fourth whereas on the second page, the second one from the bottom. It states that we oppose the enforcement of federal immigration laws by state and local law enforcement agencies.

I think what this resolution - that sort of in my mind is stepping over the line, and I speak, Mr. Chairman, as an ex-prosecutor and my experience with these cases, when we had to prosecute an immigrant, part of the problem that we had was that law enforcement was not cooperating. It created more confusion and I think an injustice to the criminal defendant who happened to be an immigrant. So I had some concerns about that particular statement. In general it is a philosophical statement that I'm not sure I have the scope of authority to represent as a County Commissioner, because most of the reform that is going to occur is going to occur on the federal level. Because this makes some strong, philosophical statements I would have to abstain from an action on this. I'm not too sure that I have enough information at this point in time to agree with these philosophical statements. While I personally have to say some of the statements here really do meet the direction that's being proposed. We do need immigration reform. To what level and how we want to express that by statements that say we oppose the enforcement of federal immigration laws by state and local law enforcement, I think what we're actually advocating is that these law agencies do not cooperate with each other and for some reason that's disturbing to me, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. Any other discussion? Just a point of clarification. That statement is meant to say if there's going to be enforcement by state and local agencies of these federal laws, the state and local agencies, like our Sheriff's Department need to be reimbursed for the enforcement of those. Currently, it's really a non-funded mandate and a non-funded resource that we're providing to federal authorities based on current immigration laws. So that's what that is meant to convey on that particular whereas.

COMMISSIONER VIGIL: And that, Mr. Chairman, makes sense to me but that's not how the clause reads. It talks about more cooperation between more cooperation between enforcement agencies. It doesn't reference any costs at all.

CHAIRMAN MONTOYA: Okay. We have a motion and a second.

The motion to approve Resolution 2006-115 passed by unanimous 3-0 voice vote with Commissioner Vigil and Commissioner Sullivan abstaining.

X. CONSENT CALENDAR

A. Findings of Fact

1. CDRC Case #V 06-5060. Tommy Lopez Variance

B. Miscellaneous

1. Resolution No. 2006-__ . A Resolution of Intent to Consider Adoption of an Ordinance Imposing the Countywide Emergency Communications and Emergency Medical Services Tax (Projects & Facilities Management Department) MOVED TO ITEM XI. A. 1.
2. Request Authorization for Amendment No. 3 to Louis Berger Architectural Engineering Agreement of the Public Works Facility / \$62,500 (Project & Facilities Management Department)
3. Request Approval of a Utility Easement Agreement Between Santa Fe County and the Public Service Company of New Mexico (PNM) to Provide Utility Services to the El Dorado Senior Center (Project & Facilities Management Department)
4. Request Approval of an Easement Agreement Between Santa Fe County and the City of Santa Fe to Extinguish an Existing Easement and Grant of a Replacement Easement for a Sewer Line as Part of the County's Santa Fe River Restoration Project at the San Ysidro River Park (Projects & Facilities Management Department)
5. Request Approval of an Easement Agreement Between Santa Fe County and the New Mexico Department of Transportation for a Driveway Easement to Serve the Hondo Fire Station (Projects & Facilities Management Department)
6. Request Approval of a Utility Easement Agreement Between Santa Fe County and the Public Service Company of New Mexico (PNM) to Provide Utility Services to the Hondo Fire Station (Projects & Facilities Management Department)

CHAIRMAN MONTTOYA: Is there a motion?

COMMISSIONER SULLIVAN: So moved.

COMMISSIONER ANAYA: Second.

CHAIRMAN MONTTOYA: Motion by Commissioner Sullivan, second

Commissioner Anaya.

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

XI. Staff and Elected Officials' Items

A. Matters from the County Manager

- 1. Declaring the Intent of the Board of County Commissioners of Santa Fe County, New Mexico (The "County") to Consider for Adoption an Ordinance Enacting a Countywide Emergency Communications and Emergency Medical Services Tax; and Authorizing and Directing the Publication of a Notice of Meeting to Consider an Ordinance Authorizing the Loan Agreement and Intercept Agreement in a Newspaper of General Circulation within the County**

MR. GONZALEZ: Thank you, Mr. Chairman, members of the Commission. The first item here is an item that's been discussed previously and we're bringing it forward for the Commission's consideration with respect to moving forward with adoption of a ¼ percent countywide GRT enactment that would provide funding for emergency communications and emergency medical services. As you know, we discussed this during the budget process and also during the strategic planning process. So that was the reason to bring it forward in addition to the fact that we're looking at some timing issues. If this is to move forward we need to have the Commission give us direction at this point in order to do that. I stand for questions. I know we also have Fire here and Finance here to answer any questions about the specifics of what this would do with respect to providing additional funding support for those services.

CHAIRMAN MONTOYA: Any questions?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: I'd like some more background. We don't have anything in the file, do we? Is this the quarter cent tax we were talking about? Countywide?

MR. GONZALEZ: Yes, the intention is that it would ultimately replace the current tax for the same purposes that's imposed only outside the City of Santa Fe.

COMMISSIONER CAMPOS: So it would replace the existing tax that goes with this, and now instead of that tax we'd have one tax for the whole county.

MR. GONZALEZ: Right.

COMMISSIONER CAMPOS: How much money are we generating presently with our ordinance?

MR. GONZALEZ: Currently, I believe the amount is \$1.8 million annually. This would generate on the order of \$9 million.

COMMISSIONER CAMPOS: Do you have a plan on how you're going to expend the \$8 to \$9 million annually?

MR. GONZALEZ: For one thing, we'll provide some relief with respect to being able to provide Sole Community Provider funding. It would fund fire services that currently are stressed, and it would provide some additional funding benefits with respect to some of our healthcare programs. And I know RECC would be one potential beneficiary if we were to impose this because of the specific nature of the tax.

COMMISSIONER CAMPOS: Give me an explanation of the tax and what it could be used for.

MR. GONZALEZ: I'm going to ask our Fire Chief to come up and supplement the remarks I'm making, but among the benefits, other than the current fire services and emergency services that are being supported, the enactment that authorized the imposition of this tax also authorized utilizing it in order to support emergency communications services. Currently those services are being provided for through joint funding by both the County and the City. On an annual basis we are funding it to the tune that if we were to provide for or displace the City funding that currently occurs then the amount that would come out of it, the \$9 million total would be roughly \$2.5 million.

COMMISSIONER CAMPOS: For RECC?

MR. GONZALEZ: For RECC. That's correct.

COMMISSIONER CAMPOS: And now this money, this joint funding from County/City? Where's it coming from? General fund?

MR. GONZALEZ: Currently it comes from the general fund.

COMMISSIONER CAMPOS: Would you like to add to that?

STAN HOLDEN (Fire Chief): Mr. Chairman, Commissioner Campos, I'd be happy to. I could read directly from the legislative language. There are two separate purposes. One is the operation of the emergency communication center - that would be our RECC - that has been determined by the Local Government Division of the Department of Finance and Administration to be a consolidated public safety answering point, or PSAP. That is the definition of our RECC. The second approved use is the operation of emergency medical services provided by the County. And those services are provided by your County Fire Department. So I would just echo that Mr. Gonzalez has accurately spoken in regards to the two uses for that tax.

COMMISSIONER CAMPOS: So as far as the MOU with St. Vincent's, how does that come into play?

CHIEF HOLDEN: Mr. Chairman, Commissioner Campos, currently, the third 1/8 gross receipts tax for emergency services and other healthcare needs is the primary source of funding for the County Fire Department. If this tax were presented to the voters and approved, then our dependence on that tax, specifically, would be lessened. And I believe that's what the County Manager was speaking to.

COMMISSIONER CAMPOS: Thank you, sir. Thank you, Mr. Chairman.

CHAIRMAN MONTROYA: Commissioner Vigil.

COMMISSIONER VIGIL: Thank you. Thank you, Stan and thank you for bringing this forth. I have a couple of questions. It always concerns me in the rural areas of our county that we don't have enough personnel. That is such a huge piece of emergency response that our personnel are such a long distance from being able to get to a victim of a heart attack and time if of the essence under those circumstances. The northwest quadrant in the south, actually in the northwest quadrant in the south, actually in the La Cienega area, and also going towards Eldorado and Glorieta, we really are going to need much more staffing. How will this gross receipts help in that area?

CHIEF HOLDEN: Mr. Chairman, Commissioner Vigil, it will help significantly and tremendously. Depending on the amount of funding the department receives, we could potentially increase the number of personnel – firefighters and paramedics by double in at least the three quadrants of the north, the south and the west. And right now, as you accurately spoke to, in Edgewood for example, and Stanley, the majority of our volunteer population work in either Santa Fe or Albuquerque, so they're gone a good eight to ten hours a day. And that leaves our two firefighters that are on duty in that region to respond to all the calls, essentially by themselves. We might have a few volunteers in the area that will also respond but their response times are significantly increased.

I can tell you and you know, because the constituency in the northwest quadrant in your area that the response time even from our paid staff, because when we set up the response configurations with the limited number of personnel that we have, we have to strategically locate them to try to reach the majority of the population as quickly as we can. In the western region, that one paramedic-firefighter crew is located across the street from the state pen. They have to respond all the way to Tano Road, and all the way to Madrid. So someone experiencing a heart attack or cardiac arrest in the far fringes of that response area have to wait up to 25 minutes. There may be people in the audience today that want to specifically speak to that issue. I know that it's been a very big concern of theirs for at least the last three years since we've been working with them that we need additional personnel in the Fire Department to stop that clock when someone's having a heart attack, for instance and to get responders to them as quickly as possible.

This is no way, shape or form is intended to replace our volunteers. Our volunteer firefighters and EMTs are extremely important to us and a portion of these funds would go also to their recruitment and retention of those personnel. And we want to do everything we can to retain and even gain additional volunteers. But the national trend is what we experience in Santa Fe County as well. Those numbers are dropping off and they're dropping off precipitously. And we need to do something as quickly as we can to stop that flow and the loss of the volunteers, but at the same time, do what we need to do as the Fire Department to meet the expectations of those that call us when they're experiencing an emergency.

COMMISSIONER VIGIL: And I would just echo those sentiments and say that it would be my preference, and I'm not sure how the prioritization is going to go with this gross receipts. It would be my preference that that personnel be the priority for this gross receipts. I've worked and I see Mr. Collins in the audience and some of the people I've worked with in

the northwest quadrant, even looking at some kind of private funding source to ease the residents' minds that if they are any ever in any kind of health threat that they have the assurance. That in itself is stressful that they don't have the assurance that the appropriate response time is there. I'm just such a strong advocate for emergency response in the priority, particularly to a county that is 2,000 square miles, and somebody's life, whether it's in a very remote rural area is equally as important as somebody's life who's next to a hospital. It just doesn't matter. The appropriate response has to be there.

I guess this is going to be another one that's of concern to me. What kind of – and I'll defer to Gerald or anyone else, what kind of response are we getting from the City with regard to any support on this? It needs to be a part of the record.

CHAIRMAN MONTOYA: I'll say that in a meeting that I had with Mayor Coss about a month and a half ago, he requested that the City receive 50 percent, and that was the discussion that I had with Mayor Coss. I don't know. Gerald, have you had any other discussions with the City Manager or anyone else?

MR. GONZALEZ: That's something that was reflected in an early discussion with the City Manager and I think Fire Chief Holden had a similar response in some of his discussions with fire personnel on the City side. On the other hand, there's been some indication that that particular response might be modified in that sense, and that came from talking with St. Vincent's personnel who indicated that they have spoken directly to the City Manager who had expressed an interest in the possibility of using some of this funding in the future for providing funding for the statewide healthcare coverage initiative. And so there are a number of claims that are sort of being staked out here with respect to use of the funding. One sort of indirectly from the healthcare community through the City, then the City also through their own Fire Department and then of course there's the RECC issue. So that's what I'm aware of has sort of been the tenor of the discussion, at least among the government and healthcare entities out there in the county.

COMMISSIONER VIGIL: Thank you. I hope we don't lose sight of the big picture here, whether there's stakeholders involved in the distribution of this or not. I hope the City and St. Vincent's and the County recognize that the greatest benefit that this gross receipt will create is in emergency response and I'd like that prioritized through personnel. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Thank you, Commissioner Vigil. Commissioner Anaya, then Commissioner Sullivan.

COMMISSIONER ANAYA: Go ahead.

COMMISSIONER SULLIVAN: Let me understand, Stan and Gerald. On the emergency communications center, it now costs \$2.5 million a year to run? Is that the estimate?

CHIEF HOLDEN: Commissioner Sullivan, specifically, the amount of money that is funded from the City for that joint operation is approximately \$2.5 million a year. The County also provides approximately \$750,000 a year toward the operation of that center. As you know, it is a joint operated facility.

COMMISSIONER SULLIVAN: And it's based on numbers of calls.

CHIEF HOLDEN: Yes, sir.

COMMISSIONER SULLIVAN: Right. So about \$3.25 million is spent on that. So is it the intent then of these funds that that sharing agreement that we have currently be done away with and that the center be totally funded from this tax?

CHIEF HOLDEN: Mr. Chairman, Commissioner Sullivan, I can only state for myself what I had supposed and that was specifically that with what I know about the City's operation and their Fire Department and their needs, they are approximately three stations down today. Based on their population, they need three additional stations. My feeling was that with that knowledge, under the current legislative language that we have, we could take \$2.5 million of this \$9 million revenue and convey that to the City for the operation of the RECC. That would free up \$2.5 million of their general fund, which then I proposed that the City utilize for fire services within the City. That is my proposal, Commissioner Sullivan. It has not been anything that's been agreed to. It's been discussed with the City Fire Department but it has not been discussed in any other forum to my knowledge.

COMMISSIONER SULLIVAN: I guess, and those are all good ideas, or they're at least ideas worth discussing, but I guess my concern is that as a voter, I'm going to want some specificity in what the money's going to be used for. Just like a school bond issue, people want to know is it going to fund salaries of administration or is it going to fund roofs and classrooms. Usually we have a very specific list of things that we are proposing and I think we need to take the lead on that. If we're going to pass a tax or recommend a tax as we would be doing, of this magnitude, right on the heels of one that we've done for the water projects, I think we need to be a little bit more specific in what we're recommending. Whether we're going to share it half and half – otherwise we revert to the same situation we did on the water where this became a tug and pull and all during that election process we said, well, yes, we're going to support it if you give us 50 percent, or no, we're not going to support it and yes, we'll support it if you give us 15 percent for open space or no, we're not going to support it. So we had all of these constituent groups saying we'll support it if you give us that or if you give us this. It seems that we should have that ahead of time. We should be saying that ahead of time.

The same way with the emergency medical services. How short are we now? What is your estimate on how short are we on emergency medical services?

CHIEF HOLDEN: Mr. Chairman, Commissioner Sullivan, we are, based on the five-year plan, which is the second five-year plan – we're now in our tenth year planning. We are 24 personnel short. The request the Fire Department was going to submit during the budget process, you'll recall that the budget analyst Paul Griffin explained to the Commission that our primary source of funding, the third 1/8 gross receipts tax for emergency services, and other healthcare needs, which was the redirection of funds that was approved by the voters back in 1998 I believe intended to support the fire services was now running at a deficit. There was no longer any funds available to support the needs of the fire service and our five-year plan. Today, we are 24 personnel short.

COMMISSIONER SULLIVAN: Okay, 24 short. That's fire and EMT or just fire?

CHIEF HOLDEN: Mr. Chairman, Commissioner Sullivan, all of our personnel are dual-role, cross-trained personnel. They do both EMS and fire.

COMMISSIONER SULLIVAN: Okay. Let's just speculate that with benefits and so forth, on the average, 24 full time staff – these would be full time, I assume – would cost maybe \$50,000 a year on the average. That would be \$1.2 million that we'd need for those people. So \$1.2 million added to the \$3.25 million gives us \$4.45 million. I'm just trying to add these numbers up because I don't have anything that says where we're going to use the money or how much money we need. Let me ask Mr. Ross, Mr. Chairman. Does the statute, Mr. Ross, require that we impose a tax of $\frac{1}{4}$ percent or can it be some tax up to $\frac{1}{4}$ of one percent?

MR. ROSS: Mr. Chairman, Commissioner Sullivan, the language from the state statute reflected in the draft ordinance says equal to.

COMMISSIONER SULLIVAN: Equal to one fourth of one percent. So there is no ability to exercise less than that.

CHIEF HOLDEN: Mr. Chairman, Commissioner Sullivan, if I could, I understand what you're trying to do but that \$3.2 million is just the operation of the RECC. It does not include the operation of the existing fire services that are being provided through the third $\frac{1}{8}$ gross receipts tax for emergency services. So if you were going to free up those existing funds for the third $\frac{1}{8}$ gross receipts tax to use for other healthcare needs, which I think this Commission has spoken to fairly succinctly in the past, their desire to want to do that, what the Fire Department would be proposing, that this quarter cent would be our primary funding source. That's what we're proposing. And our existing cost in the fire service is \$4.5 million. So you need to have \$4.5 million plus the \$3.2 million for the RECC, plus the additional cost. I think that perhaps will paint a clearer picture for you, sir.

COMMISSIONER SULLIVAN: Well, if we do that, if we say we're going to free up three $\frac{1}{8}$ of a percent, then we're going to have a mad stampede is what we're going to have and again, with no plan in place for where we're going to use the monies, I'm at a loss to see why, and apparently we're considering this as sole community provider funding from St. Vincent's. We just recently had a two-day work session with St. Vincent at Sunrise Springs and they indicated to us that they're now able to self-fund the sole community provider monies. So that ultimately there won't be a need for an MOA, a memorandum of agreement any further and so with that in mind, and they seem to not be interested in having the County as a partner with regard to the healthcare services, that they want to handle that themselves with their own board and their own staff and ultimately that may well be to the benefit of the County. We spend a lot of time dealing with that and dealing with those healthcare issues and perhaps St. Vincent's should do them alone.

So I'm really concerned that we just don't have the foggiest idea of who's going to be requesting what. As our County Manager apparently just said, we have a number of claims being staked out. Well, I really don't feel we should be staking out claims. I think if we're going to be passing a \$9 million a year tax burden on Santa Fe County residents, we better tell them specifically what the money is going to be used for. I don't see that here. I'm not against

the emergency communications center. I think they need a new dialer system. I'm not against emergency medical services, whether it's 12 or 24 or 36 or how many are ultimately needed, but gosh, this is pretty thin. This is – if I were a voter with this amount of information, I would certainly not vote for this tax.

Now, do we have a plan to have some better level of information between now and November?

CHIEF HOLDEN: Mr. Chairman, Commissioner Sullivan, the Fire Department has that plan. We can provide you that information. We know exactly what we want to spend the money on. It was my understanding today that we were just going to discuss the intent of the Commission to address this issue so that we could publish title and general summary in the newspaper so that we could be on the time schedule necessary to place this item on the agenda. Certainly at a future meeting if the Commission did not feel comfortable would not have to pass the ordinance. We're not requesting today for the Commission to take action on an ordinance. We're simply requesting that the Commission allow us to go forward with publishing title and general summary of an ordinance.

COMMISSIONER SULLIVAN: I understand that. But this is the direction, this is the foot in the door. We're not going to turn back if we say publish title and general summary. We may tinker with the ordinance a bit. Let me ask one other question. I don't understand the part of this, the part that – to consider an ordinance authorizing a loan agreement and intercept agreement. What do we need a loan agreement and an intercept agreement for that? And here comes the loan guy. I knew we would somehow get the bond guys in the middle of this. Here comes Peter Franklin.

PETER FRANKLIN (Bond Counsel): Mr. Chairman, Commissioner Sullivan, now's your time to have some fun at my expense. That is a mistake.

COMMISSIONER SULLIVAN: Oh, it's a mistake? Oh, okay.

MR. FRANKLIN: With the correction for the record. The title really should not have anything in it concerning a loan agreement or an intercept agreement. It's just to consider such notice. I have a set of corrected copies here. So basically it should say, authorizing and directing the publication of a notice of meeting to consider such ordinance in a newspaper of general circulation.

COMMISSIONER SULLIVAN: But ultimately there will have to be a loan or there will have to be bonds for this, or not?

MR. FRANKLIN: In fact you cannot do – it's operational.

COMMISSIONER SULLIVAN: You can't bond these.

MR. FRANKLIN: Correct. And I apologize for the mistake.

COMMISSIONER SULLIVAN: So none of this is relevant. Okay.

MR. FRANKLIN: Well, that part isn't relevant.

COMMISSIONER SULLIVAN: Okay. None of that part is relevant. Okay.

And you have something to pass out that's a different –

MR. FRANKLIN: Certainly.

COMMISSIONER SULLIVAN: That's all my questions.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. I do have some concerns about the proposed tax before us, but not only do I have concerns about the proposed tax before us, I want to know about the taxes that we have out there now, the two existing taxes. What are we going to do with that funding? So I know that – how are we going to use those monies? Where are they going to go? So that's something that I would like staff to look into also. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. So I think if maybe we could come back with some – well, before I suggest it, what is the time line?

CHIEF HOLDEN: Mr. Chairman, I would defer to the bond counsel.

CHAIRMAN MONTOYA: Do we have to make a decision today or not? No?

MR. FRANKLIN: I'm sorry, Mr. Chairman.

CHAIRMAN MONTOYA: What is the time line that we're looking at? December? November?

MR. FRANKLIN: We would put the question on the ballot for the general election on November 7th. In order to do that we need to adopt a resolution of intent and give notice of a meeting to occur within 75 days of that general election date. And we had initially scheduled this for August 29th but I think the meeting dates shifted around a little bit in August. So what we've got now is a September 12th meeting date to take action on the ordinance itself and adopt the election proclamation.

CHAIRMAN MONTOYA: Okay. So we have until September 12th.

MR. FRANKLIN: Not exactly, Mr. Chairman.

MR. HIATT: Mr. Chairman, there's one other piece of this and that is the Clerk has to have the question by September 1st. So you could take action on September 12th but we should probably give the Clerk the question. So if you're considering postponing this I'd suggest either your August 1st or August 22 meeting to take action.

MR. FRANKLIN: Mr. Chairman, just to clarify. The action taken on the ordinance itself must occur after August 25th. So that should occur at the September 12th meeting. The action to give notice of that September 12th meeting can occur at either of the meetings in August.

CHAIRMAN MONTOYA: So that's what I would suggest that we do in order to definitely get more information from the Commissioners that have requested that. I think that will alleviate some of the concerns that we may have in terms of supporting this ourselves. And I just want to say again that we need this type of additional funding for the rural parts of the county that I represent. It's getting harder and harder to get volunteers to be a part of these fire departments and the unfortunate reality is we need to look at how are we going to make sure that we are taking care of those parts of the county. So I think this is something that I would support and look forward to getting that additional information.

CHIEF HOLDEN: Thank you, Mr. Chairman. If I could real quickly impede upon your time, there are a couple people in the audience that wanted to speak to this issue. I know this is not a public hearing but they've been here for about two hours if you have the time

to hear them.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: I have a question for Mr. Holden. You said that there was a one-eighth tax right now existing?

CHIEF HOLDEN: Mr. Chairman, Commissioner Campos, there's the third one-eighth gross receipts tax for emergency services and other healthcare needs, was originally an indigent care tax. It was passed in one-eighth increments. So the third increment, the third one-eighth was redirected by voter approval in 1998 for emergency services and other healthcare needs.

COMMISSIONER CAMPOS: Okay. But there's another tax you talked about, one that would no longer be used if we adopted the quarter cent tax?

CHIEF HOLDEN: Mr. Chairman, Commissioner Campos, the County Manager was referring to the quarter percent gross receipts tax for fire protection. The key there is that the Fire Department has not been struggling with funds for equipment and stations and that type of thing. Those funds that we now receive are restricted funds by the legislature. We cannot expend any of that quarter percent gross receipts tax for fire protection services on personnel. It has to all be spent on buildings and operational costs like fuel and equipment, that type of thing. That's the tax that the County Manager was referring to.

COMMISSIONER CAMPOS: That doesn't go away, right?

CHIEF HOLDEN: It's set to sunset December 31, 2208.

COMMISSIONER CAMPOS: But then you would want to re-enact it. No? This quarter cent tax would in essence replace that tax.

CHIEF HOLDEN: Yes, sir. With one caveat. It depends on how much of the operational of this \$9 million gets carved out and sent other places. And if we carve out a huge portion of this fund and send it to other places then the Fire Department is going to be left in the situation that we're in today.

COMMISSIONER CAMPOS: So if we adopt this one quarter tax the net increase is going to be less than a quarter because of the rescission of the other tax at the same point in time.

CHIEF HOLDEN: It really depends on what Commission action follows the approval of this new tax. If it stays in place as we're recommending today, with \$6.5 million going to the County Fire Department, \$2.5 million going to the City, then that \$6.5 million would be sufficient for me to come to the Commission and say let's let the quarter cent fire protection excise tax sunset and let's not go back to the voters and ask for additional tax, because it would not be needed.

COMMISSIONER CAMPOS: Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: If you would just have the people who want to come up and maybe [inaudible]

COMMISSIONER ANAYA: Mr. Chairman, while he's coming up, I think that doesn't sunset until 2008, if I'm correct.

GEORGE COLLINS: Mr. Chairman, members of the Commission, my name is

George Collins. I live at 130 Wildhorse in the northwest quadrant of the county and I've been working for a little bit over a year with Commissioner Vigil, with Chief Holden, Deputy Chief Blackwell as well as others within the County organization, because we in the northwest quadrant became aware relatively recently that the nearest manned paramedic EMS station to us in our neighborhood was over by the jail. Our experience has been since over the past three or four years that the average response time into our community has been somewhere, again average, between 25 and 35 minutes. I believe the objective not only of the County but all medical associations nationwide recommend that the standard be emergency medical service to members of the community be between, oh, let's say eight and twelve minutes, particularly in some areas where there might be heart or stroke or other types of disabilities where time certainly is of the essence.

This has not been the case within our community. We've been working very hard to achieve better service over the last year or so and what's occurred to us is that it's not just a community issue anymore. We started the program just to look out for our own communities out in the northwest quadrant. But it's a county issue and we feel very strongly it's the responsibility of the County to provide adequate medical emergency service to residents of the county regardless.

I had reason within the past couple of months, the last three months to utilize the 911 service to my home and the response was just a little over 30 minutes. Unfortunately, there was a death involved in my family, not because of this, but I don't know for sure whether a quicker response time to get out to my home would have made a difference. I don't know whether that happened or not, whether that occurred or not. But alls I know is that member of the County I think deserve to have the best medical care they can possibly get. After we looked at a number of different options in our region, a PID, which became very cumbersome and time consuming for us, I think this is the overall benefit, not just to my community, but the entire county. So I very strongly support the measure that you're considering and I will continue to do so and will be very active in support of this program until we're all convinced that we're giving adequate service to residents of the county. Thank you, sir.

CHAIRMAN MONTOYA: Is there anyone else?

CHRIS RIVERA (City Fire Chief): Mr. Chairman, Commissioners, thank you. The City Fire Department is opposed to this tax and let me give you some reasons why. I spoke with a lady outside and listening to this gentleman, and City Fire Department provides the primary service to the northwest quadrant and we do so within seven to ten minutes. We have a JPA with the County Fire Department that says that the closest unit will respond, just like we do in the Agua Fria District, we do so in the northwest quadrant. Our closest station is right here by Fort Marcy ballpark. We're not opposed to the tax. We're not opposed to the City Fire Department getting money; we're opposed to the city residents not being made aware of what this tax money is going to be used for. A lady outside who lives on Tano Road was here to speak in favor and when I spoke to her outside and made her aware of the real facts, she left.

I'm now going to have to go to the city neighborhoods that the city responds to like the Tano Road area and make them aware of the true facts surrounding what this tax is for, who's

actually responding to the areas and what the tax money will be used for. This money will not in any way directly benefit the City Fire Department and may through the RECC but again, only at \$2.5 million. This tax will continue to grow, but the money to RECC will continue to stay flat. It's a lot of money and we feel like the City Fire Department who provide EMS and fire services we think Santa Fe County should have equal access to this money. We're not asking for all of it; we're not asking for a majority of it, we're just looking for what's fair. That's all we've been asking for the whole time. And I believe a lot of the city residents, just like the last tax that was passed that sunsets in 2008, many of the city residents come up to firefighters every day and tell them we voted for that tax that's providing you equipment, trucks, ambulances. They don't realize that none of that money is coming to us.

If you guys approve this and I'm sure you will, we have an obligation to inform the taxpayers exactly what this money is going to be used for. And also we have an obligation to inform the residents in the Tano Road area who responds to those areas and how fast we can get there. I have staff working on numbers as we speak to address those issues. Thank you for your time. Thank you to Chief Holden. I know this is a sticky issue. I hope that we can work together to try to get a little more equitable share of the money since we do again provide services in the county. So with that, if you have any questions.

CHAIRMAN MONTTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Sir, what is your name again?

MR. RIVERA: My name is Chris Rivera. I'm the City Fire Chief.

COMMISSIONER CAMPOS: Chris Rivera. You're the Chief?

MR. RIVERA: Yes, sir.

COMMISSIONER CAMPOS: And were you asked by the City Council or the Mayor to come here and make your protest?

MR. RIVERA: They're aware that I'm here, yes.

COMMISSIONER CAMPOS: Did they authorize your presence here?

MR. RIVERA: Yes.

COMMISSIONER CAMPOS: Okay, so you used the word fair. How do you define that?

MR. RIVERA: Equitable.

COMMISSIONER CAMPOS: It doesn't mean anything. It's just a word.

MR. RIVERA: What the Mayor said was we're looking for 50 percent.

COMMISSIONER CAMPOS: Okay.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I guess I'm a little confused as to why you're taking such a strong position because I know there's a proposal on the table that a certain amount go to the City and then the City is requesting 50 percent, but in my mind, none of that has fully been negotiated and all we're doing at this point in time is looking toward the intent of moving forward on this and I think when you look at fair and equitableness, and throw out a figure of 50 percent you have to justify that somehow. So fair and equitableness has always been a

difficult thing to resolve when it comes to emergency response because I applaud both the City and the County personnel in their ability to respond within the proximity of an emergency and I hope that that effort continues.

What's been really difficult is a real lack of understanding as to the numbers. Who's responding there, how many times, and I know that I have tried to work with Councilors and with staff with regard to identifying those numbers. I think it's really too early in this process to take such a strong position, because I think the joint effort has to continue in this direction for safety and emergency responses and I think that the City and the County recognize that that can't happen without the citizen support of a gross receipts, especially and particularly with the County who deals with rural issues and despite the fact that perhaps your Fort Marcy station responds to Tano in seven minutes or Agua Fria responds, I know that through the RECC that coordination is happening and we're doing the best thing we possibly can.

I don't want this issue to start getting confused again in any kind of bargaining, because the only thing we're bargaining if we don't come to a resolution here is the lives of people. We need to keep that focus and work out whatever does seem to be fair and equitable once we see. But I'm not sure that the 50 percent is. Are you hearing what I'm saying? It makes sense to me that perhaps we need to do a cost impact analysis on this and look at that, from that perspective.

MR. RIVERA: Mr. Chairman, Commissioner Vigil, I would agree with you. If we need to take a look at fiscal impact, let's do so. I guess the main problem we have with this is that it's a countywide EMS tax, which means that the city residents are going to be taxed and that tax money will be used primarily for fire and EMS in the county. They will never see a County fire engine and may on occasion see a County ambulance.

COMMISSIONER VIGIL: I'm not sure that, again, I think you're ahead of us. I'm not sure that that's the direction we're going. My sense is that all of that still needs to be panned out. And the countywide tax, the arguments are there are more residents in the county now than there are in the city, so it will be - if you're looking at population. If you're looking at numbers from that perspective, and then again, we're dealing with gross receipts which most of that is paid for by not county and not city, it's really tourism that pays a huge portion of that gross receipts.

So I don't want the City or the County to be jumping to conclusions right now and opposing something that would be of a greater benefit to everyone, both the City and the County.

MR. RIVERA: Maybe I didn't make that point clear but yes, we are still looking towards some resolution to this so that we can support this tax fully. I had a meeting with Chief Holden and if the tax were just for county residents we wouldn't have a problem with that. But since it does involve city residents, they need to be aware of what the money's going towards.

CHAIRMAN MONTROYA: Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. I just wanted to remind everybody that the City of Santa Fe is not the only municipality in Santa Fe County. We have Española and we have the Town of Edgewood. We always talk about the City of

Santa Fe and the County, we have to remember that we have two other municipalities and we have to work close with them also. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Thank you, Commissioner Anaya. Any other comments?

MR. GONZALEZ: Mr. Chairman, just a general comment. Although we talk about sharing with the City, I think we need to be very careful about the language we use as we move forward because clearly this is a County GRT and we wouldn't simply be able to cut a check to the City, assuming that the RECC was the vehicle that we employed. Basically, as I understand it, what would happen is that the County would undertake the full support for the RECC, thereby displacing funding over on the City side that it's my understanding, that's why I was approached, as I understand it by the City Manager, that would displace funding on the City that would then in turn be used for the Fire Department.

The other thought that I had in talking about the philosophical underpinnings for GRT is that we have to remember that most county residents end up shopping in Santa Fe and end up paying City GRTs, which fund services that go only to the City in some respects, rather than County personnel. Other services, obviously are shared, library and similar services. But some of those services but some of those services only go to city residents.

CHAIRMAN MONTOYA: Thank you, Gerald. I'm just going to close this out. Is there anything else you have, Stan, or is that it?

CHIEF HOLDEN: Mr. Chairman, I was just going to correct Chief Rivera very quickly. The quarter cent gross receipts tax that is due to sunset December 31, 2008 is only a county tax. It's only in the unincorporated areas of the county. It is not a countywide tax. That's all, sir.

CHAIRMAN MONTOYA: I guess I would just echo some of the comments that the Commissioners made, that we look at this thing as holistically as possible, as opposed to selfishly. Right now we're looking at what is in the best interest of me and myself and I, then we're not going to get very far looking at it from that perspective. There are things that I've mentioned, who's going to notify the people of Chimayo and La Puebla about what this tax is going to do? Is that going to be part of the City of Santa Fe's obligation also? Or who's going to do that? So that disturbs me that we're looking already at how we're going to divide this thing and make things as divisive as we can as opposed to how can we work around this thing in a unifying way and make sure that everybody's going to be taken care of as Commissioner Vigil has suggested. So I would hope that as we move forward that certainly the City look at it from that perspective as opposed to being so divisive.

VIII. OTHER MATTERS FROM THE COMMISSION

CHAIRMAN MONTOYA: Are there any other Matters from the Commission?
None? Okay.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: One quick thing. I know I hate to raise this issue, but the Commission discretionary fund, Mr. Gonzalez, I've been told over and over again that at some point the Commission is going to consider it and I haven't seen that yet. On the budget, the Commission discretionary fund, whether it should be re-enacted. I know it's been allowed to stay in the budget that I've been told that we were going to consider it at a public meeting and it hasn't been done.

MR. GONZALEZ: I know that the Commission also had requested that as personnel issues come forward that they be presented. With respect to the discretionary funding, that's in the budget and I'd be glad to bring that forward if you'd like to have that heard and placed on the agenda as an issue.

COMMISSIONER CAMPOS: That was requested and that was what was agreed to some time back. And now, the budget is in place so it's allowed everything to be expended before the discussion, technically.

MR. GONZALEZ: I don't recall it as a request for a discussion item but my apologies if I missed that and I'd be glad to put it on the agenda.

COMMISSIONER CAMPOS: Technically, after 7/1 that money can be expended regardless of the discussion. Is that right?

MR. GONZALEZ: That's correct.

COMMISSIONER CAMPOS: So I had asked for a discussion. I'd like to have one in public.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, I wouldn't like to discuss it anymore. I think we've all come – I believe there was a consensus no there to leave it on there and just move forward with the budget as it is. Thank you.

CHAIRMAN MONTOYA: Any other matters? Are we moving on?

XI. A. 2. Discussion and Direction Regarding the RFP for the Federal Lobbyist

MR. GONZALEZ: Thank you, Mr. Chairman. I'm bringing this forward at the request at some Commissioners who wanted to continue the discussion with respect to whether we should move forward with the RFP for the lobbyist. I've had the opportunity to review the draft RFP and I've made some corrections from the original draft that we had worked with. As you recall we had initially put out the RFP, had gotten some responses and at that point the decision was made to hold off on it. So with some very minor changes I think that would be ready to go but again, it's the Commission decision about whether we move forward or not.

CHAIRMAN MONTOYA: Discussion?

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Could you kind of brief us on what - we went out for an RFP, didn't we already?

MR. GONZALEZ: Mr. Chairman, Commissioner Anaya, that's correct, and if you recall we came back after getting the initial responses. And at that point the decision as I understood it was that the Commission was not ready to move forward. One of the responders indicated, and I think it was the prime responder and Randy Herrera is here to refresh our recollection, but the prime responder had indicated some notion of mitigating or cutting in half the expenditures that they would charge during an interim period until we got toward the federal legislative session period. But I'll ask Randy to go ahead and refresh our recollection here so we remember where we were.

COMMISSIONER ANAYA: Thank you.

RANDY HERRERA (Contracts Manager): We went out for RFP last year and it was kind of late when we put the RFP out. It was November of 05. Come back to the February 06 BCC meeting which I believe it was approved but it may have been tabled. I'd have to go back and look because of the amount of money that they wanted for this federal lobbyist.

Again, there was four responders to the RFP. Again, we didn't make an award based on the amount of money that they wanted for this. The new RFP that has been drafted, I went to the County Manager, had an opportunity to review it and so did the Deputy County Manager of the scope of work for this. So will it bring back a cheaper price this time? I can't answer that right now. I don't know. I guess my best guess would be that I really don't know where the price is going to be with this to tell you the truth until we do get the responders to say what are the deliverables? What do you want me to do as a federal lobbyist? What's on the agenda for Santa Fe County? So all those kind of items do play in how much money they're going to request monthly from Santa Fe County. Do we want to set up this RFP to say that we'll put them on an as-needed basis or when agendas come up we'll ask them to go ahead and charge us for their services, that type of thing. So at this point in time that's why we're looking for a little bit of direction from the County Commission, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. Discussion?

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: So are we starting over? Is that what we're saying?

MR. HERRERA: Basically, we're starting over. It's pretty much the same scope of work, same scope of services that went out last year. Just starting again with a fresh RFP since that one has been expired.

COMMISSIONER ANAYA: Thank you.

CHAIRMAN MONTOYA: Okay. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Where do we stand? We talked at some length about retaining a lobbyist that would be year-round dealing here with our own state legislature and the interim committees and preventing some of the problems that we had in the last session

where we had capital projects vetoed because state agencies claiming they never heard about it before. Where do we stand on that? Has that gone out for RFP?

HHH: Mr. Chairman, Commissioner Sullivan, that too is another RFP that is on my desk and ready to go out for RFP right now. This is actually the point in time where we put together the state lobbyist for January. So January – we'll put it out right now, go through the formalities of getting the proposals and awarding a contract, then we get them on board for probably like the October meetings that start up with the state and start coming up with agendas for him or her to go to the 07 legislature. But at this point in time we still don't have an RFP. The RFP is ready. It's ready to go out right now, again, waiting on discussion of the Board to see when to go out for bid on this.

You are correct, Commissioner Sullivan. This will be an annual agreement, a four-year agreement with this type of person, should we be happy with it.

COMMISSIONER SULLIVAN: Well, what I think what I'm hearing you say about the RFP though is I think, or at least some of the thinking that I remember hearing was that this lobbyist be a year-long lobbyist, not just one for the session, and that he or she be retained on an annual basis, obviously, maybe doing a little less work off-session than during on-session. But we're not getting our word out during these interim committees when the decisions are made. So I'm concerned that that scope of work includes that level of service.

MR. GONZALEZ: Mr. Chairman, Commissioner Sullivan, the draft RFP just crossed my desk and Randy hasn't had a chance to look at the changes that I made but the changes that you're describing are exactly what I requested be added to the RFP that we've got. So we would put it out, assuming that the Commission is ready to move forward. We could put it out probably this week or next week and be ready for the session, because I did request that we have interim lobbying as well as lobbying for the session itself.

COMMISSIONER SULLIVAN: Okay, so it seems, Mr. Chairman, that the decision now that we need to make is do we want to spend the money – and I don't think we have the money to spend in both places – do we want to spend it on a Washington, DC lobbyist, or do we want to spend it on someone who is lobbying the state legislature on a year-round basis?

CHAIRMAN MONTOYA: This is just about the federal lobbyist; the state lobbyist is a separate issue.

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

COMMISSIONER SULLIVAN: I remember when the costs were brought forward they were fairly substantial, \$150,000 comes to mind, for the federal lobbyist. I would probably cast my vote for the state representation first. I really feel that we've missed out on some major capital improvement monies simply, at least according to the legislators, because of lack of timely communication. That's where I'd like to see us put our money first, I think. And then if we have extra money in future years, we might want to think about this. My trips to Washington haven't convinced me that they have a lot of money to hand out right now with a \$350 billion deficit it just doesn't seem like –

They asked Willy Sutton why he robbed banks and he said because that's where the

money is. So I think we need to go where the money is and it doesn't seem to be, at least right now, in Foggy Bottom. I think we have a better opportunity right here with our own state legislature. That would be my thoughts, Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos, your thoughts on a federal lobbyist.

COMMISSIONER CAMPOS: No. State lobbyist, yes. That's where the money is. That's where it makes sense. To do both, I don't think it makes sense. I think the discussion we had last time was let's do the state lobbyist. That was at least our major idea that was discussed here, and see how that works. And perhaps in the future consider a federal lobbyist. That would be my position. I concur with the comments by Commissioner Sullivan. They make a lot of sense. What concerns me is I thought this thing had been put out two or three months ago and it's still not put out, so that concerns me.

We need a lobbyist now, two months ago. We need to start talking to the governor about the courthouse, we need to talk about a lot of things. It's not October. I don't know where that comes from. I thought the direction was pretty clear.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I agree. I thought the direction was that this RFP in my mind should have already been issued. Either we had a study session about it or something – for the state. I just reference that because I think we need to look at the record to identify it. I was under the clear impression that we were getting a state lobbyist on board then when we gave that direction and that has been, as Commissioner Campos said, at least two months. I'm thinking a lot more. I don't see it as an either/or situation. I think we need both. I think we need both a state and a federal lobbyist. I am coming from a biased perspective because I am a lobbyist and I recognize the benefit of lobbying.

I know that the federal dollars aren't there, but what the lobbyist does, it identifies where those dollars are and where those needs are gets those dollars to us. I think we have many areas that we can really zero in on, that would be our jail, that would be some of the public works, some of the energy efficiency that we're trying to incorporate in our future buildings. Many of the federal mandates that actually occur right now have dollars available for local governments and there's many a government in New Mexico, a local government division, both municipality and county, that have had quite successful records. San Juan County for one, through federal lobbyists on a consistent basis.

We just haven't created a focus for getting the direction of lobbying efforts from the federal government to Santa Fe County and I think probably our congressional delegation would be the first to talk us through some of those issues because they themselves rely on the lobbying efforts and the representation of our lobbying. So I don't see it as either/or. I think if we're looking to give direction, my direction would be to get an RFP out for a federal lobbyist.

CHAIRMAN MONTOYA: Okay, I'm not sure that I was clear on your –

COMMISSIONER ANAYA: Mr. Chairman, I am in support of putting an RFP out for a federal lobbyist. I think it's important that we have somebody over there that's looking for funding for us. I think that if we don't ask, we won't get. If we don't know about it, how

do we know it's out there? Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Thank you. And I guess my direction on this would be that I would like to see what we get back in terms of request for proposals and quotes from the federal lobbyists. So I would like to see that. And then if we can afford it, if we can, I think at that time we can take a look at where we're at budget-wise. As far as the state lobbyist, I'll just echo what's been said. I thought that was something that was clear in terms of what we had directed staff in March, or I don't know when it was. Hopefully that can be done.

COMMISSIONER SULLIVAN: Mr. Chairman, one quick follow-up question to Gerald if I can. Gerald, or somebody, what do we have in our approved budget this year for lobbying of any kind, be it federal or state?

MR. GONZALEZ: Mr. Chairman, Commissioner Sullivan, I don't want to be specific about a figure because we're about to put out the RFP but I will say that we probably have more than enough to cover the state lobbyist position. We'll have to take a look at the federal side to see if we can find funding on that side.

COMMISSIONER SULLIVAN: So reading between the lines and not to name a number, it sounds like you're saying we don't have enough for both in the current budget.

MR. GONZALEZ: Not currently identified but I'll work with Finance and see if we can do a little bit of reidentification on the federal side. In part it may depend on what kind of response we get from the federal RFP but in the mean time we'll roll up our sleeves and do the homework to see, depending on and assuming an order of magnitude to what we got last time around, whether we can provide that sort of funding.

COMMISSIONER SULLIVAN: The reason I bring that up, Mr. Chairman, is that if the direction of the majority of the Commission is to proceed with the federal RFP, I think we need to specify what our budget is. There's nothing magic – I think it helps them. They all charge \$350 a hour, so the question is how many hours are you going to have them put in, over what period of time and in what time of contact mode. It's very useful to know what order of magnitude you have and let's just say we have \$50,000 available, picking a number out of the air. Then the respondent can reply back and say, well, okay. That's not a lot of money but it's something, and here's what we could do for that amount of money. So they can be creative and say here's the important things you can do and here's other. If we just say tell us what you're going to do we get these large, fanciful and totally very comprehensive proposals and they're always so expensive that we end up deferring it. So I think it's important to take a hard look at the budget and say, okay, if we know the direction of the Commission, we're going to do a state lobbyist. That's going to be x-dollars. We've got y-dollars left. That's the budget. And see if we get good responses based on that kind of a budget. I think that would be better than just making a general budget. That would be my suggestion.

CHAIRMAN MONTOYA: Thank you. Gerald, let's move on to 3. We have the public hearing starting in about 45 minutes.

XI. A. 3. Request Approval to award Construction Agreement No. 27-0602-PW/JC pursuant to NMSA 13-1-126, Emergency Procurement to Cordova Mechanical & General Contracting, Inc. for construction services related to the Santa Fe County Low Water Crossing at CR51 in the amount of \$104,130.12

MR. GONZALEZ: Thank you, Mr. Chairman, members of the Commission. This item is an emergency item. James is here to assist me with presenting this to the Commission, but basically, because of the weather phenomena we've been experiencing recently and general wear and tear on one of our roads in particular, we have sort of an emergency situation and I'll let James give you the particulars.

JAMES LUJAN (Public Works Director): Mr. Chairman, members of the Commission, on County Road 51 we've had an ongoing problem. We built a low-water crossing many years ago to handle the low flow during the winter time. And that's the only time it flows is in the winter. So it's very low flow and at night when it would freeze, the next day we'd go out there, the County, and this happened many years ago and it's been happening. It freezes, they go there and they put salt on the concrete. We now have a deterioration of that concrete where the rebar is exposed on the whole slab. So I need to do some emergency repairs to it because I'm really concerned about the safety of the public and the integrity of the structure.

What we plan to do is build it up and put a grate system in it so the water can flow during the winter through the grates and we will not have this trouble anymore. The closest way around this would be a 15 mile detour. I would have to send them to 84/285, through Ojo de la Vaca, through a dirt road and back around. So this is where I'm wanting to take some action. We've gone through the procurement. We did a design in-house. It's like our other structures that we have. I will have to keep one lane of traffic open. I plan to do that with a traffic signal that we have rented to keep one way traffic during the night time. But it is urgent that I get to it or I need to close off this road because I'm really concerned about the safety.

It's very close to the railroad track. We don't have room for a detour. So it is deteriorating every day.

CHAIRMAN MONTOYA: Questions?

COMMISSIONER CAMPOS: Where is it?

MR. LUJAN: This is County Road 51, Ojo de la Vaca. It's on I-25 on the underpass, going to Canoncito, you take a right and you go all the way to the Camino Ojo de la Vaca.

On one side there's probably, I'd guess anywhere from 100 families and on the other side of this crossing there's probably about 45 to 50 families.

COMMISSIONER CAMPOS: So it's a substantial number of families.

MR. LUJAN: Yes.

COMMISSIONER CAMPOS: Thank you.

MR. LUJAN: It's in your district.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: James, this is in general. I of course want to support what you bring forth to us because you the ones that are the first responders to these kinds of things. Are we having any other difficulty of this nature? Do you see any other roads, God willing, we have more rain, that we might have this problem with?

MR. LUJAN: Not this particular situation. I think the Manager is going to ask me to address some of the flooding issues. This has been a deterioration way before this flooding.

COMMISSIONER VIGIL: Okay.

MR. LUJAN: I'm going to address, I believe he still wants me to address the flooding situation in the next part.

COMMISSIONER VIGIL: Okay.

MR. LUJAN: To answer your question, I do not have any of these particular situations going on right now.

COMMISSIONER VIGIL: Okay. Thank you. Mr. Chairman, I move to approve.

CHAIRMAN MONTOYA: Motion by Commissioner Vigil.

COMMISSIONER CAMPOS: Second.

CHAIRMAN MONTOYA: Second, Commissioner Campos. Further discussion?

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

XI. A. 4. Updates on various issues.

MR. GONZALEZ: Thank you, Mr. Chairman, members of the Commission. I'm going to ask James to remain up there. I wanted him to give the Commission an overall view of the impact on the County of the recent rains that we've had and what they've had to do. I have to compliment our Public Works road crews who have been out there over the weekends and at night trying to keep our roads open. At least one of them we've really had to struggle with and I know James will give you the rundown there. But again, I really want to thank our Public Works crews for the extra time and effort that they've diverted to keeping our County roads open. James.

MR. LUJAN: Thank you, Gerald. Mr. Chairman, members of the Commission, I've got a little report starting from June 27th when the rains started, mainly down in Commissioner Anaya's district. We had some washouts on County Road 12, 34 and County Road 20, and Meadows Subdivisions. We've been working on these roads overtime. We have been out there on weekends. We've got most of them opened up. And

then we had a break from the 27th to July 5th is when we started getting really some torrential rains. We had a portion of Dinkle Road closed down and County Road 8, and this was in the area of Edgewood. The Sheriff could not get there and they didn't have a responding team for the night from the City of Edgewood, or they couldn't get a hold of them. I can't say that they don't have somebody responding. But we went in and assisted the Sheriff's Department on closing that road and putting up our signs and stuff. So we have coordinated with the Town of Edgewood to work on these issues because we did have to close a road down.

We have worked in some of these subdivisions and they're older subdivisions where residents are actually getting flooded at their houses. Not due to County roads per se but it's just the natural flow of some areas. Commissioner Anaya did ask me, there was a gentleman that couldn't get his oxygen and I took it upon myself to get the road cleared and get the company that was going to take him in oxygen. It was very, very minor work. We just needed to blade the road so the company could get in there. That's down in the Edgewood area. They did get extensive rain.

The area of Cerrillos, we do have a bad situation. One of areas, County Road 55-A, that's a low-water crossing and that road sits in such a deep area, over the years blading it, and we're going to have to do some repair, not emergency repair, some repairs very soon on it and I'm working on trying to get in there but it's just been too wet and I've coordinated with the Fire Department if they need us, probably heavy equipment is the only way to get in there.

One of the crossings was closed. We did have it closed for a period of eight hours. The water in the Galisteo River did recede at night and we were able to open up about three in the morning. So we did get - we haven't had anybody that's been stranded. So that's one of the roads and I think I want to come to the Commission and move that up because I know Representative King and Commissioner Anaya have worked on trying to get some funding for that. We want to work on that before winter and build that road back up.

So that's in that area. Around this area, Canada de los Alamos, we had a little debris on the road. It hasn't been major. We did get it cleaned up and it was open within an hour.

Up north we do again have some major areas that we need to repair. We worked the crews through Saturday and Sunday on overtime so they have been working and I'm going to go out with Commissioner Montoya on Friday and look at some other areas. He's had a lot of requests. People got flooded from roads. The silt and the sand and I think he'll come back to you guys and look at what action we want to take. A lot of it is on private land but we need to look at some of the drain structures. We've been keeping them clean. Some come from the state highways and have flooded out people, not again due to our County roads but we had one structure in La Puebla. Here's a picture of it, that was starting to deteriorate. I moved a crew in there on Friday and today they finished it. Tomorrow they will be paving the slope on that and we built some rip-rap.

Extensive damages and major probably down in Commissioner Anaya's district. And that's about it. Any questions?

CHAIRMAN MONTOYA: Questions? Commissioner Campos.

COMMISSIONER CAMPOS: Where does all this money come from? What part of the budget?

MR. LUJAN: This is part of maintenance money. It comes out of my maintenance budget.

COMMISSIONER CAMPOS: So how does that look? How does your maintenance budget look for the rest of the year?

MR. LUJAN: We haven't - other than salary and time, that's all we have put in. I haven't bought any materials. So it's made out of maintenance money.

COMMISSIONER CAMPOS: Do you expect that you're going to have to come back and ask for more money to your maintenance budget some time during the year?

MR. LUJAN: At this point I couldn't give you an answer. I don't have a dollar figure of what we've spent on overtime. If we have a hard winter, we may have to look at adjusting the budget for overtime in the winter for snow removal. Basically, we have a budget for snow removal and that's what most of our overtime is. Last year we didn't use it. We started a new year with all these rains but we may look at that but I would have to do a budget adjustment.

COMMISSIONER CAMPOS: You don't have an idea here of how much was expended or will be expended to make these emergency repairs?

MR. LUJAN: To date, I don't.

COMMISSIONER CAMPOS: Roughly, \$100,00, \$200,000.

MR. LUJAN: I would say in the neighborhood of maybe \$50,000, \$60,000 at this point.

COMMISSIONER CAMPOS: Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. First of all, it's nice to have all the rain. We needed it and I want to thank James and Robert and the Public Works Department for working overtime and taking care of these issues, and I know that hopefully it will keep raining and it will keep you very busy. But I just want to compliment you guys on your hard work and thank you for assisting the people that needed to be assisted at the time. Thanks, Mr. Chairman.

CHAIRMAN MONTOYA: Thank you, James. Gerald.

MR. GONZALEZ: Thank you, Mr. Chairman, Commissioners. The only other item that I had, I just wanted to remind the Commission that the intergovernmental summit meeting will be tomorrow beginning at 8:00 at the Inn of Loreto. That's all I had, Mr. Chairman.

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

MR. ROSS: Mr. Chairman, we need to go into closed executive session to discuss pending or threatened litigation and acquisition or disposal of water rights, unless you have other items. And it will take approximately 45 minutes.

CHAIRMAN MONTOYA: Okay.

COMMISSIONER ANAYA: Mr. Chairman, I move that we go into executive session to discuss pending or threatened litigation and discussion of acquisition and disposal of real property rights.

COMMISSIONER VIGIL: Mr. Chairman, can we also include limited personnel issues on that?

CHAIRMAN MONTOYA: Sure.

MR. ROSS: Mr. Chairman, what we wanted to discuss was purchase, acquisition and disposal of water rights.

CHAIRMAN MONTOYA: Acquisition of water rights?

MR. ROSS: Right.

COMMISSIONER CAMPOS: Can we include personnel?

COMMISSIONER ANAYA: Personnel.

COMMISSIONER CAMPOS: I'll second that.

COMMISSIONER VIGIL: Mr. Chairman, also we do have on the agenda discussion of bargaining strategy. Do we need to include that in the motion?

MR. ROSS: Commissioner Vigil, we do not need to discuss that.

COMMISSIONER VIGIL: Okay. Thank you.

The motion to go into executive session passed by unanimous [5-0] roll call vote, with Commissioners Anaya, Campos, Sullivan, Vigil and Montoya all voting in the affirmative.

CHAIRMAN MONTOYA: Thanks. We'll be back in 45 minutes.

[The Commission recessed from 5:20 to 6:35.]

CHAIRMAN MONTOYA: Let's call this meeting back to order.

COMMISSIONER CAMPOS: Mr. Chairman, motion to come out of executive session where we discussed pending or threatened litigation, limited personnel issues and purchase, acquisition or disposal of real property.

COMMISSIONER VIGIL: Second.

The motion to come out of executive session passed by unanimous [5-0] voice vote.

XII. PUBLIC HEARINGS

A. Land Use Department

- 1. Resolution No. 2006-__ . A Resolution Amending Resolution 1999-37, the Santa Fe County Growth Management Plan, to Adopt and Incorporate the San Marcos District Community Plan (FIRST PUBLIC HEARING)**

BETH MILLS (GIS Planner): Good evening, Mr. Chairman and Commissioners. I'm pleased to bring forward the San Marcos District Community Plan this evening for your consideration and for public comment.

A citizen volunteer committee composed of approximately 25 people have worked extraordinarily hard over the past three years to discuss the future of their community and to offer some answers to the challenges they will face over the next 20 years. The committee held more than 40 meetings and reached 150 people directly in the San Marcos area for their comments and concerns around the planning issues they had defined. This is one of the larger areas in the county to be planned under the Community Planning Ordinance. The planning process for San Marcos was initiated by the BCC in a resolution in June 2003. In the resolution the San Marcos area was identified as both a contemporary community and a rural district.

The subdivision of property in the San Marcos District began with a breakup of essentially one large ranch, the Jarrett Ranch, which eventually absorbed the pressure from Santa Fe for moderately priced housing in a rural setting. Residential growth has proceeded with minimum regulation or enforcement in the area for the past 30 years. Recently, residents perceived that people had reached a tipping point with their fragile environment particularly with respect to water resources.

I'd like to note that the pattern of development we witness in the San Marcos area is an important object lesson for County planners and policy makers when it comes to understanding the challenges for successful, integrated growth management strategy for the inevitable division of other large ranches in the Galisteo Basin. Members of the committee will present the plan, after which I'll conclude with a few brief comments. In addition to those people here this evening, I'd like to acknowledge Hugh Nator who chaired the committee for much of the time and who contributed in a large sense to the work we're bringing forward today. I'd also like to recognize the insight and support for the process that was contributed by the Planning Director, Jack Kolkmeier and by my colleagues in the Planning Division who truly work as a team. And finally before I turn over the

presentation to the committee, I'd like to have members of the planning committee who are here this evening just stand up so they can be recognized.

CHAIRMAN MONTOYA: Any questions for Beth?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: I would suggest that if the Commissioners have any specific questions that they raise them now so that the members of the board and staff can address them during their presentations, as opposed to having them come back up and address these issues.

CHAIRMAN MONTOYA: Okay. Any questions?

COMMISSIONER CAMPOS: I have a couple.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: The big issue I have is as far as this development relationship to the City and the Community College District. Now, in 20 years is this plan going to be relevant, the idea of keeping it strictly residential, rural residential? That was the first thought that came to me. This place is growing, the central area is growing. This is not far from the central area, so are we going to be looking in five years to change it or does it make sense in the long term. We're close to the city, we're close to the Community College, we're close to a lot of areas that will likely experience tremendous pressures for growth. I'd like to hear your thoughts on that.

MS. MILLS: Mr. Chairman, Commissioner Campos, I think that the community is hoping that it will be relevant in 20 years. I think that they're hoping to maintain what they cherish as a rural residential lifestyle. They're not on a water system and they have no desire to be from as much as I've been able to tell in the time I've spent out there. Now, how people who are living out there in 20 years will feel, it is hard to say. But in terms of the people who are there now, they would like to preserve the rural nature of their community and they'd like to preserve the large lot type of development.

In addition, because of the location of the district, as you can see, in the blue there on the map you see the two-mile and the five-mile, those rings around the blue which is the City of Santa Fe, and then the Community College District just south of the city in sort of a green hatched pattern. There's a buffer zone, which is Rancho Viejo and the ranch at Bonanza Creek, which are still very large land holdings that are outside the Community College District that I think I as a planner and I think the community too perceives as the buffer between their rural district and the growth area of the Community College District.

From the Planning Division's perspective it was the intention of the growth management plan to hold the line on urban development at the southern end of the Community College District, hence all that room in the Community College District for clustered, urban type development and the hope has been that in thinking that far forward, to devoting that whole district to urbanization that the line would be held there and that we would then allow a rural type setting to continue south of there.

COMMISSIONER CAMPOS: Do you feel that's in the public interest at

this point in time?

MS. MILLS: I do, and I think more importantly, it's in the environment's interest.

COMMISSIONER CAMPOS: And in 20 years do you think we're going to be in a similar position or are we going to be pushing out in that direction and things going to be changing pretty rapidly?

MS. MILLS: Mr. Chairman, Commissioner Campos, I think that depends on water allocation and the water allocations you all have been working on and how that all pans out. And we may in fact need to re-evaluate in 20 years.

COMMISSIONER CAMPOS: Okay. The guesthouse issue. You want to have guesthomes on lot sizes of at least five acres. That's the community - what's the rationale for that? Is that just rental income?

MS. MILLS: Commissioner Campos, the community saw a need for rental housing.

COMMISSIONER CAMPOS: It's an income issue.

MS. MILLS: Exactly. And they felt that if they were allowed to - there are a lot of people using this option out there. So they felt that if this were something that were regulated it would allow people to come forward and afford a mortgage out there who might not already, might not at this time be able to afford it.

COMMISSIONER CAMPOS: What conflicts is if you look at item 2 on page 2 it says all language referring to density bonuses be removed from the plan, except for the people that live there can in effect increase density. So I think that's an internal conflict. But the other issue is the water. You're saying, okay, no more than .33 for the two, for the principal and the rental, essentially what it is, and we've been saying .25 for the home and any guesthomes. .25 right? In other cases. So I think .33 is too high. So that's an issue I'd like addressed.

The other issue is that the local development review committee will be making all these decisions and that's what the community wants. I'm always concerned about these committees becoming very self-serving and serving and scratching each other's back and just deviating from the main goals of the community. So that's an issue I have. Those are the basic issues. I'm concerned about what's going to happen in 10, 15, 20 years is relevant. You make good public policy, the water, the guesthomes and the local review committee. Thank you, Mr. Chairman.

CHAIRMAN MONTROYA: Okay. Any questions?

MS. MILLS: Okay. Thank you.

WALTER WAIT: Mr. Chairman, members of the Commission, my name is Walter Wait. I'm a member of the San Marcos District Planning Committee and I also live in the area. My role this evening is to present the San Marcos District vision. I can't emphasize enough the importance of this proposed vision statement since everything else in our plan flows from it. There's two overriding concepts that drove the formulation of the vision statement. The first is the district wishes to preserve a quiet, rural, residential

lifestyle. The second is that from a very early date, the planning team recognized that the district has been quietly subdivided over the past 30 years into smaller and smaller lot sizes. There are very few large lots left in the district.

First let me talk a little bit about the quiet, rural, residential lifestyle. While neighborhoods sometimes differed on the subtleties, the basic concept of openness, open space, personal family space, collective landscapes, space between neighbors, the views to the distant mountains, the vistas, the protection and preservation of the natural environment, the current natural environment, and the conservation of a very, very marginal water source all became essential themes in our development of the San Marcos vision statement.

There is an overwhelming desire by the citizens of the San Marcos Planning District to maintain this quiet, rural residential lifestyle. This was made very clear by community surveys and unanimous comments at public planning meetings. And it's reflected and defined in the San Marcos vision statement as we've presented or we will present. The concept of a quiet, rural residential lifestyle emerged from group discussions leading up to the formulation of the vision statement and included comments like: We need to preserve clean, fresh, unpolluted air. We need a safe, long-term water supply from our domestic wells. We need to preserve views that include unimpeded sightlines to the distant mountains and prominent features of the landscape. We need sufficient distance between neighbors to ensure independence without the vulnerability of isolation. We'd like to see subdued lighting that preserves the dark night sky. We'd like to see the absence of commercial activities in the district, buildings, business parks, warehouses, mines, and manufacturing facilities that so often go up right on the periphery of this district.

We would like to see small-scale agriculture continue. Moderate farm and companion animal husbandry is recommended. And we'd like to see a continuation of the low noise levels compatible with the quiet nature of the surroundings. These are the qualities of what the community wants to preserve and protect.

The second underlying pillar in our vision statement, early on, with help from the County GIS Department and the County Tax Assessor maps we found out that the district has been substantially subdivided over the past 30 years. The district already has distinct neighborhoods. It's not a clean slate. It has self-regulated communities, defined lot size limitations, embedded road systems and clear expectations of what the built landscape should support in the future. Our vision therefore had to accommodate these land use facts of life right from the start and in some ways try to correct and mitigate the adverse effects of some of the land use excesses of the past.

The vision statement then reflects our clear desire to protect and encourage the continuation of this quiet, rural residential lifestyle in the San Marcos District. The vision statement reads as this: The San Marcos District on the southern fringe of the City of Santa Fe retains its rural character by preserving ranch land, open vistas and views of the encircling mountain ranges. Homes and other buildings are spaced and scaled to meet their surroundings. Neighborhoods maintain their individual character. Smart water use,

alternative energy and low-impact infrastructure are encouraged and supported. Commercial and institutional services are clustered for easy access and to minimize impact on the rural character of the district.

The San Marcos District is diverse and it is dynamic. It's a good place to live. That's our vision statement.

CHAIRMAN MONTOYA: Thank you, Walter.

COMMISSIONER CAMPOS: Walter, Mr. Wait.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: A couple of questions. I would prefer that your arguments go to the public interest. I know what the community wants. I know what the vision is. I've read all that. But why is this is the public interest? Is this just another - a lot of people could say this looks just like more sprawl, something that we've all fought against for years. No water system, no wastewater system, just open. To me, sprawl has always been a bad thing. I'd like you to address the public interest. I know this is what you want and this is good for you guys that live out there, but I want to see why it's good for the community.

MR. WAIT: First of all, we don't see our current lifestyle as sprawl at all. We see our current lifestyle as a lifestyle that promotes broad vistas and open space. Open space means a lot of things to a lot of people, and even open space means a lot of things to the different neighborhoods, whether you've got ten-acre parcels or 2.5-acre parcels, it means that you have some distance between you and your neighbor that you can consider as your own space. It's very important to the people out there.

Second of all, you ask me whether or not it is in the benefit of the people. But we are the people.

COMMISSIONER CAMPOS: Some of the people.

MR. WAIT: We're some of the people. And I can't see why the people in the county, when they are looking for places to live, and the diversity of places to live, can't have an expectation to decide between city living, the living in clustered housing, living on a ranch or living somewhere in between. And we're the in between. We are the low cost housing for Santa Fe at this point, because we are close enough to go to Santa Fe. We're also close enough to create our own individual businesses within our homes, that we can commute to Santa Fe to sell, and it becomes a very, very important and vital part of the overall picture for Santa Fe County.

One of the reasons, for example that we asked for guesthouses, which was not suggested by the County planning staff was because we have a lot of young people that don't have places to go once the graduate high school and go off, but that would like to experience or continue to experience this more generally open space type of living environment, having the kind of situation that we suggest would allow that to continue, would allow people to stay in our area, and that's a very important concept all through the county, not just in our place.

COMMISSIONER CAMPOS: I understand that, but any time you have an

area that's developed with larger lots, it's going to be less and less affordable to people so some people will naturally be excluded from that area and that's a 44 square mile area so you're going to be excluding people who don't have the means to move in there at a certain point.

MR. WAIT: Two things. First of all, five acres in this district is worth a great deal less than five acres closer to town, but still the most affordable place. You can buy five acres or 2.5 acres in our district much, much cheaper than you can buy a 2.5 or a ¾-acre or even a lot in town.

COMMISSIONER CAMPOS: What are you talking about?

MR. WAIT: In terms of the cost?

COMMISSIONER CAMPOS: What's the cost of an acre out there?

MR. WAIT: I would say you can buy property for \$5,000 an acre still in some areas.

COMMISSIONER CAMPOS: Well, that's an issue, the affordability issue because any time you have big lots you exclude people.

MR. WAIT: The other part of affordability is again this guesthouse idea, would permit people who would not be able to purchase a mortgage to be able to include the guesthouse as a source of income, which might mean that a bank would be more considerate in terms of granting a mortgage because they would have a secondary income based upon the rental property that might be built on the property as part of their construction.

COMMISSIONER CAMPOS: Okay. Thank you, sir.

MR. WAIT: Thank you.

CHAIRMAN MONTROYA: So are we ready to open up the public hearing.

COMMISSIONER CAMPOS: That is a public hearing.

WILLIAM BAXTER: Chairman Montoya and Commissioners, my name is William Baxter. I'm part of the group here, San Marcos Planning Group and I live in the area. I will be very brief. I'm here to give you a little historical perspective of our community, what it is and where it came from. The key idea here is that we're roughly 30 years old. Very few people that live in our area pre-date 30 years. We're really current. We are a contemporary community. We have happened de facto. In the ten years I've lived there I've seen my neighborhood double and double again. We are a growth area and it is the impetus brought on by that rapid growth, by the arrival of people, by people looking for economic housing and looking for a little bit of elbow room for their horses, that growth has caused us to see a need for this plan. That's the driving force behind it.

Our plan expects that our population will double. The time frame is not certain but certainly in the next ten or twenty years we'll have at least twice as many people out there. We look for growth. We want to see the growth happen in an orderly and predictable manner, so that when you do have a house there you have a rough idea of what's going to happen in your neighborhood. And if I may, my real function here is to give you a long-term perspective. I'll do this for maybe 60 seconds.

San Marcos got its name way back in 1591 by Gaspar Costano de Sosa who applied it to what was arguably the city ever in the southwest and he called it San Marcos. An enormously large pueblo and it is the heart of our district. It's the reason for that name. In the middle 1300s there were possibly more people living there than there are today. They didn't last. The weather changed. Other factors, the population waxed and waned and with the Pueblo Revolt in 1680 our area became depopulated. Some time after 1680 nobody lived there. Nobody lived there for 200 years notwithstanding the fact that Señor Montaña received a grant of 1800 acres called the San Marcos Pueblo Grant. It was grazing area because the land was too rough. It was risky to live out there and there was no population, effectively, until late Territorial times and the Cerrillos Hills mining boom when the Colorado miners, as they were called, swarmed the area and dug hundreds, thousands of holes in the Cerrillos Hills. The earliest habitations that we have in the area date from that, and they are ranches.

The ranch configuration – the Calvins, the Sanchezes, the Trigs, there's a whole long list of them, the Jarretts, the Dillonschneiders, the Wests, the history of our area is that of ranches until very recent times. And it's the population pressure, the desire to live in Santa Fe and not being able to afford to live in Santa Fe, or looking for the vistas and the quiet and the dark night sky that caused most of us that are out there to be out there. It is a neighborhood that we love enough that we want to do something to make its future more predictable and assured.

CHAIRMAN MONTTOYA: Thank you, Bill. Any questions for Bill? Appreciate it. Thank you.

ALEXIS HIGGINBOTHAM: Mr. Chairman and County Commissioners, this too will be brief. I'm Alexis Higginbotham and I am also a member of our planning group. Identifying the issues our district plan would address was done with a great deal of input from the community. We distributed surveys that asked residents what mattered the most to them and each neighborhood had a designated steward available for his or her neighbors to express what they thought were topics of concern for our area.

The issues the San Marcos community collectively decided were most pressing to them are ensuring the quality and quantity of our water resources, wastewater and pollution management, drainage, soil erosion, stormwater control and roof catchment, residential densities in housing, agricultural land use, how to manage and conserve natural resources as well as historic and prehistoric sites, maintaining air quality, quiet and esthetics, protecting open vistas and views, foot trails and byways, transportation and circulation, including road conditions, utilities and telecommunications needs and expectations, community services, including but not limited to senior centers, library, daycare, etc. and especially problems with Code enforcement. Are there any questions?

CHAIRMAN MONTTOYA: Thank you, Alexis.

SIGMUND SILVER: Mr. Chairman and County Commissioners, my name is Sigmund Silver and I'm a member of the planning committee and a resident of the area and I'm going to talk to you about the actions that are in the plan which you've seen in the

planning document. What I'm going to try to do is show you how the actions that are in the plan relate to aspects of the vision statement and the goals of the plan. One of the major aspects of the vision statement is preservation of what we consider to be the special nature of our district. And it's the nature of our district which we believe has attracted a certain type of person to live in this area, mainly people who both appreciate the characteristics of this area and who wish to live in harmony with these surroundings.

I think it's important that you understand that we live in a very fragile area. The Galisteo Basin in general and the San Marcos area in particular is very fragile. It has limited water resources and the surface conditions are very fragile. That limits how much development is really practical. We don't wish to become a high erosion flood area. The fact that this area has attracted a certain type of person who appreciates the area, I believe is why there is a high degree of consensus in the plan and I'd like to make the point that we used the County Planning Department's consensus method in putting together this plan and quite frankly, when that's presented, this consensus method, I was thinking, this can't work. How can you arrive at a plan without taking votes? Well, we didn't take votes. We worked the issues, it sometimes took a long time, but at some point after enough discussion things fell into place because we had a shared vision. I think that's very important.

In terms of the preservation aspect of the plan, the sizing of parcels in the three zones is a very important part of that. Two thirds of the residences in the district are in what we call the rural density zone, which is the 15-acre minimum lot size, and of the remaining third, two thirds of the remaining third are in the neighborhood density zone, and a third approximately are in the homestead density zone. We had to recognize the fact that there was a variance in development pattern and existing settlement pattern in the district and we wanted to recognize that.

We have an overlay zone along Route 14, the scenic byway where there's a 200-foot setback from the road except in the mixed-use zone where it would be 100 feet. We have tightened the requirements for water harvesting in terms of the size of the house that would have to do water harvesting. We're requiring wastewater systems for any subdivision development of five lots or greater. We've identified and are identifying areas that require cultural and natural resource protection in the form of development site approval. We want to strengthen the language for light control. So we're very concerned about trying to protect the environment in our district.

We settled on a clustered mixed-use approach in terms of the mixed-use area. We want our mixed-use area to be convenient for residents and we also want it to be viable. We want businesses in that mixed-use area to be able to succeed and we concluded that the clustered approach would work for that. We looked at a number of different areas for that and decided on the existing commercial node which we believe is too large, based on our calculations so we've shrunk that to a more manageable size, which is still going to allow for a very long time. We've identified areas where there is currently institutional use. We've defined them as institutional zones at their current size for the moment.

Another one of our goals is to maintain our diversity. We value the diversity in our

district and we believe that home occupation is a good way of achieving that along with the County's affordable housing ordinance, and also the rental program on the guesthouses that was discussed earlier. We feel that will contribute to diversity. And finally, we want to have a dynamic community and a dynamic plan. For that reason, we believe that a local development review committee and an ongoing planning committee to review the plan, to address some of the issues that you raised there, Commissioner Campos.

Things will change over time. We know that. We're not talking about freezing the plan forever. We want to have the ability to address it as conditions change. Thank you very much.

CHAIRMAN MONTROYA: Thank you. Any questions? Thank you.

MS. MILLS: Mr. Chairman, I just wanted to add to what the committee members have said by acknowledging the comments that I have from Commissioner Sullivan in response to the plan. The important consideration that the committee is going to take on between this hearing and the second public hearing. It has to do with being very clear about the definition of the guesthouses. We'll certainly take Commissioner Campos's comments into consideration. We'll keep them in mind here too as the discussion goes forward. The need to consult with County Legal about the obligation surrounding family transfers, the need to establish open space standards for new subdivisions in the district and to review the County's designated travel corridor as it applies to the district and reference the district's circulation in connection to these corridors. So these are comments I just wanted to make sure that Commissioner Sullivan and the rest of the Commissioners were aware that they will be considering between now and the next hearing.

CHAIRMAN MONTROYA: So this is a public hearing, the first public hearing for this resolution. Is there anyone from the public that would like to speak on behalf of or opposed to this plan? Please come forward.

ROBERT B. VIGIL, JR.: My name is Robert B. Vigil, Jr. I live here in Santa Fe. I also own property over on State Road 14. As a matter of fact it's right next door to the San Marcos Café. What my big concern is is that this area was previously zoned as a commercial zone, more or less. We had that big circle that was drawn around, say, the Lone Butte area, and now with this plan that they have, they have sort of pulled that from under us. This is about the third time that I've come since 1982 when I purchased that property. At first when I bought that property, it was zoned commercial, then it was pulled, then it was zoned again. Well, not actually zoned, but you could come in for a variance and get a business out there. Now as I understand this plan that will not be able to be possible to build anything that's of a commercial business in that area with what they have planned over here. My big concern is that I think we should be sort of grandfathered in because of where we were at the time that we subdivided the areas. I want that to be taken into consideration.

And another thing that I see is that they keep saying about the lighting and all that, some of those areas, because I have a sister-in-law that lives in that area, she had a light out there since 1982 and it's, right now it would be non-conforming. She's a widow and at

night when she drives up or something, she needs that light. Now, if they want to do away with lighting and all kinds of stuff, what's she going to do when she gets home besides probably put one of those lights that turns on by itself?

Like I was saying, my main concern is that node that we used to have that we could put in commercial zones and all that, at least what we should be able to put in there is now is that mixed zoning or what do they have there? So that we could put up a little business or something because I own 500 feet of the highway frontage right there and it's ideal to put a little business or something in there and as I understand it I could put maybe like a home-based business, but what if I decide to put something else up there? Is it going to limit me to what I have. Another thing I have, my area lies in that scenic byway.

There's another thing that's come up and it kind of irritates me so I ask you to consider, take into consideration all the areas that were already in there so from what I see we should have been grandfathered in there and all this new stuff that you're putting up here that should be in areas that are still unsubdivided and perhaps those you can do something about. But the ones that we already have approved and everything before, if we start going into all that, to me, right now we're fighting a war in Iraq and I guess there, to me, when somebody comes in and tries to step on your foot, that's a terrorist. Take that into consideration too.

Like I say, when I turn around over here, I think I'm an endangered species in here. I don't see many Spanish American Indian people around in here. So take that into consideration too. My family has been around Santa Fe County since the 1600. That's where my Indian blood came from. Because the original Spaniards didn't bring any wives with them and they took on Native American women as wives and that's how we came over here and we're still over here. I want that to be taken into consideration. Because we're not from the outside; we're from right here. So I want you to consider all that stuff. Thank you. Sure appreciate it.

ART BURGER: Mr. Chairman and members of the Commission, thank you for this opportunity and I do have some brief comments about the plan. My name is Art Burger. I was one of the members of the 25 core committee although it's really fair to say that about eight or ten folks wrote the plan and the rest of us kind of came and went when we had the time.

My wife and I live out in the district. We've lived there for more than 20 years. We own two homes and a vacant lot in the district. My wife is president of the governance council at Turquoise Trail Charter School and I'm president of the foundation out there, so we're pretty active in the community. Also, I'm on the board of the Santa Fe Youth Soccer Fund and the AYSO soccer, so if any of you are soccer fans, way to go.

We also are business owners. We own Burger Carroll and Associates. We're a government consulting firm and we employ 17 employees here in Santa Fe.

There's many things we like about the plan. We like the neighborhood. They capture a lot of what we like about the neighborhood. But there's a lot in the plan we don't like. We don't think it's particularly representative of the diversity in the community.

While the plan presents a number of excellent suggestions for preserving the rural character of a district, it is weak in responding to the needs of the growing numbers of young families that live in our area. It resists affordable housing. It does not promote it in our judgment. I would note that within the past year, there have been times when the cheapest single family home on the market in our district, other than mobile homes, was over \$300,000. And I'm not aware of any land that sells for \$5,000 an acre out there.

In fact, the plan goes further. It bans family compounds regardless of the acreage and size involved, and it bans any sort of manufactured home community. It does not envision public transportation systems, and bans any related terminals for such systems. It envisions no playgrounds or athletic fields, and in fact bans most outdoor recreational facilities. It unduly limits commercial and mixed-use areas such that it will be necessary to travel many miles in private vehicles for routine shopping and other purposes. The plan is also deficient in regard to traffic and safety issues. It addresses the one major intersection at 14 and 44, but it ignores another intersection just a half a mile from there, also the scene of a lot of accidents. That's State Road 14 and Turquoise Trail Court.

So those are our general concerns. I have a few personal concerns. I do, as I indicated, own a lot in that area. In fact some sort of across the street from Mr. Vigil. The plan would greatly diminish the value of our lot by making it a residential zone. The lot is at the southeast corner of 14 and Turquoise Trail Court. The firehouse is our neighbor to the north. The Feed Store Café is our neighbor across 14 to the west. Our eastern boundary is a residence and commercial horse breeding facility, and our southern boundary is a multi-family dwelling that's often used as a gallery.

Due to the aggressive resistance of a very small group of residents of the Turquoise Trail neighborhood behind that property, the plan rejects the vision of two different subcommittees, which considered designating this area as a second neighborhood center and making it a mixed-use zone as well. We bought this lot more than a decade ago precisely because it made sense for commercial development and we envisioned building a gallery and professional center there. It is 1.9 acres, having lost about a third of an acre to the state when they widened 14 in 1988. It is along state road frontage and is immediately across from the viable San Marcos retail operation.

In 1966 we attended the BCC hearing Mr. Vigil alluded to in support of the San Marcos application for variance and we were led at that time to believe that the BCC action at that time expanded the commercial node to the northern border of the San Marcos and our lot. Given the development on all four sides of us, this lot would clearly be a poor choice for residential zoning.

A second concern is that the plan would further diminish these property values with the 100-foot setback. The proposed setback related to the scenic highway designation would preclude any development on more than half our lot, leaving just 73 feet of depth in which to develop any facility.

Third, the plan provides an insufficient amount of mixed-use space in general for the public good. The plan establishes a mixed-use zone consisting of just three lots, two of

which already have businesses on them. Two subcommittees identified that second neighborhood center as the current location of the firehouse and San Marcos Café. Indeed, the firehouse itself often serves as a community center and was the site of most of the meetings of the committee. It is suggested in the plan that the single area was sufficient and that was determined through an analysis of retail needs. But the flaw in here is that the analysis looked at retail uses only, whereas the plan's use of mixed-use designation far exceeds retail and includes institutional uses, churches, parks, medical facility and multi-family housing. I would suggest in fact the plan is a little disingenuous because it lists dozens of possible uses, including multi-family housing and retail and churches, but it provides only three lots in which those would be permitted.

The plan suggests the planned commercial development in Rancho Viejo would meet the community's needs and is just "three miles north". In fact it is more than five miles from Rancho Viejo Boulevard and State Road 14 to San Marcos Loop, which is the first residential egress on 14. It's roughly eight miles to the intersection of 44/45. So clearly, the vast majority of residents in the district would have to drive 10 miles or more in each direction for basic shopping requirements. Indeed, back in 2004, and I brought some copies if the Commission would like them, in March 2004, in the very beginning of the planning effort, there was a straw poll taken of residents. I believe it was one of the firehouse events asking what they desired of the district. It lists over 30 retail uses and a considerable list of other types of businesses and institutions. This plan basically ignores those requests from those residents.

In conclusion, I would encourage the BCC to reintroduce the second neighborhood center, inclusive of designating of course our lot as an excuse. We would also recommend that the plan be sent back to the committee for revisions to improve its family friendliness. Thank you.

CHAIRMAN MONTROYA: Thank you, Art. Any questions for Art? Thank you.

BETSY CRAMER: Hello, my name is Betsy Cramer and I live on 14. A large part of the reason why I chose to live there was because it was the only affordable place I could live in the Santa Fe area. I couldn't afford anything. What I found is that it's a really good fit for me because I'm not into immediate gratification in terms of having storage nearby, right down the street. It doesn't distress me and it doesn't distress my neighbors that we have to plan for what we need. It's not a priority to us to have stores right down from our corner. What's a priority to us is that we can see the sky at night. We can see the stars at night. That we have room to roam and we have space. Those are our priorities. That's why we chose to live there.

So I know this plan isn't perfect but I really support what my fellow members here have done on my behalf in terms of what they're trying to propose to preserve something that's unique to this area.

CHAIRMAN MONTROYA: Thank you, Betsy. Anyone else wishing to speak on behalf or in opposition?

WILLIAM LENTZ: My name is William Lentz. Thank you for giving me the opportunity to talk. I live just off of North Fork in what they call the Silverado District. I've been there, me and my family, since '87 and seen a lot of this growth. I have a home occupation business fixing cars and I've been doing that for quite a while. A large, a fair percentage of my clientele come from that area, from the Madrid area, and maybe half come out from Santa Fe. In their discussion about home occupation, I compared it to what was on the web for the County's requirements and they've added a few little things which bother me. It says the occupation does not involve intensive vehicle service, auto repair, body shops, etc. Storage of construction equipment, vehicles, three or more axles for retail or sales other than products of our work and handicrafts that are produced on the premises. That would immediately eliminate me. I maybe could get grandfathered in but somebody else wanting to do this type of work to serve the community would be excluded.

There are some other problems in it. In the part where they were talking about businesses going in up there next to the Lone Butte, they were talking about all the requirements of having to do this kind of hydrology survey and an impact survey and a this kind of survey and a that kind of survey, and it's really hard to create a small business. There is a vacant restaurant across from the Lone Butte which in the last, I don't know, ten or fifteen years has probably been ten different groups of people that have tried to make a restaurant work there and have been unsuccessful. Put in six months or a year, lose a lot of money. It's not very easy to get anything going.

The price of gas, everybody wants to keep driving back and forth to town. Something Mr. Vigil alluded to was the lack of representation of the Spanish traditional community. I don't know if you have this report on before you. There's this thing in Appendix E called the total impact matrix, and a lot of what goes one in this report relates back to Appendix E. This community I live in is called Silverado. It gives two and a half lines to Silverado. A lot of people live there close together. It says there's 185 wells. It says the roads are poor quality, inadequate arroyo crossings for emergency access during precipitation events. That's all they say about Silverado. It's probably one of the older areas.

The rest of these get anywhere from half a page to a page discussion, with the exception of South Fork. One of the things that attracted me to the area and many of my neighbors, I believe, is the saying, we got no covenants. And that's a saying that a lot of us cherish. We've got enough blue sky. We've got enough mountains to look at, but we don't want to be told what to do. Now, I'm afraid if this goes through, many of my neighbors are going to be quite surprised to find they do have covenants.

There are several other areas in this which disturb me but those are the things I'm most personally involved in. The guesthousing - talk about adding residents. As I understand it, anybody with 1500 square feet can put in a guesthouse. That's going to increase the population, I don't know, by a third anyway, in my opinion. Thank you.

CHAIRMAN MONTROYA: Thank you, Bill. Any questions? Okay. Thank you.

JERRY SIMPSON: Mr. Chairman, Commissioners, my name is Jerry Simpson. I live in Cielo de Oro down by Lone Butte. I'm probably one of the most recent residents. I've only lived there about three years. First let me thank Beth for all of her work, all of our committee members, because they've done a great job. They've probably been working at this as long as I've lived in the area. And I want to say that I'm very supportive of the work that's being done by the County planning and extremely grateful for the work that's been done by this committee. I'm very supportive of it.

I moved in Cielo de Oro, and by the way, we have covenants in Cielo de Oro, so there are covenants in that area right now. The reason why I moved to Cielo de Oro is because of the nature of that area. I liked it. When I went down past 44/45 on Highway 14 and went into the entrance of Cielo de Oro, I did not miss any of the large commercial establishments that you have in Santa Fe. What attracted me to that area was the rural area and my background is the Eaves Movie Ranch. Every once in a great while I hear the Thirsty Ear Concert going on and I love it. To the west of me is Rancho Allegro, and after I moved in, Mr. Wilson moved in next to me. He does rodeo work. They all talk about the quietness. What I love to do is sit out there in my outside and listen to the horses and the donkeys. I love that sound, because I'm in the country and I want it to be maintained as an area that is in the country. If I wanted to live in the city, and I've lived in very large cities, I would have moved into the city. I didn't want to live in the city. I wanted to live in a rural area. That's the reason why three years ago I moved to that area. Please, keep it as it is. Don't change it. That's what brought me there and I'm a citizen and I will appreciate your support of what's being done by these people.

CHAIRMAN MONTOYA: Thank you, Jerry. Any questions?

ALICE VALDEZ: Hello. My name is Alice Valdez and I purchased my property out on North Fork in 1980 so I've been there for a very long time. As it was back in 1980, it was the most affordable property that I could afford and to my understanding it remain affordable out in the area. I too am concerned about water resources and the population growth in my area. I used to be one of probably four residents out there and now I'm probably one of 70 residents just in my immediate area. I chose to live in the county rather than the city because of my open space and my property, my space. I have two children. They will inherit my property. They chose also to live also in the space that we do.

My real concern is that a lot of the growth isn't even being monitored. A lot of the lots that are being developed in my area are not even the standard lot sizes that are supposed to be maintained. It's real hard for me to believe. I know I was one of the first people out there and these lots are getting smaller and smaller and smaller and I worry a lot about our water resource and even safety because the roads not being maintained have caused the traffic to travel over these dirt roads at a high rate of speed in order to avoid the washboard in a lot of the areas, my street in particular.

So I would just ask, I haven't been able to read the entire plan because I had just gotten information that there was such a thing, which is really unfortunate, but I do plan to

review it and look at the commercial versus the non-commercial aspects. But as far as a resident out there, I still think it's affordable and the proof is that the population has quadrupled in even the last ten years. But I would like to see that if growth is going to occur that it be monitored a little better by the land use so that everybody does get what they bought back when they bought it. That's all. Thank you.

CHAIRMAN MONTROYA: Thank you, Alice. Anyone else? Anyone else after this gentleman? One more. Okay, sir.

ROBERT RUCKER: My name is Robert Rucker. I've lived in the San Marcos District since 1977. I think that's the earliest of anyone that's spoken yet. I participated in a number of the meetings. I am a professional economist by training, a retired foreign service officer. I spent most of my life in planning, development planning. I would like to respond to a couple of things. First of all, I don't hear well so sometimes I misunderstand. But I would like to respond to some of the questions that Mr. Campos raised. I would like to respond to some of the points that Mr. Vigil and Mr. Burger raised.

What I have here is Mr. Campos says we are sprawl, objects to large lots, says we are excluding people who can't afford big lots, and wants to know why has our plan beneficial to the larger community. Is that a fair representation. I jotted down a few things rather quickly. But first, and I think we feel water is the limiting factor, not space. And until the hydrologist and Santa Fe County come up with some better answers on water then we think our zoning densities are very, very reasonable.

Second, as has already been noted by earlier people, the neighborhood zones allow five acres down to three acres for family division. Silverado is basically 2.5-acre lots. In any case, small lots are available.

Three, although land prices may be high, the land prices in this area are probably some of the most reasonable within the county unless you're going to go down near I-40, down near Moriarty, if it's in the county.

Fourth, if we define the community as the San Marcos District, then there has been ample consultation. Lots of advertisements, trying to get people in. There have been large meetings as well as the planning meetings. This has been going on for some two years. It really started much earlier than that. It isn't like this came out of the blue.

Fifth, but what I want to say is if we define the community as the San Marcos District, there has been ample consultation. However, if we are looking to San Marcos as a solution to the county's problems, then I think the County should be prepared to step up to the plate and talk about community water systems, community waste disposal systems, this type of thing. I know the County isn't in that business. I know developers are in that business. But wait a minute.

Number five. What do we have just north of the San Marcos District? Don't we have Rancho Viejo and some of the largest developments, high-density developments taking place in the county? Don't we have more on the board that are out there grading right now? I mean, really. I'm sorry, but I find that question disingenuous because of all of this other development, high-density development that's taking place where they are

addressing these issues, so I don't see why little old San Marcos District should, if there is a problem, should have to deal with that problem.

Now I want to turn to the comments of Mr. Vigil and Mr. Burger. First, what I want to say is that all methodologies are suspect. We know that. You have to make assumptions. You have to have baseline data. The world changes. We know that. I know that. I've spent all of my life working on it. Okay. So nevertheless, this committee used the methodology that was developed by the high-powered consultants that were used in the Community College District to project what the need for commercial space would be in the San Marcos District. And using the same type of methodology, they came up and presuming that all of the land in the San Marcos District would be developed and that the population would roughly double, ultimately, all of the space filled up, they came up with a need of four acres. Four acres.

The present proposal for a mixed-use zone is over 20 acres. Well, I thought the four acres was an overestimate. Why? Because they were assuming 25 percent of retail expenditures of the people living in this district would be spent in the district. That's a real leap of faith if anyone has looked at what's out in the San Marcos District. Basically what we have is a service station. We have a small convenience store that sells lottery tickets. We have a real estate agency. We have a café and we have a feed store. All of those businesses have been there for several years. There are no empty stores in the San Marcos District.

What I'm trying to say, excuse me, is any type of market analysis would suggest that new enterprises out in that area, if they're going to be serving that area, and that is the intent of this plan, clearly stated, they can't compete. We have commercial centers within - I can look up the exact mileage if you would like, but it ranges, if we go from the 44/45-14 intersection, which is the rough geographic area, you have - if you're wanting to start a business, you have all that you want around the 599-I-25-14 intersection. It's there. If you're looking for retail services, and there are some in that area, but if you're looking for retail services then all you have to do is drive nine, ten miles at most. Nobody can compete out there. No businesses can really compete.

CHAIRMAN MONTROYA: Can you please summarize. We've got a couple other people and we still have a full agenda.

MR. RUCKER: Okay. Sorry. To summarize. The present proposal encompasses 20+ acres. There is a projected need, at the maximum, when the population has filled out of possibly four acres. There is no demonstrated need beyond this. No one has ever come up and presented an analysis or anything saying that we need more than that. Larger space is not justified by likely population or likely zoning densities. It is certainly not justified by any type of remotely professional market analysis.

I would finally say that Mr. Burger alluded to the small number that were against commercial zoning. Well, at the time that this proposal initially came up in October I went out and I got 32 signatures out of 35 people opposing this. It sits in front of our neighborhood. What can I say? Mr. Burger does not live in our neighborhood. He lives in

another – not a gated, but certainly a heavily coveted neighborhood. So it's disingenuous to suggest I live – to imply that he's living there and is going to be affected by his actions.

Okay. That is it. In sum, I don't think, again, as a professional, that proposals for more commercial space have any legs to stand on. And if we have another meeting we'll provide the information that may convince you.

CHAIRMAN MONTOYA: There will be another public hearing. We have one more speaker. Anyone else that would like to speak, there's a woman in the back that had her hand up. I would ask that you get your comments to Beth, anything you might have, or anyone else that has anything, to get your comments to Beth. This is the last speaker then we're going to go on to the next case.

RITA GUGLIARA: Commissioners, my name is Rita Gugliara. I own a 10-acre parcel in South Fork. I've been there for ten years and I wanted to say I'm in support of this planning committee but the planning committee has sent out, asked for our input. I've attended the community meetings about it and I guess I reacted to that gentleman that said we have to go ten miles to get services, and I love that. So that's what I wanted to come up here and say. I do not mind the drive. I'm 20 minutes from anywhere and it's beautiful. If you were out there last night and saw the full moon rise you'll know why we want dark night skies. Thank you.

CHAIRMAN MONTOYA: Thank you. We're going to close this public hearing now. Beth, do you have any final comments? Again, this is the first public hearing. Questions? Commissioner Vigil.

COMMISSIONER VIGIL: Thank you. Beth, I know we have one more hearing with regard to this, and there were some questions that were brought up. Property owners that had purchased property on reliance that they were in a commercial node and how that would impact them. Who might be grandfathered in under these circumstances with what businesses are allowed? I think further clarification may need to be known, not only to the neighbors but also to the Commission when this comes before us too. Oftentimes we find that we're really not too far off from what is being requested and what the plan actually says. So if that could be worked with I would really appreciate it.

My sense is the whole issue of commercial, how that was calculated, and I speak only from experience because when we calculated the Rancho Viejo commercial we overcalculated it and now they're telling us we can't support this much commercial node. And with this, I don't know if the accuracy of just three lots being dedicated to commercial node exists. No? Further clarification on that then perhaps. Because you do want to be able to manage what direction this goes with some level of expectation for the community and what I'm hearing is that that's not real clear for everyone. Okay? Thanks.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman and I wanted to say thank you to the members of the committee to meet with me and the staff to outline what they felt were the key components of the plan. I think that was very useful and Beth has the comments that resulted from that meeting. I again wanted to thank Hugh Nazor

who started out aggressively to get the plan moving after several years of I know frustrating time on his part to get in line, to have the staff resources available for the plan and all the others who participated with Hugh in the committee. I think you did a very good job. This is very difficult. This is a lot like the plan we tried to do in Eldorado where we had existing subdivisions that were carved out years ago, rightfully or wrongfully, but they're there and we have to figure a way to work with them. In Eldorado, quite frankly, we couldn't. The plan dissolved and it was a failure.

I'd like to see one work and I think this one can. I did, in addition to the comments that Beth has I hope you'll work on those between this meeting and the next meeting. The examples in the plan on the density and the guesthouses is still confusing to me when I read it over I still don't understand what happens under five acres, whether you can have a guesthouse. If you're having a family transfer, there's an example in there that says this would create four lots which is unacceptable. Just reading that whole paragraph confuses me as to whether you can or can't have a guesthouse if you're under five acres. So that's I think important. It is important, I believe to set some limits because although we do have hydrologic limits in the area, traditionally and typically, those have been waived either by family transfers or just by the granting of variances. So I think it does make sense that we take a hard look at that and say, look, let's pick a number that's reasonable here and stick with that number that everybody can understand. That seems to make sense for me for that area.

There is a dichotomy with large urban areas moving up very close on your boundary and a rural area being adjacent to it. As to whether that should also have provisions for greater urban densities. And that's a real philosophical question to deal with. I like the approach that there's a planning committee to be developed to constantly monitor growth and come forward with recommendations, because what we see in all of these districts, the Community College District for an example, since the day that it was approved, other than some immediate changes that were made to correct some supposed mapping errors, since that point, nothing has ever changed. There's been no modifications or amendments to it at all in about five years.

So we need that kind of follow-up and we haven't had it. We're limited in staff resources. So that's a good point. So by and large, I think this is a workable plan here, Mr. Chairman. I think there's some questions that need to be answered. I do think this is a rural area. I don't think we can make it into an urban area overnight. I think it will experience some fringe pressures that we'll have to deal with. The Bonanza Creek Ranch is deleted from it so that's a big hole in it. Obviously, that's going to be developed someday into some kind of urban development and the periphery of that is going to have to be dealt with. We don't deal with that hear.

So there's still some unresolved issues but by and large, I think we have a start that deals with this very, very touchy issue, how do we work with all these existing odd lots and try to make a cogent, coherent plan out of it. I think we're very close. Thank you.

CHAIRMAN MONTOYA: Thank you. Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. I too would also like to thank staff, Jack and Beth for all their hard work, and to the planning committee who spent hours and years on this plan to preserve the rural lifestyle in Santa Fe County. I think it's important that we continue looking at our open space, our views, our water resources, clean air, clean water, and continue with our agriculture, look at our noise issue, our road systems, home occupation, public trails, roof catchment systems, alternative energy and preserving our ranch land.

There was a few things that I did jot down here about what concerned me and that was the family compounds. He mentioned something about we couldn't have them or they didn't address them or something like that. And he also mentioned manufactured buildings. And I don't know. I looked in the pamphlet there but I didn't see anything there and I would hope that they would allow manufactured buildings.

Another issue was the traffic and safety issue. One of the things that disturbs me the most is when we get down to the planning process and we come to the meeting, this has been going on for three years, and you get individuals up here, which is okay. That's part of the process, that stand up here and say that they had no idea that these meetings were taking place. That just doesn't fit good with me. There's got to be some way, and I know we try, and you're not going to get everybody's full attention all of the time. But when you come at the last minute and you try to change something, that's very difficult. That's a slap in the face to our County staff and to the people that have worked so hard.

So I would hope that in the future, that in any - and I'm talking about the Galisteo community plan, that maybe we could somehow continually address to that committee to go out and tell the community that we are working on a community plan and jot it down and tell us how many times you tried to approach those people and let them know. Because it bothers me that at the last minute people come in and talk about the issue that they have been talking about for three years.

So but that's part of the plan and I guess that's okay too. We can't get it all on the first time, but we can go back and try to solve these issues. But like I said, it does irk me. You need to get involved in your community. It's important to get involved and stay involved. Thank you, Mr. Chairman.

CHAIRMAN MONTTOYA: Thank you. So we will have the next public hearing at the next land use meeting. Is that when it's scheduled for, Beth? Let people know.

MS. MILLS: Mr. Chairman, that was our hope, but we need to take into consideration everything we've heard here tonight and make sure that we can accommodate that by August 1. I'm hopeful we can.

CHAIRMAN MONTTOYA: Okay. And there were some concerns and I think Mr. Vigil is right. I think there is some sort of middle ground that can be reached in terms of what was discussed here. I think if we can try and do that by August 1st that would be good.

MS. MILLS: Very good.

CHAIRMAN MONTOYA: Okay. Thank you all for this first public hearing.

XII. A. 3. Ordinance 2006-8 An Ordinance Amending Ordinance 2006-3 Requiring the Use of Instant Hot Water Devices or Designs within all Permanent Structures with a Hot Water Tap Including but Not Limited to Commercial Structures. Wayne Dalton (SECOND PUBLIC HEARING)

WAYNE DALTON (Review Director): Thank you, Mr. Chairman, Commissioners. On April 11, 2006, the BCC granted authorization to publish title and general summary of an ordinance amending Ordinance 2006-3 requiring the use of instant hot water devices or designs in new residential dwellings to require hot water devices or designs within all permanent structures with a hot water tap including but not limited to commercial structures.

Staff was directed by the Commission to request that all new construction in Santa Fe County, including commercial structures with hot water taps be required to install hot water devices and designs. In order to provide a sustainable resource for all county residents and sufficient water, it is imperative that we conserve our water resources.

Staff recommends approval of this ordinance.

CHAIRMAN MONTOYA: Okay. Any questions for staff?

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I just have to ask. I thought we had already voted on this. Did we have to go through a procedure where we incorporated and amend this ordinance to include the commercial component and then we had to have a hearing with regard to publishing title and general summary and then a first hearing and a second hearing. I'm just feeling like I voted on this a lot of times.

MR. DALTON: Mr. Chairman, Commissioners, you have voted on this a lot of times.

COMMISSIONER VIGIL: Okay. Thanks for validating that.

MR. DALTON: The ordinance that was approved required hot water devices and designs in all new construction. Staff was directed by the Commission to require that hot water devices and designs be required in commercial structures. So this ordinance here will require hot water devices in all permanent structures, be they residential dwelling units, accessory structures and commercial buildings.

COMMISSIONER VIGIL: Okay.

MR. DALTON: So this will be final vote on it.

CHAIRMAN MONTOYA: Until the next one.

COMMISSIONER VIGIL: Move to approve, Mr. Chairman.

CHAIRMAN MONTOYA: Motion by Commissioner Vigil. Oh, this is a public hearing. We need to open it up for anyone who'd like to talk, either for or against this proposed ordinance. Seeing none, I'll close the public hearing. Commissioner Vigil.

COMMISSIONER VIGIL: I make motion to approve this, Mr. Chairman.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN MONTOYA: Motion by Commissioner Vigil, second, Commissioner Sullivan. Discussion?

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: We have no enforcement on this if this is approved, so I don't know who's going to enforce it.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: It's my understanding, and I'll defer to staff, that the plans cannot be approved for applicants without the design of the hot water tap recirculation being a part of those plans. Is that not correct? Is that the extent of our enforcement?

MR. DALTON: Mr. Chairman, Commissioner Vigil, that is correct. We trying to figure out a mechanism also for maybe applicants to fill out an affidavit stating they've installed hot water devices. Staff [inaudible]

COMMISSIONER VIGIL: Couldn't we also, Mr. Chairman, couldn't we also link with CID, let them know this is a requirement and when CID does there final inspection, that they advise us whether or not that is part of the final inspection?

MR. DALTON: Mr. Chairman, Commissioner Vigil, that's something staff is looking into. [inaudible]

CHAIRMAN MONTOYA: Okay. Further discussion?

The motion to approve Ordinance 2006-8 passed by majority roll call vote with Commissioners Campos, Sullivan, Vigil and Montoya voting yes and Commissioner Anaya voting no.

XII. A. 4. Request Approval of Resolution No. 2006-116. A Resolution Amending Resolution 1999-137, the Santa Fe County Growth Management Plan, to Adopt and Incorporate the Village of Agua Fria Community Plan (SECOND PUBLIC HEARING)

RENEE VILLAREAL (Planner): Good evening. We are here today as you said for the second public hearing for the Village of Agua Fria Community Plan. This community plan is the culmination of three years of work that the Agua Fria Planning Committee has completed. As we see increased residential and commercial development

occurring within and surrounding the village, there was an important need for a community plan. In the first public hearing held on June 13th the planning committee and County planning staff briefly highlighted the elements of the community plan. A background of the planning process was presented where committee members gave short summaries, specifically how and why the planning process was initiated. The committee then covered the elements of the plan, briefly summarizing the highlights of each section. A very thorough history of the Village of Agua Fria was presented. The committee then gave a summary of the water, wastewater, roads and traffic and the land use sections of the plan, emphasizing the goals and recommendations for program and ordinance actions for each plan element.

Emphasis was placed on the land use component of the plan as the committee went over future land use and growth management goals and specific ordinance action needed to meet these goals.

The major issues identified at the first public hearing were the following: the County affordable housing ordinance was not addressed in the plan and proposed zoning for the traditional community zoning district will increase density and water demand. Therefore the planning committee proposed to amend the land use program actions to include the following statement: Under the affordable housing section, it will include the Santa Fe County affordable housing ordinance is in effect in the Village of Agua Fria and affordable housing shall be undertaken in accordance with Santa Fe County's affordable housing ordinance. The planning committee proposed to amend the land use ordinance actions to include the following: Amend the Village of Agua Fria zoning districts map to clarify existing and proposed zoning district boundaries.

In regards to developments on wells, the committee proposes to make recommendations which will limit or restrict new domestic well water consumption based on input gained at public meetings and incorporated into the proposed Code language to follow.

Robert will now present the staff recommendations for the plan.

ROBERT GRIEGO (Planner): Mr. Chairman, Commissioners, the Village of Agua Fria Community Plan meets the required planning elements of Article XIII of the County's Land Development Code. The proposed expansion of the traditional community zoning district is consistent with the County's growth management plan, which states "Traditional communities may alter their boundaries which results in a zoning change, or decide to change their boundaries through the community planning process. Traditional communities may expand their boundaries to incorporate new development at the edges or create buffers and separation for new development in order to preserve the village identity.

Included in your packet material is information regarding potential development and water demand for the proposed traditional community zoning district expansion area. That's included in Exhibit C of your packet material. Table 1 shows the proposed maximum potential increase in dwelling units and potential water use in acre-feet for the expansion of the proposed Agua Fria traditional community zoning district using both the

existing zoning and the proposed zoning. Information also includes the potential water use in acre-feet with the restriction of a quarter acre-foot per dwelling unit on domestic wells within the traditional community zoning district. This restriction is not currently in place.

Table 2 shows the increase in potential dwelling units from the existing zoning to the proposed zoning and the increase in water use based on the existing regulations, and also by restricting the water use in this area to a quarter acre-foot per dwelling unit.

If you put your attention to Exhibit C, Table 1, it shows that within the existing zoning district, within the existing underlying zoning, with the minimum lot size of 2.5 acres per dwelling unit, there's a potential within the expansion area for a maximum of 54 additional dwelling units under the minimum lot size. However, this can be increased to 86 dwelling units with a family transfer, or with community water or sewer there can be a total of 106 dwelling units, or with community water and sewer, minimum lot size is one half acre per dwelling unit. There is a total potential of 227 units.

The total potential water use based on the existing unit zoning is 106 acre-feet of water, whereas utilizing the proposed traditional community zoning district changes the total amount of dwelling units would increase by 55 units under the existing zoning to a potential with water and sewer of 181 dwelling units. Table 2 shows the potential increase in water use with a restriction of a quarter acre-foot per dwelling unit and it shows there would be a reduction in water use based on that scenario by reducing the water use to a quarter acre-foot per dwelling unit on that scenario.

In regard to staff recommendation, staff recommends that the Board hear all the public comments, consider the proposed amendments and approve the resolution to adopt and incorporate the Village of Agua Fria Community Plan. Staff also recommends that the Board consider the following options. Approve the plan with amendments as approved by the Agua Fria Planning Committee. Also consider limiting all new residential land division and subdivision using groundwater from a domestic well to a quarter acre-foot of water per year per dwelling unit. This concludes our presentation and we stand for questions from the Board.

CHAIRMAN MONTTOYA: Okay. Questions for staff? Okay, thank you Robert and Renee. This is a public hearing, second public hearing for the adoption of this Village of Agua Fria Plan. Is there anyone who would like to speak on behalf of or in opposition to this community plan? Okay. The public hearing is closed. Commissioner Vigil.

COMMISSIONER VIGIL: Thank you. We are at the second public hearing and I recognize some of the villagers, the traditional historic villagers of Agua Fria. I'd like them all to stand, and that's Ramon, Gilbert, Mr. Rael and Henry and there's Dolores Durnell. Quite a few others are there. I want to thank the villagers of Agua Fria for their dedication and their hard work to this planning process. The uniqueness of their planning process is that they are truly dealing with a traditional historic village and in their process, every issue that they addressed created a focus for maintaining the traditional historic values in that community.

With that, Mr. Chairman, I want to thank them and everyone who put so much work into this. Staff, Robert and Renee, Dolores and Jack and everyone who worked with this community in hopes that this Commission will unanimously act in favor of adopting staff recommendations with regard to this ordinance.

With that, Mr. Chairman, I move in that direction and hope for a second.

COMMISSIONER ANAYA: Second.

CHAIRMAN MONTROYA: Motion by Commissioner Vigil, second
Commissioner Vigil. Any discussion? Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. I completely agree with Commissioner Vigil. You said it perfectly. I don't want to go on to any lengthy discussion but I agree with you.

COMMISSIONER VIGIL: Thank you.

CHAIRMAN MONTROYA: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, at the end of the report there's proposed amendments and staff recommendations with options that aren't really part of the motion, so I think that's going to require some discussion.

COMMISSIONER VIGIL: I do believe that my motion included staff recommendations, which were only two amendments. Is that correct, Robert?

MR. GRIEGO: Mr. Chairman, Commissioner Vigil, staff recommendation was to approve the plan with the amendments as approved by the planning committee, and also to consider limiting - Option B was also to consider limiting water consumption from wells. And the proposed language is in your packet material there. All residential land division and subdivision using groundwater from a domestic well shall limit water consumption to a quarter acre-foot of water per year per dwelling unit for domestic consumption.

COMMISSIONER VIGIL: Okay.

COMMISSIONER CAMPOS: Is the motion clear, Mr. Ross? Are we covering all the issues on the options and the staff recommendations?

MR. ROSS: Mr. Chairman, Commissioner Campos, I think if you go with Option B you've got it covered.

COMMISSIONER CAMPOS: There is an option selection on the last page.

COMMISSIONER VIGIL: Of the resolution?

COMMISSIONER CAMPOS: Of the report.

MR. ROSS: Mr. Chairman, I'm told staff is recommending Option B. That might be the clearest.

COMMISSIONER VIGIL: That was my motion, to go with staff recommendations. That would include Option B.

CHAIRMAN MONTROYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: No questions.

CHAIRMAN MONTROYA: Okay.

COMMISSIONER VIGIL: I would just, Mr. Chairman, before we take a

vote, is there anyone from the village that would like to comment on that motion and if not

CHAIRMAN MONTOYA: We already had a public hearing, Commissioner Vigil.

COMMISSIONER VIGIL: That's correct, but the motion isn't specific to the public.

COMMISSIONER CAMPOS: You said it could have been addressed. It's part of the discussion.

COMMISSIONER VIGIL: It's interesting we had the public hearing. The motion wasn't made with options and the community doesn't have an opportunity to comment even after we've made a motion. So I stick with my motion.

The motion to approve Resolution 2006-116 passed by unanimous [5-0] voice vote.

CHAIRMAN MONTOYA: Congratulations to you all. Good job. We appreciate it.

COMMISSIONER VIGIL: Thank you, Agua Fria.

XII. A. 6. CDRC Case No. MIS 06-5020 Paul Parker Temporary Condition Amendment. Paul Parker, Applicant, Jim Siebert Agent, Request an Amendment to a Previous Condition of Approval to Allow Stockpiling on 54.40 Acres. The Property is Located off of State Road 344 in the San Pedro Contemporary Zoning District, within Section 27, Township 12 North, Range 7 East (Commission District 3) [Exhibit 1: Letter from Shirley White; Exhibit 2: Area Map; Exhibit 3: Petition for Denial; Exhibit 4: Area Map]

JONATHAN SALAZAR (Review Specialist): Paul Parker, applicant, Jim Siebert, agent, request an amendment to a previous condition of approval imposed by the Board of County Commissioners on January 13, 2004 stating that all stockpiled material must be removed within a 120-day period. No new material shall be added or stored onsite. The applicant is requesting an amendment to the condition to allow stockpiling on 54.4 acres. The property is located off of State Road 344 in the San Pedro Contemporary Zoning District, within Section 27, Township 12 North, Range 7 East, Commission District 3.

On March 16, 2006 the CDRC met and acted on this case. The decision of the CDRC was to recommend approval of an amendment to a prior condition imposed by the Board of County Commission to allow stockpiling of materials on 54.4 acres.

On January 13, 2004, the Board of County Commissioners approved a temporary

permit for a weigh station and guard trailer conditioned on the removal of stockpiles from the same tract of land. The applicant is requesting an amendment of condition number 3 to allow stockpiling on the property.

The applicant states that it has proven difficult to store material within the current five acre BLM mining site.

Staff feels that the request by the applicant to allow stockpiling on the property shall be considered based on a previous condition of approval stating no new materials shall be added or stored onsite.

Again, on March 16, 2006 the CDRC met and acted on this case. The decision of the CDRC was to recommend approval of an amendment to a prior condition of approval imposed by the BCC to allow stockpiling subject to the following condition.

[The condition is as follows:]

1. This approval is for the weigh station and stockpiling only; no extraction of sand and gravel material shall be conducted on this site. Any other change of operation, or use, shall be submitted to the CDRC for review and approval. Evidence of mineral extraction will trigger County Enforcement, and the temporary use permit shall be void.

CHAIRMAN MONTROYA: Okay, any questions for staff? Okay, is the applicant here?

[Duly sworn, James Siebert testified as follows:]

JIM SIEBERT: My name is Jim Siebert. My address is 915 Mercer. I'm representing Paul Parker in this request. What I'd like to do is give you some graphic material as part of my presentation. What this particular display describes is the fact that the mine, which is a sand and gravel mine, sits in this area here. What we did is we took the latest aerial photographs that the County has, which are 2005 photos, and showed you what kind of the general area looks like and what you see is State Road 344. This is the fire station. You do have some residences, one here, one here and one here. But other than that, there really is no residential development that has occurred along Oro Quay Road.

Mr. Andrews, who lives here, is in fact in support. We had hoped that he'd attend tonight. He had a doctor's appointment this afternoon and could not attend. The other two residents actually are related to – they're associated with another mining operation that's called the Chavez silicon mine. As you can see, the orientation actually has always been mining. This particular area here is called the San Pedro Mine. I'll show you another exhibit here in a bit. The Chavez mine sits over here. But principally, this road serves those mining activities.

The photo here – it's a little dark. I apologize for that. Once again, the existing mine, the San Pedro Mine here, the five-acre mine that you see with the sand and gravel operation is located here and the purpose of this is Paul and Mary Jo Parker, in order to ensure that there would not be an encroachment of residential development actually purchased the BLM patent. This kind of strange configuration is old BLM, either patented or unpatented. So they either own the land or they own the mining rights to the land to

prevent this kind of encroachment.

This is BLM property here. The other exhibit is the actual mining site itself. Once again, this is Oro Quay Road. This is the five-acre site. This is the most recent photograph, 2005, that the County has. And what happens is there's a fairly narrow canyon here up to the mine site. It's very difficult to keep the – to provide for the kind of stockpiling that's needed with this kind of mining operation within the five acres. What Paul Parker has done is developed a berm in this particular area here and it runs from six to eight to ten feet tall. This area had been previously cleared out. It's approximately 12 to 15 acres in size, but it's the area behind the berm where the stockpiling is proposed to occur.

Where it was previously was in this location and he, as part of the agreement previously, the previous agreement moved that out. You're going to hear some evidence regarding the history, but I think the key to this consideration is mining has occurred in this area since actually the 1880s. The particular mine was started in the early 1900s. So mining activity is something that's really part of the history of this particular area.

Some of the things that Paul has done to be a good neighbor out there is first of all, improve Oro Quay Road. It's now been improved to the status that it's been accepted as a County Road. It's County Road 9-B. He's cleaned up the area that's below that I pointed down below the barn where there is a considerable amount of mining equipment that was left from the previous owner. Old trailers, old sheds, and he's leveled that area out and reseeded that area in an attempt to reclaim it.

The other thing is in the area on this land Paul has provided for a location for the neighbors in the area to put their pinons and junipers that have died, stockpiling in order to mulch them or eventually remove them to another location. One thing, there's an issue regarding – or a claim, I should say, regarding the fact that there was a previous condition that trucks would not operate on the roads within the half-hour of school buses. And what I'd like to do is hand out a letter that's written by Shirley White who is the head of the Plant School Transportation, Inc. that's responsible for this area for providing bus service in this area to the children. It says they've really been – that the San Pedro company, Paul Parker's company has really been very cooperative in dealing with them. I'll hand these out to you.

The other thing I'd like to point out is the benefits of the mining operation itself. There has been – where exactly does this material go once it leaves the site? There have been several public projects that have received material from this particular mine. Let me mention a few of those. There's State Road 344 itself, which has recently been improved, State Road 14, from Cerrillos Road to San Marcos, Sandia Labs, the I-40 interchange, Albuquerque Airport and Kirtland Air Force Base.

I think with that we have three speakers tonight. There are several people here but we're going to limit it to three and maybe I could just ask those people that are here to support the project if they could stand up. [Approximately 30 people stood.] And we have three speakers. If you wish, you could hear them now.

CHAIRMAN MONTTOYA: First of all, are there any questions for Mr. Siebert? Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, thank you. Just one question. Jim, on the stockpiling, you have 54.4 acres. I've been out there, I've looked at the site, I don't think - what acreage are you actually talking about?

MR. SIEBERT: I'm not sure where the 54 acres comes up. It's actually, it's only the acreage - we come up with about 15, actually, between 12 and 15. It's only the acreage that would be north of Oro Quay Road, up behind the berm up to the mine.

COMMISSIONER ANAYA: Okay. Thank you, Mr. Chairman.

CHAIRMAN MONTTOYA: Jim, I have one. In regards to the recommendation of staff and the conditions, are you in agreement with all the conditions?

MR. SIEBERT: Yes, we are.

CHAIRMAN MONTTOYA: Okay. I'm going to ask that anyone that comes up to testify now in light of the hour and the schedule still ahead of us that you limit your remarks to three minutes please. And if you could also avoid being redundant in terms of what was said previous to you. Karen, I would ask you to be our timekeeper. And those who want to, please come up and speak now. The public hearing is open for comments on behalf or in opposition to this application. Be sworn in.

[Duly sworn, Elizabeth German testified as follows:]

ELIZABETH GERMAN: I'm a member of the neighborhood. I live in San Pedro. I am also an attorney but I'm speaking as a resident. I would ask, this issue is extremely important, not only to our community, but to the entire Santa Fe County. The issue being presented is whether our County plan will be enforced, or whether the six years we spent working on that process was absolutely for nothing. And I would ask that I be allowed to speak for more than three minutes. There are several people in our community here and perhaps some of them would give me their three minutes, because there's a very long history on this situation involving litigation that the County was involved in for two years and one, to actually prohibit what they're asking, there was our County community planning process involved and then there's been some current issues. So I would like to be able to address all of those issues to the Commission if I may do so.

First of all, just a brief history on this, back in early 1999, the operator of this gravel mine, and I disagree with the characterization that this mine has been in operation since the early 1900s. It started in 1999. Prior to that there had been a San Pedro mine, which in 1994 Mining and Minerals determined had been abandoned and there could be no mining in that San Pedro mine. When the prior operator at this site began trying gravel operations on BLM land, the County went in and cited the operator for not having a County permit. The operator argued they did not need a County permit because it was BLM land. As a five-acre BLM notice operation, as long as it was kept to only five acres. An environmental analysis was not required, public notice and public hearing were not required.

But the County filed a law suit against that operator and said maybe we can't

prohibit you from taking gravel from BLM but we as a County can require you to comply with our conditions to minimize the impact on our neighborhood. Commissioner Sullivan and Commissioner Campos were on the Commission at that time and were incredibly supportive of this. San Pedro Neighborhood Association intervened in that lawsuit and it was a huge victory for the County because the County won a ruling that said the County can regulate the impact on a neighborhood of things that happen on federal land. It was in the newspaper. It was a huge grant of authority, a recognition of authority to the County.

There were numerous conditions placed on this operation and arguments asserted by the County and supported by our neighborhood association centered around the fact that mining and commercial activity are absolutely prohibited in our neighborhood. And although there may be two or three houses right there on Oro Quay, 344 is the one main road that goes through the entire neighborhood. So it's not a matter of whether there's a pile of gravel on Oro Quay, it's a question of all those trucks going up and down 344 right in the middle of the neighborhood.

The fact that the operator now says they can't operate on five acres is exactly the point. It is supposed to be a tiny, five-acre BLM operation. If they go beyond that, on federal regulations they have to have public hearings and environmental analysis. The County permit requirement that the court upheld says the five acres have to be strictly enforced. It had to be marked very specifically, and a whole bunch of other requirements have to be met, including the school bus route, and we actually have some evidence to the contrary about the buses, but we're not here on that particular issue. Another requirement was that they clean up the area. So these are not neighborly sayings that the operator just fortuitously did.

When our community planning process started, it was actually late 1996, Santa Fe County had issued a proposed plan for growth for the southern part of the county and it quickly became clear that our area differed greatly from Edgewood. Edgewood really wanted to encourage development and so forth. Our neighborhood wanted to maintain a quiet, rural characteristic. So the County then adopted the rules that now you saw with working today with Agua Fria and San Marcos that allowed each community to develop their own plans. Then we went through a three-year process with hundreds and hundreds of hours of meetings on our plan, working with staff and the County and the plan was adopted. The County adopted a resolution adopting the plan, which in our vision statement specifically refers to quiet peacefulness, low traffic, dark night skies, etc.

The community plan also prohibits mining and commercial activity. At the CDRC hearing, CDRC was under the impression that the ordinances implementing our plan did not prohibit mining or commercial activity. But when a few of us met with Commissioner Anaya and members of land use staff and Jack Hiatt, we learned that the CDRC only had the odd numbered pages of the ordinance. The even numbered pages include the prohibition on mining and commercial activity. They also specifically defined mining to include gravel. Now whether you want to call this mining or commercial activity, it's not just a question of leaving a pile of gravel on 15 acres. What's at issue is the related

commercial activity of moving that gravel in and out of the neighborhood and selling it. That is the most important part of our community plan. If those of you who were here recall at the hearing on that plan there were very few people. I believe there were three people who spoke out against it and we had over 100 people here at those hearings. Their concerns were commercial activity and mining. The Commission adopted the plan with those prohibitions.

So if this so-called amendment is adopted, it's completely negated the plan, and I think it sends a message to the entire county that this community planning process is for nothing. At the time we submitted our plan to the County there were only approximately 170 homes in the area. I believe the data we received from the County Assessor's office this week indicates there are now 286. If you look at the charts at the back of the community plan showing total build out in parcels under the plan there will be anywhere from 620 to 2000 homes projected in this area and they all lie across this 344 and the various private roads, but the only access and egress from the community is along 344 and exactly what we were trying to prevent was mining and traffic and noise and trucks.

I mention this being a so-called amendment because it's not an amendment. This is a variance. If this Commission allows the stockpiling on Oro Quay, it is a variance. It varies from the community plan. And this request does not meet the requirements of a variance. If you look at the Land Use Code you have to show extraordinary hardship, you have to be granted in a way that's a minimum easing of that hardship. Well, the only hardship mentioned in this situation is the difficulty of confining their operation to five acres. But that's specifically what the BLM requires.

The County wanted to completely prohibit the operation, but because it was on federal land the County couldn't. And the County took the extraordinary step of going to court and exercising their authority to regulate it.

CHAIRMAN MONTOYA: I'm going to ask you to summarize now, please.

MS. GERMAN: Thank you. In short, I think what's at issue here is the safety and security of our neighborhood. Our neighborhood will be ruined with additional truck traffic, and it's also whether the County takes seriously the community planning process. Because if this amendment is granted there is no reason for any community to engage in community planning. Thank you.

CHAIRMAN MONTOYA: Thank you. Next, please.

[Duly sworn, Bob Clancy testified as follows:]

BOB CLANCY: My name is Bob Clancy. I am a San Pedro resident and I'm pretty familiar with this operation having been there since well before it started. There's two things I hadn't planned on talking about tonight. One is the photographs I just handed out. I apologize. I don't think I have a complete set for everybody. But since Mr. Siebert brought it up, one of the conditions of their County permit is that they don't run gravel trucks with the school buses. These photos show gravel trucks with the school buses on Heartbreak Hill, and it shows the very same trucks at the San Pedro pit. It shows some of the going up hill down 14. I don't know what better proof can be furnished that they

have violated this condition of their permit a number of times.

Another thing I'd like to point out is that the operation is supposedly at five acres now. If this expansion is granted it will go from five to 20. It's essentially the same piece of land. There's a boundary between the BLM and the private, but it's all in the lower part of the canyon and the two pieces are contiguous.

I'd like to give just a bit of history and show why we think that there should not be any granting of this exception to our Code. When the thing started, it was started as a five-acre notice-level operation for a very specific reason. That's because it would escape a lot of environmental review. When the County permit was issued it went with five acres and there were other conditions put on there. Those conditions resulted in a compromise, which I think neither party was really tickled pink with, but it's what we could live with.

If a variance is granted, it should be granted because of an extraordinary hardship, non-self-inflicted conditions, or unexpected circumstances. None of those apply. They asked for a five-acre operation; that's what they got. And now I think they should stick with that.

When Mr. Parker bought the operation from Mr. Mauzy who was the one that started it, I would be amazed that he didn't know that there weren't these two permits and the five-acre limitation on it. So there shouldn't be any surprises there.

Okay, over the last few years the operation has got three notices of violation from the County for unpermitted expansion. The first was when the scale house was put there. The scale, the trailer, and there were stockpiles. The County issued the first violation then. Mr. Parker approached the San Pedro Neighborhood Association and I was a member of the board then and said he wanted to be a good neighbor. I personally thought this was a real great idea. SPNA hashed it over and we decided that we would not oppose the scale house but we would like the stockpiles removed. The County wanted them removed in 30 days. We said, why don't you leave them there; let them sell the gravel off from that place and not have to move it again. We were making a real good faith effort to be a good neighbor.

I came before this Commission to present our approval of that agreement. I really wish I hadn't done that because nothing changed. As you see from the pictures of the trucks running with the school buses, we still have the same problems. Then 16 months after the gravel was first given a violation for it was still there. So the County issued a second violation for not having moved it. That's an extra ten months and it was still there. There was also a violation issued at that time for removing rock from across Oro Quay Road from the pit, almost a third of a mile from the permitted five acres.

They keep pushing the limits of what they can get away with. I think from what Mr. Siebert was saying where the gravel goes it's pretty clear that what they want is not a local gravel pit. They don't want a five-acre mom and pop operation. What they want is a large regional pits. If they can afford to haul it into Kirtland Air Force Base or down to the Big I or the airport, there's a tremendous market they can provide from that pit. The problem is that we in San Pedro that have one of the most peaceful, quiet places around

Santa Fe County have to put up with the truck traffic and with the sound of the crushers. Mr. Siebert's maps cover the north side of 344. Most of the houses are on the south side. But I live a mile and a quarter away from the crusher and when it's operating, I can hear it. I can hear the trucks go up and down Oro Quay Road. I can hear them go up and down 14, especially if they're coming our way. That's why we urge you not to approve the expansion of this operation. Thank you.

CHAIRMAN MONTOYA: Any questions. Thank you, Bob. Anyone else wish to speak on behalf or in opposition to this application? Would you please come forward and maybe sit over here so I can see more or less how many people are going to be testifying?

[Duly sworn, Bobby Gonzales testified as follows:]

BOBBY GONZALES: My name is Bobby Gonzales. I'm with the Gold Prospectors Association of New Mexico. Mining has occurred there for a lot longer than 1999. I think the region has been mining for 1500 years. Before the Spaniards got here they were mining. I think the main problem, as far as traffic, truck traffic and those things, those are being created by the very people that make up the neighborhood association, developers. When they develop there's a demand for the gravel. They're not catching this stuff off the rain gutters. They need the gravel. It needs to be produced and most of it goes right back into that community.

Shutting down this place, hamstringing them until they go out of business will do nothing for Santa Fe County's coffers. It's strangling the goose that lays the golden egg. There's gross receipts taxes on every single one of them loads, and those loads will still be delivered, same amount of traffic, but coming from another county. The majority of the roads in San Pedro, which are now County or state roads were built by miners to serve a mining community. New designs for pavement are requiring 100 percent fractured face rock which you can't pull out of a river. It's very wasteful. It makes much more economic, environmentally and social sense to produce locally, to limit the length of haul for the material that's demanded by people moving in. There's thousands of homes projected for that area and we talk about water being a problem. Every issue that we've talked about today, water has come up.

It's not mining that's going to ruin the water it's consumption. And I think we've got even a bigger problem, the rapid development that needs to be checked into. These people are not in the habit of producing more material than a market will demand. They're not just going to build these giant mountains that will sit there for years; this is continually moving material going to these huge mansions that are being built. They all have to have paved driveways. They have to have nice gravel roads all the way up to the highway. It's just progress and you're going to have to either transport it from great distances or produce it locally, responsibly and in the way that this group has been performing so far. Thank you.

CHAIRMAN MONTOYA: Thank you. Any questions? Thank you, Bob.
Next, please.

[Duly sworn, Marty Hill testified as follows:]

MARTY HILL: My name is Marty Hill and I'm a resident of San Pedro. What I have given everybody is last week, accessible land and homes that are within our community. Since we have lovely aerial views, these are specifically where the dwellings are. You can certainly see there along 344 there are a number of homes, and I would ask or request please that those people who stood earlier when Mr. Siebert asked who was here in support of the mines, could all of you stand that are also members of our – just those people that were with the miners, could stand who are members of our neighborhood. And the others that I wish that those members of our neighborhood that are supportive versus negative, if you could please stand. In support please of not having the mining on a commercial level. Thank you. That's what I wanted to say.

CHAIRMAN MONTOYA: Okay.

[Duly sworn, Elisa River Stacy Nelson testified as follows:]

ELISA RIVER STACY NELSON: My name is Elisa River Stacy Nelson. I live at 1530 State Road 345 which is directly west of Oro Quay Road. I am a resident of the San Pedro neighborhood, Santa Fe County passed Ordinance #2002-2, Section 5 including San Pedro Contemporary Community Zoning District in Santa Fe County Land Development Code on January 30, 2002. Section 5.6, Mining Restrictions, states "No mining of any type shall be allowed including but not limited to gravel mining and other types of mining." Section 5.7.1, Commercial Uses, states "No commercial district shall be allowed in the planning area. All commercial uses must meet the requirements of home occupancy and home businesses as stated in Section 5.9 of this ordinance."

I believe renewing Paul Parker's temporary permit renewal is in violation of Section 5.6, 5.7.1 and thus 5.9 of Santa Fe County Ordinance 2002-2. Further, the amendment to the permit also violates the above-reference provisions, and I ask that the Commission deny any request allowing the operator to amend the temporary permit to allow stockpiling or to allow any other commercial or mining related activities in our neighborhood. I have 30 signatures from other members of our neighborhood who support this statement. Thank you.

CHAIRMAN MONTOYA: Thank you. Any questions?

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Just for staff. Was the ordinance enacted subsequent to Mr. Parker's permit? Before or after? The general plan for the San Pedro Community Plan, was that enacted and then the permit issued? Or was the permit issued before? Do we know that? I'd like a response from staff, Mr. Chairman.

CHAIRMAN MONTOYA: Staff?

COMMISSIONER VIGIL: And if you need to look it up I'll wait till later.

CHAIRMAN MONTOYA: Okay. Thank you.

MS. NELSON: And who do I hand this, who do I give this petition to?

CHAIRMAN MONTOYA: Next, sir.

[Duly sworn, Paul Plunkett testified as follows:]

PAUL PLUNKETT: My name Paul Plunkett. Like many of the people in this room, I am probably - I actually mine in the San Pedros and actually I buy gravel from the gravel pits including Paul Parker's operation in the San Pedro lot, as well as some of the operations around the Albuquerque/Edgewood area. If you've ever been to a gravel pit you'll know that five acres is a very restricted area. In fact the San Pedro pit is required now to not only mine, to crush, to load the trucks and everything in the limited five acres. You know that things get very busy with dozers and loaders and dump trucks in that one area. In fact, all the other operations that I buy gravel from have a stockpile area like is being proposed here. So I fully support the stockpile of gravel away from the actual mining operation. It makes a much cleaner, safer operation.

This area, the San Pedro area, is very rich in mining history and very rich in mineral products. The area around the Santa Fe County as well as the surrounding communities will need these products in the future. They generate revenue. They generate nice roads and all of us will benefit from this. It would be a mistake to reject the proposed stockpile operation. It would make a much cleaner, safer operation if you will approve this amendment. Thank you.

CHAIRMAN MONTOYA: Any questions? Thank you, Paul. Next, please.

[Duly sworn, Helen Crotty testified as follows:]

HELEN CROTTY: My name is Helen Crotty. I live at 1366 State Road 344. I have lived there since 1982. Mr. Parker's so-called amendment is a removal of conditions that were originally imposed and it covers much more land than the original stockpile did. It would also allow Mr. Parker's mine to exceed the five-acre limit on the BLM exploration permit under which it operates. If they want to make it bigger, get another permit and go through the environmental assessment.

To grant this amendment would be a travesty, not only because it totally violates the spirit and the intent of the original temporary permit, but also because it is in violation of the Community Plan Ordinance enacted by the Board of County Commissioners in 2002. I listened to today to the San Marcos Plan and the Agua Fria Plan and how you were congratulating the people that worked on those plans in their areas, and we did the same thing only we did it many years ago. If you pass this - if you allow this amendment tonight, you are throwing away all that work and all your work in the future. You're making community planning a waste of time.

We are not a wealthy community by any means. We have - our association is a voluntary association. We were not supported by some developer who came in and subdivided lands. We bought our own lands, developed our own properties. But we formed our organization and incorporated it in an effort to preserve our rural residential environment, just like the other groups wanted to do. This is not a rich community. It's made up largely of retirees like me and working people and many of them couldn't get away from their jobs to be up here at the time we thought this matter was going to be taken up.

The recreational miners who are here tonight do not live in our community. We are Mr. Anaya's constituents. They live in Albuquerque. They have been told by Mr. Parker and Mr. Mauzy and their friends that we are somehow denying them access to their mines up in the mountains. We have no control over that access. Mr. Mauzy and Mr. Parker do, so if they don't have access it's not our fault. But they managed to get them here. They bussed them here. They are not here as individual voting constituents as we are, and taxpaying constituents. They're from another area entirely and they are in support of a plan that is not serving our community.

Mr. Siebert bragged about how far that gravel went. It went to the Big I, it went to Kirtland Air Force Base and so on, so this is not serving our community. It is just filling up our highway. My 344 with trucks, sometimes as many as one every eleven minutes, going down the highway, putting wear and tear on the highway. And there is no way any of us who live in that area can avoid driving on 344. Thank you.

CHAIRMAN MONTOYA: Any questions? Thank you. Next.

[Duly sworn, Herbert Stoltenberg testified as follows:]

HERBERT STOLTENBERG: My name is Herbert Stoltenberg. I would like to give just a brief history of the San Lazarus mine. I've lived in the vicinity for quite a few years and in the 1980s and the 1990s my brother and I hauled some 90,000 tons of silica sand from the silica mine through the Chavez Ranch, past the site where the stockpiles are proposed, and to the - it was Ideal Cement Company in Tijeras which needed the silica sand. The silica sand is now being hauled by Max Chavez and he's hauling about 1,000 tons a month on the average and he's hauling with trucks that go down 14. I don't hear any opposition by the neighborhood about the silica hauling trucks, the trucks that haul silica sand, but they apparently are selective in their opposition.

The metal survey for the San Lazarus patented mining claims was done in 1912. I have a copy of the field mineral survey, field notes here. It shows the extensive underground workings and the many buildings and by the way, I would like to give each of you and the planner a copy an area map that I've prepared, which in the marginal notes indicates some of the early operations of the San Lazarus mine. The San Lazarus mine patents were granted by the federal government in 1913, signed by President Woodrow Wilson. Since there was a very large operation in 1912 and 1913 it's likely that that operation continued for quite a few years. I don't have a history on that. I don't know if there is a history.

I'll go forward to the 1980s when there was a very large sand and gravel and placer mining operation in San Lazarus Gulch and on the same patented San Lazarus patented mining claims and up into the BLM area. Tom Freeman operated for about ten years then he went bankrupt in 1989. I am my brother drove past there every day and saw Tom Freeman's operation which was very large. He had dozens of pieces of heavy equipment. He had many large stockpiles of sand, gravel and various size rock. He went bankrupt in 1989. The trustee in bankruptcy then maintained numerous stockpiles of sand, gravel and rock. My brother himself bought 40,000 tons of rock from the trustee in bankruptcy, Bill

Sholer.

The trustee maintained those stockpiles way into the late 1990s. Max Chavez even bought a pile of sand from the trustee and I bought some of that sand from Max's sand pike in 1996. Eddy Mauzy and Paul Parker's operation started in 1999 which was, I'm quite sure within the three-year abandonment period. That's sort of takes care of the history. I would like to remind Beth German of the US Supreme Court case decision, California Coastal Commission versus Granite Rock, which as it applies to the present situation means that the Santa Fe County has no jurisdiction now over BLM land, over federal land. And to answer a question that was raised by one of the Commissioners, the permit for the San Lazarus pit was given by the County in 1999. The contemporary plan was not adopted until January 8, 2002, so it was obviously after the pit permit was granted and I argued at that time that the absolute prohibition on mining was an unconstitutional taking of property without compensation in violation of the fifth amendment of the US Constitution. Some day Santa Fe County and the people who adopted this plan may be sued for inverse condemnation for a very large amount because of the very strong opposition that the SPNA have to mining. Thank you.

CHAIRMAN MONTOYA: Thank you. Next please.

[Duly sworn, Jean Brody testified as follows:]

JEAN BRODY: My name's Jean Brody and I'm a resident of San Pedro community. I just wish to address the allegation about Max Chavez' operation. We're talking about a contrast of, what? A truck every 11 minutes from the gravel mine. Max Chavez is about four trucks a month. He's a resident of the community. His trucks have always been very careful to respect the community and [inaudible]

CHAIRMAN MONTOYA: Okay. Next please. Again, those of you who want to testify please come and sit on the end of the bench. So I see two more.

[Duly sworn, Mike Fulner testified as follows:]

MIKE FULNER: My name is Mike Fulner. I'm a San Pedro resident. I was asked to represent three other families that were unable to make it, as well as my own in this matter. Combined, we own probably over 130 to 140 acres in that area. We do not feel that stockpiling is an issue that is a problem. It is hidden within the berm system. It is also back into that valley area, which probably you noted. My concern I have is this homeowners association is picking and choosing their battles based on a bias and they're not being representative of the whole community.

Everything I've seen has been always negative towards one person or one individual, like what was brought up about the silica mine and so forth. That is proceeding and so forth. I see other things that I'd be more concerned about, stockpiling of old farm equipment or something that was becoming an eyesore. But they seem to have a problem with the dirt and I don't understand that to be a problem. So I just wanted to convey our support for the mine. We feel that it is worthwhile and community minded people. We've seen them help community, my family as well as my relatives in this area. So we support them. Thank you.

CHAIRMAN MONTROYA: Okay. Any questions? Next please.

[Duly sworn, Sam Nelson testified as follows:]

SAM NELSON: My name is Sam Nelson. I live at 1530 State Highway 344, and I'm on the traffic pattern of a lot of these trucks leaving. I've been associated with a lot of the operations that have been up in that canyon since '76. I've been acquainted with them, I've worked for them. I've helped them out with different situations, and I know there's been no commercial operations since '76 anywhere near what has been going on for the past year. There's been many times, since I live right on the highway and where I sit is no farther than your chairs to the street out here. I watch the highway every day and it's no fun, sitting there 6:30 in the morning, trucks coming by, having your coffee stirred by a jake brake or the loud exhaust pipes from the trucks going in the opposite direction. That's just no fun. That's not a good way to start a day.

As far as Stoltenberg Hauling, he's hauling from the same operation that Max Chavez is now hauling, and Max's trucks make four or five trips a day and that's as many trips as Stoltenberg ever made because he was hauling, like I say, the same distance from the same operation. So that's not a big commercial operation. It was going on before this 1997 thing.

Also when they went in there in '97 they told myself and several neighbors at a meeting at our place one day, it's going to be a mom and pop operation, maybe eight, maybe ten trucks a day. No more than that. They also said they were going to hire the locals around. Well, they've hired a few of them but they've been friends of the miners. They also said that they were going to give free gravel to all the people in the neighborhood. Just bring your own truck and they'd load it up for you. Well, nobody I know of has gotten any free gravel except one guy got two five-gallon buckets full of it and that was it.

Three, four months ago we had trucks around, like I say, from 6:30 in the morning till 4:30 in the afternoon, and that was sometimes as much as one truck every seven minutes. Maybe for an hour, hour and a half at a time. And it gets kind of bothersome to the whole neighborhood. And a realtor the other day told me, I said something about what do you think of our property values? He said if you think it's bad now, you just wait. Your values are going down with this operation here. Nobody wants to move into a neighborhood [inaudible] Thank you, Commissioners.

CHAIRMAN MONTROYA: Thank you. Is there anyone else? I asked if anyone was going to testify to sit here. Okay, ma'am, you're the last one and the public hearing is closed.

[Duly sworn, Toni Olsen testified as follows:]

TONI OLSEN: My name is Toni Olsen and I live at 1365 State Road 344. I'm a recent resident up in the mountains. We've had the property for over ten years but it's recently, in October 2004 that we actually moved and are now living up there permanently. And one of the reasons that we bought that land was that it was in the mountains. We had beautiful views. We had the night stars. It was just incredibly beautiful

up there. It's an amazing community. But like it has been said before, we are a community of retirees, we're not a rich community, and we do value the land.

Personally, I have no problem with recreational mining but when something starts out as a five-acre business on BLM land, and that it is what it should be contained. If that's where you're supposed to be doing your stockpiling, your grinding, and that's the agreement you had with BLM, those are your permits, that is what you should stick to. What I'm concerned about is all this being done on private land, the stockpiling. And that's what the community plan is all about that was incorporated into the ordinance of 2002.

It is a residential community now. Yes, there are recreational miners and I have no issue with them. That's fine. But when a small operation has now become so huge, this is where I have issues. And I hope that you review the information you've received and act accordingly and properly. Thank you.

CHAIRMAN MONTOYA: Thank you. Okay. Questions from the Commission? Staff, any statements? Commissioner Vigil.

COMMISSIONER VIGIL: Just an update on my question.

MR. SALAZAR: Mr. Chairman, Commissioner Vigil, the original permit for the mine was granted in 1999, prior to the adoption of this ordinance. The temporary permit for the guard trailer and weigh station had the condition attached to it and was granted in 2004 [inaudible]

COMMISSIONER VIGIL: Okay. Mr. Chairman, I have a question. I've heard testimony tonight, and this is addressed to legal that in effect, what we're considering here is a variance. Is that your understanding, Steve?

MR. ROSS: Mr. Chairman, Commissioner Vigil, I've heard that too and I don't think this is a variance.

COMMISSIONER VIGIL: I didn't think so either. In effect, there is an amendment to a condition of a temporary permit, correct?

MR. ROSS: A temporary permit. In 2004 a condition of the permit was that the then existing stockpiles be removed. So the request today is to delete that condition from the permit so that stockpiles can be created and removed.

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

CHAIRMAN MONTOYA: Okay. Further questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Siebert, when did Mr. Parker purchase the property?

MR. SIEBERT: The mine was purchased approximately three, three and a half years ago.

COMMISSIONER SULLIVAN: So in, let's say 2003, give or take?

MR. SIEBERT: The actual mining operation, the history of it dates back apparently to the 80s, of this particular mine.

COMMISSIONER SULLIVAN: To the conquistadors, I know. We've

heard that. But I mean the actual purchase by the applicant. So it was sometime around 2003. So I'm trying to get a time line here, and correct me if I'm wrong. It appears that there were conditions placed on the sand and gravel by the Board of County Commissioners in 1999, limiting – those criteria. None of the Commissioners that are here this evening were Commissioners in 1999. Then in 2002, the San Pedro plan ordinance, subsequent to the plan, the ordinance was approved, Ordinance 2002-2. Then in 2003 or thereabouts, Mr. Parker purchased the mine, and then in January of 2004, you came to the County Commission requesting a variance of this condition, which apparently in the interim had gone through a court process and the court had upheld the County's right to require a permit and to put conditions on that permit.

Because I was looking at your testimony in 2004 and you said that your client purchased the property when he purchased the lease when the sand and gravel mining is and he was not aware, and he wasn't provided by the seller the conditions that stipulated – the stipulated conditions of the court-adjudication. He figured as a mining operation it would be logical to have a weigh scale and installed that and it was at that time that he actually got notice from the County he was in violation of the court-adjudicated agreement. He met with the San Pedro Neighborhood Association to resolve issues and I think we're in agreement. We all agree to the conditions as stated by staff.

So in 2004 your client agreed to do away with the stockpile within 120 days. But the weigh scale could stay as I understand it. Is that correct?

MR. SIEBERT: That's correct.

COMMISSIONER SULLIVAN: Then someone testified it took 18 months to move the stockpile. In your understanding how long did it take to move that stockpile?

MR. SIEBERT: Let me ask.

PAUL PARKER: It probably took about 120 days.

COMMISSIONER SULLIVAN: Sir, you'll need to be sworn in if you're going to respond. I think for the record, this is Mr. Parker speaking.

[Duly sworn, Paul Parker testified as follows:]

MR. PARKER: It was probably about 120 days. We went through the permit process with the Santa Fe County zoning enforcement officer. We got a permit to move the stockpile across the road as well as within the area there, and it was probably moved within about 120 days, total after we got the permit from them.

COMMISSIONER SULLIVAN: Okay. So you say you removed it in 120 days.

MR. PARKER: I can't say for certain, but that's in the ballpark.

COMMISSIONER SULLIVAN: So there's no gravel on there now.

MR. PARKER: There's basecourse on the ground, on the roadbed, but no.

COMMISSIONER SULLIVAN: Okay. Then my question for Mr. Parker or Mr. Siebert or whoever, this was just two years ago, two and a half years ago, so you know the stockpile has to be removed, you have a five-acre site approved by BLM. You know the extent of the operation, litigation is finished. What is now changed in just 2 ½ or

less than 2 ½ years that everyone was in agreement with this fairly touchy environmental situation 2 ½ years ago. What has been the change? Has your operation increased since then?

MR. PARKER: The operation, we've got a lot of customers, some with the State Highway Department, some with the County, some with local developers who are using this in their subdivisions, and most of them like to have a stockpile made up ahead of time, tested and ready to go whenever they want it. They want it delivered but they'd like to have it tested and sized.

COMMISSIONER SULLIVAN: How big is your stockpile now on the five-acre site?

MR. PARKER: We mostly haul it out as we make it?

COMMISSIONER SULLIVAN: How many tons?

MR. PARKER: How many tons? Last month we probably hauled, with the new highway out in front, we probably hauled about 10,000 tons.

COMMISSIONER SULLIVAN: I mean at any one time, any one time, how many tons are in that stockpile?

MR. PARKER: How much is in the stockpile? Oh, probably 8, 10, 12,000 tons, maybe. At the most.

COMMISSIONER SULLIVAN: Eight, ten, 12,000 tons. How many truckloads would that be?

MR. PARKER: 20 tons per truck. 8,000 tons at 20 tons per truck.

COMMISSIONER SULLIVAN: 10,000 tons, you said.

MR. PARKER: 500 truckloads, maybe.

COMMISSIONER SULLIVAN: Okay. So right now you have about 500 truckloads of gravel that you can, or have been stockpiling on the five-acre site.

MR. PARKER: That's the maximum you can stockpile because you have different kind of materials.

COMMISSIONER SULLIVAN: I understand. It may fluctuate. So 500 truckloads, 10,000 tons. And how much was stockpiled on the site before? The site the condition made you move it?

MR. PARKER: When you say before, how long back are you talking about?

COMMISSIONER SULLIVAN: I'm talking about 120 days. When you agreed to the condition to move that stockpile.

MR. PARKER: I think we're talking about two different stockpiles.

COMMISSIONER SULLIVAN: Yes, we are.

MR. PARKER: You're talking about five acres on the permitted area.

COMMISSIONER SULLIVAN: Correct.

MR. PARKER: We're talking about material that was stockpiled on the land that we're asking to stockpile on now.

COMMISSIONER SULLIVAN: Yes, sir. That's exactly right.

MR. PARKER: The stockpile, probably - it's hard to judge because a lot

of it was used to reclamate that area. It looked like bombed out Beirut when we took it over because the last miner than mined it left big piles and big holes so I couldn't tell you exactly how many tons were used to put in the holes and level it out but a considerable amount.

COMMISSIONER SULLIVAN: I was just wondering how much you had to move in 120 days. Was it 10,000 tons?

MR. PARKER: Probably 20,000 or 30,000 tons.

COMMISSIONER SULLIVAN: Okay. So you had a stockpile at that time that was two or three times as large as the one you have now on the five-acre site.

MR. PARKER: Probably.

COMMISSIONER SULLIVAN: Just trying to get an order of magnitude, not trying to tie you down to the specific ton. So you eventually, over whatever period of time, cleaned that up. You're now stockpiling about 10,000 tons, give or take on the existing five-acre site. You now want to stockpile again on the previous site.

MR. PARKER: Yes.

COMMISSIONER SULLIVAN: How many tons would you propose to stockpile on that site?

MR. PARKER: That depends on the market and the demand.

COMMISSIONER SULLIVAN: So it would be unlimited? There'd be no limit on that?

MR. PARKER: Well, it's a hard question to answer because it depends on who comes along and wants to buy material for a certain road job or houses to be built and how long they want you to keep it.

COMMISSIONER SULLIVAN: So it would depend on whatever the market conditions were. Thank you, Mr. Chairman.

CHAIRMAN MONTROYA: Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. I guess I'm trying to figure out where to start but I guess I'll start by saying that this was a mining community. And we all need gravel for our roads. We all need concrete. We all need landscaping material. This particular outfit brings economic development to our communities. There's a number of prospecting clubs that surround the community of Golden, which go into Albuquerque, that go and prospect and mine in those areas which they have been doing for 500 years.

I visited the site. It's a clean site. It's a safe operating site. It will make it safer. There's other mining in the area as we speak. If we were to eliminate this then we would be eliminating providing material to our County, our County roads, to our Department of Transportation and to our families that live around the area. Like I said earlier, I visited the site, I've seen where the stockpiling would be and it is completely hidden from everybody. You cannot see it unless you drive up that road.

This is like moving into a ranching community and telling the ranchers that you can't have cattle anymore. Slowly, this country is squeezing out mining, ranching and

logging, and depleting our economic base. We are providing gravel to places that need it, to communities, to our airports, our bases, our labs, which is very important. I want to ask one question to the staff and that is, have you seen any violations on that property and have you been monitoring it? I know Charlie is not here and he used to monitor it. But I want to know.

MR. SALAZAR: Mr. Chairman, Commissioner Anaya, as recently as the last week of June Code Enforcement went out there. On their last visit out there they were there on the property between 6:45 and 8:30 where they observed no violations on the property. Myself, I've been out to the property along with Code Enforcement and the division director. We observed no violations on the property.

COMMISSIONER SULLIVAN: So clearly -

CHAIRMAN MONTOYA: Please sit down. Thank you. I'll ask you to be removed next time you get out of order. Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. Clearly, I support this stockpiling, which I don't think stockpiling is mining in the first place, because the County stockpiles. The Department of Transportation stockpiles. Do we have to look at all those cases? Mr. Chairman, if there's not going to be anybody else that is going to speak I'd like to entertain a motion if I could.

CHAIRMAN MONTOYA: Is there any other discussion? Commissioner Vigil.

COMMISSIONER VIGIL: I have some more questions. Just further clarification from my perspective for staff. This was originally issued as a temporary permit. Does the temporary status terminate at any particular time? Or is the applicant allowed to come on a regular basis for an extension of that permit? Can you clarify that for me?

MR. DALTON: Mr. Chairman, Commissioner Vigil, the original [inaudible] of 2004 conditions states a temporary permit shall be granted for a two-year period. The applicant may request a two-year extension prior to the expiration. The applicant has put in an application and did get approval for a four-year extension. The CDRC granted a four-year extension.

COMMISSIONER VIGIL: So what we're approving this evening is for a period of four years only, and the applicant will have the opportunity to renew? Could you clarify that for me?

MR. DALTON: Mr. Chairman, Commissioner Vigil, at this time there is no time limit for stockpiling. That's up to the discretion of the Commission whether or not you want to put a time limit on the stockpiling. As of right now there is no time limit for stockpiling.

COMMISSIONER VIGIL: Okay. And it seems to me that what I heard in terms of testimony is that there are currently 10,000 tons that are being stockpiled and this request increases the volume of that, and I'll let Mr. Siebert respond to that, just validate that maybe I heard the same thing. Does this amendment to the condition increase the

volume of the stockpiling by an additional 10,000 tons, approximately?

MR. SIEBERT: Mr. Chairman, Commissioner Vigil, I think based on Mr. Parker's testimony, what he would anticipate would be somewhat on the order of 30,000.

COMMISSIONER VIGIL: 30,000. And what does this do to the volume of traffic and the truck traffic. That wasn't discussed specifically. Do you have any sense of that.

MR. SIEBERT: Commissioner Vigil, let me have Mr. Parker respond to that as well. I'm not familiar with the operations.

COMMISSIONER VIGIL: Okay.

MR. PARKER: What was your question again?

COMMISSIONER VIGIL: Mr. Parker, is your request going to increase the traffic for transporting this stockpile on a regular basis and if so, by how much?

MR. PARKER: It's hard to say because you stockpile it and whenever you deliver it, the times are going to vary somewhat. You need to have the ability to stockpile, we're crowded for room and it's hard to make it ahead of time, stocks on existing five acres and have enough room to maneuver and do your crushing and you just are really crowded for room. Especially if people want to buy and have it stockpiled ahead of time. It's hard to say. No doubt we'll probably increase some but it will change the date of delivery, probably. You make it stockpiled and the day you deliver it you're going to add or subtract to your total amount there.

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

CHAIRMAN MONTROYA: Okay. Any other questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Again, just trying to clarify. The permit that was approved two years ago, 2 1/2 years ago, was for a weigh station only. And the applicant had an opportunity to come back in two years to renew that permit. So my understanding is the applicant has just come back and the CDRC has recommended to renew that permit for four years for the weigh station because before the stockpile issue was agreed upon to be removed. My understanding is that now the applicant is requesting that that be renewed, but also an additional condition be removed from the permit. Mr. Dalton, is that correct? Am I getting that right?

MR. DALTON: Mr. Chairman, Commissioner Sullivan, that is correct. The permit was granted for the guard trailer and weigh station contingent on the applicant removing the stockpiles from the property. And condition number one states that the permit should be granted for a two-year period, to be approved, to be extended by the CDRC. If the applicant wanted the permit extended he could go to CDRC And ask the CDRC for an extension.

COMMISSIONER SULLIVAN: Okay. So it seems like the neighborhood's objection is to the increased level of mining. My understanding is there would not be any mining on this stockpiling site. That would not be permitted under the permit, but what the neighborhood seems to be saying is that in 2 1/2 years this operation has increased at least

three-fold and now they have a need to stockpile, perhaps 30,000 tons of rock versus 10,000 tons of rock and you need to mine, obviously, to get that rock. You have to mine from some place, so it would be on the five-acre site, I guess, and that 30,000 tons of rock has to be trucked somewhere, depending on the market.

So it seems that what we're dealing with is the level of the operation that the community feels is beyond what they had agreed upon and was not of course in accordance - would not be if the permit were approved, in accordance with what had been agreed to or adjudicated. Mr. Dalton, is that a fair summary?

MR. DALTON: Mr. Chairman, Commissioner Sullivan, I believe so.

COMMISSIONER SULLIVAN: Okay. Okay, Mr. Chairman. I think I understand it now. Thank you.

CHAIRMAN MONTROYA: Okay. Any other discussion?

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTROYA: Commissioner Vigil.

COMMISSIONER VIGIL: Could you clarify staff's recommendation on this for me please, Mr. Dalton or Ms. Vigil?

MR. DALTON: Mr. Chairman, Commissioner Vigil, staff recommends, its recommendation was pretty much leaving it up to the Commission. Staff has taken the position stating that staff's recommendation pretty much states that it should be considered based on the previous condition of approval, stating the stockpiles [inaudible] So that's staff's position, pretty much stating [inaudible]

COMMISSIONER VIGIL: Is there any problem or not with whether or not there's a violation of the Code here?

MR. DALTON: Mr. Chairman, Commissioner Vigil, staff feels that there's no violations at this time.

COMMISSIONER VIGIL: No further questions.

CHAIRMAN MONTROYA: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, from the testimony that I've heard this evening, I would like to make a motion to approve CDRC Case #MIS 06-5020, the Paul Parker temporary condition amendment with the conditions.

CHAIRMAN MONTROYA: Okay. Is there a second? I'll second for discussion. Commissioner Vigil.

COMMISSIONER VIGIL: And I throw this proposition out for consideration. It seems to me that there might be a middle of the road negotiation here. The neighbors are concerned about, if I'm hearing this correctly, the volume, the use, the disturbance, and of course Mr. Parker is concerned about promoting a business that he's been developing and created an economic base for, and it seems to me that maybe one of the ways we could look at negotiating this case is by having Mr. Parker and his representatives work with the neighborhood association and perhaps set a limit and identify a scope so that there would be some predictability with regard to what the neighbors can expect in terms of traffic, in terms of stockpiling and in terms of volume that they're going

to be dealing with there.

Perhaps it's not something that they are amenable to but why we don't look at at least, if we're doing it as a temporary permit, identifying the scope of the work that's going to be done, and I know Mr. Parker, you've testified that you really don't know. I'm assuming it depends on contracts and what development actually occurs there, and of course that should be encouraged from your perspective. But also part of what I'm hearing is there's some real, strong insecurity with regard to the fact that this is opening sort of a floodgate for more opportunity and further more stockpiling and further more invasion of the property out there to those neighbors in particular who have to deal with this on a day-to-day basis.

I'm trying that option out. Commissioner Anaya, I know that you studied this case pretty well. Would that be an option that you think might be amenable to both the applicant and the neighbors?

COMMISSIONER ANAYA: Mr. Chairman, Commissioner Vigil, yes I have, I've looked at this project and I know they tried to work with the neighbors and I wish that everything would have come out that way, the way you've described it in terms of working together. But in this particular case, I think we're talking about squeezing out mining which we can't - I just can't see that happening. I can't see us stopping mining in that area. I think it would hurt our communities. I think it hurts the state. The prices of gravel are going up. If we eliminate this they're even going to go higher and it's only going to be concentrated in one area and it's going to cost more to transport, to haul.

I think that - I understand where my constituents are concerned, but they have to see where I'm concerned too. This doesn't only affect them, but if we stop this, it affects thousands of people. And I hope that I could get some support on this. Because this - do you remember when we went to Sacramento, California, the WIR conference, that gentleman that spoke up on that was speaking exactly on this issue, on how we are running out agriculture, mining, logging, and look, we're hurting ourselves by doing that. And it's important that we stand up, even though we have people that don't understand that we need to stand up and say, no, this is the right thing to do. It's difficult to do, but this is the right thing to do or else is going to be concentrated in one area and then we all lose out. Thank you, Mr. Chairman.

COMMISSIONER VIGIL: So there's really no middle ground here is what you're saying? Okay.

COMMISSIONER ANAYA: I would ask for your support. I really would.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN MONTROYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think there could be some middle ground. I think if the issue is expansion of the operation I think fairly easily we could determine, Mr. Parker and his representatives could determine from weigh records or tax records, how many tons a year are produced at this mine, are mined. And if we simply said then, yes, for safety reasons, it's okay to move that gravel over here. Let your trucks move

around and load that area and be a safer operation, but if you mine x-thousand tons a year a condition of that permit is that you continue to mine only x-thousand tons of years. You can stockpile it over here so people can't see it. I don't think people testified that visually it's as much of a problem indicated as much as it is a problem of traffic and safety in the community from the increased operations.

So I think if they wanted to work it out that would have some numbers that you could probably do that and then you could say, okay, move the gravel over here for now but we want to keep the magnitude of the operation the same as people had essentially agreed to back in 2004. So I'd be in support of that, Mr. Chairman, if the two parties could work that out.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Commissioner Sullivan, are you suggesting that maybe this matter be tabled?

COMMISSIONER SULLIVAN: I'd like to see them work it out. I think Commissioner Anaya is right. I think gravel operations are not evil, but I think they can be difficult some times to regulate and they can go to expense and the County has expended a lot of time and money in litigation on this issue. It won its case and it should enforce the principles that it went for in that litigation. I don't think, as Commissioner Anaya says, that our intent is to shut down the mine. I think the intent is to keep it operating at essentially the same level as it's been operating, but to provide them perhaps some latitude as to how they stockpile their materials.

If there's support I would move to table.

COMMISSIONER CAMPOS: Let me ask you a question. This is for stockpiling only right?

COMMISSIONER SULLIVAN: This request, my understanding is only for essentially a change in the location of the stockpile from the current five-acre site to another site in the canyon where they have stockpiled previously.

COMMISSIONER CAMPOS: Are you saying there should be a limit to the amount that's stockpiled or a limit to the number of trucks drawing or transporting material from the site?

COMMISSIONER SULLIVAN: I think it would be pretty hard to specify a limit on the stockpiles. That could vary considerably. But it would be a lot easier to specify a condition in terms of the total tonnage per year of the operation that was mined, that's mined.

COMMISSIONER CAMPOS: This is not about this.

COMMISSIONER SULLIVAN: It's not about this, but what's mined is a direct function of how many trucks have to move the material. So if you're saying we want to keep the operation generally as it is now, although we're going to move the stockpile then you can say we know how many tons go over the scale every year, x-amount of tons and we want to keep it within five percent or so. Again, it may vary from year to year, but we want to keep it within that same limit. We don't want it to triple. That's what we're

saying, and that would be a way to do it, I think.

COMMISSIONER CAMPOS: Thank you, Mr. Chairman.

COMMISSIONER SULLIVAN: So is there –

COMMISSIONER CAMPOS: I'll second the motion to table.

COMMISSIONER SULLIVAN: I'll move to table to the next land use meeting.

COMMISSIONER CAMPOS: I'll second it.

COMMISSIONER SULLIVAN: To provide an opportunity for the – as Commissioner Vigil suggested, for the applicant and the neighborhood association to address some conditions along that line.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: There was a motion and a second. Can they just make a motion to table? Now would that be something we could ask the applicant and the residents if they would like to do that? We've got residents that are against mining and on the other side, the applicant. I would agree to that but I think they're here. Maybe we should ask them if they would like to sit down or are they just going to go away and then come back again and we'll have the same discussion.

MS. GERMAN: We can certainly commit to talking with them to see if we can work something out, but I can't promise that something will be worked out, since mining is prohibited. And I do have to point out for the violations, I gave Mr. Kolkmeier copies of the violations the County issued. Thanks.

MR. SIEBERT: Mr. Chairman, Sam Bregman is here, who's the attorney for Paul Parker and he'd like to just discuss some legal aspects.

SAM BREGMAN: Mr. Chairman, thank you, and just to kind of address your last question specifically and whether or not the applicant and the neighborhood could get together. I know that – I was involved in the court case initially. In fact in 1999 I had been involved in one capacity or another in this matter. And Commissioner Anaya, Mr. Chairman, in that there is a belief that mining should not take place there at all. And that is a proposal they are trying to get further. But just to address the last issue that you're suggesting and I certainly appreciate the art of compromise and I think we should always go for that.

However, the court case specifically stated and recognized the fact that Santa Fe County can regulate these instances to help protect their County issues such as the environment and other issues. However, they can't dictate how much mining can go on on BLM land. Santa Fe County, and I hesitate to ever tell you what you can or can't do, but the court said, and I think rightfully so, based on federal law, that the County can't say you can only mine so many truckloads of gravel and take it off. That would be – you're federally pre-empted from doing that under the mining act, and you're not allowed to do that according to the case law.

I believe in compromise and I know your job is very difficult, Mr. Chairman and

members of the Commission, but I can tell you that rarely have I ever see a client that has bent over so backwards to deal with a neighborhood association as they have. Respectfully, they disagree with the whole idea of mining. I don't think we're going to reach a point - and I would never suggest to my client that they could agree to say we're only going to take this much out of the mine, because that is pre-empted by federal law. I hope I answered some of your questions, Mr. Chairman.

CHAIRMAN MONTTOYA: Thank you. Commissioner Campos.

COMMISSIONER CAMPOS: Question for Mr. Bregman. Do you think the County has the authority to regulate the number of trucks that pick up and move?

MR. BREGMAN: The number of trucks that pick up and move? Not if it is a direct impairment on the ability to actually mine the number of - how much they can actually mine. They can limit it to time zones as they did. There was 26 conditions I think originally in the case and you certainly are allowed to deal with issues involving timing of it so as to protect the health and safety of the community, which is absolutely your job. But I don't believe you could institute regulations that go as far as to actually take away his ability to fulfill his mining patent and be able to take the land off the BLM. And I think once you start doing that you might be infringing on that ability and that's pursuant to California Coastal Commission. That's the federal case right on point.

COMMISSIONER CAMPOS: Thank you. Mr. Ross, do you want to weigh in on that one or not? Do you want to kind of look at it?

MR. ROSS: Mr. Chairman, Commissioner Campos, I pretty much agree with that analysis. Granite Rock is the last word and it's the only word on the extent to which state and local governments can regulate operations on the Vismad Act. And the set of conditions that resulted from Judge Sanchez' decision in this matter pretty much encompasses as much as you can do in terms of regulating a federal mining operation.

COMMISSIONER CAMPOS: We have a situation here where the neighborhood says, look, we've got so many trucks running through here that it's really destroying the quality of life. It seems that that's a health and welfare issue.

MR. ROSS: Mr. Chairman, Commissioner Campos, it could be unless it frustrates the purpose of the federal mining operation in which case it would be pre-empted notwithstanding the fact that it's a legitimate purpose.

COMMISSIONER CAMPOS: So you're saying this is a pre-emption issue.

MR. ROSS: It's definitely - it's always been a pre-emption issue.

CHAIRMAN MONTTOYA: Point of order here. I have a motion and a second from Commissioner Anaya and myself. Commissioner Sullivan made a motion. Are you still seconding the motion to table, Commissioner Campos?

COMMISSIONER CAMPOS: Yes.

CHAIRMAN MONTTOYA: On the motion to table:

The motion to table failed by a 2-3 voice vote, with Commissioners Sullivan and Campos voting in favor.

CHAIRMAN MONTOYA: Motion fails so we'll go back to the original motion.

COMMISSIONER SULLIVAN: Discussion on the motion.

CHAIRMAN MONTOYA: Discussion.

COMMISSIONER SULLIVAN: I think then, Mr. Chairman, that if – probably what we should do is simply uphold the decision of the court and the conditions that resulted in this permit provisions. And the applicant can mine as much as they can mine, I guess, under the federal permit and stockpile it on the site and the only way that the County has to limit the negative impact from the trucks is the actual storage capacity on the five-acre site, it would seem to me. That's our only – again, the applicant could agree to some condition and then if they did that, but if they're being advised by their attorney not to compromise as he's testified, then my recommendation we let the court opinion stand and the permit stand as is and let the applicant mine as much as he can mine within the confines of his existing permitted site. That seems to be the best answer to me.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I would just ask Mr. Bregman if you're representing your client's best interest, is it possible to identify an amount of stockpiling that could be there, and would your client be willing to live with a condition that set a reasonable amount of stockpiling?

MR. BREGMAN: Maybe if I could have about 20 seconds to confer with my client. Mr. Chairman and Commissioner Vigil, we don't ever throw out the idea of compromise and that's not what I meant to say earlier. If I did it came out wrong.

COMMISSIONER VIGIL: I understood that.

MR. BREGMAN: The issue is, and it's hard to get a handle on it, the issue is that a State Highway Department job or a Santa Fe County job or the base for the airport we all fly out of it may say we need this much of this type of rock. And we want you to stockpile it for us, and then they're going to come and they're going to take all of that out and then there may not be another job that's stockpiled, but for the time being it may be a large amount. It may be 30,000, 50,000 tons. And I'm really speaking out of my knowledge when I throw out numbers like that.

So that's the difficulty in giving you a number saying that we're only going to do this much as far as stockpiling because it may inhibit his ability to do his business when the airport or somebody else says we need a new runway and we need 60,000 tons and we want to see it stockpiled before we will come and haul it away. And that's the issue that we're trying to grapple with. So I'd love to give you a number, but I don't know that I can right now because of the nature of the business.

COMMISSIONER VIGIL: And with regard to say, we can't go there, what about attaching the stockpiling to the guard and weigh permit for the next for the next four years?

MR. BREGMAN: Attaching? I'm sorry. Say that again.

COMMISSIONER VIGIL: It's my understanding that we actually need to make a connection with that. Mr. Ross, would you clarify that issue for us.

MR. ROSS: Mr. Chairman, Commissioner Vigil, I just checked with Wayne and the request is for stockpiling for an unlimited period but without the scales and guardhouse it may not make any sense to have an unlimited duration on the current action. So maybe the two should be tied together. That's just what we were talking about.

COMMISSIONER VIGIL: Okay. Well, Commissioner Anaya, would you be willing to amend your motion to allow for this and tie it into the four-year period for the guard and weigh station?

COMMISSIONER ANAYA: Sure. What it is? What was the time period?

MR. DALTON: Mr. Chairman, four years.

COMMISSIONER ANAYA: Okay. Four. I'd be okay with that.

CHAIRMAN MONTOYA: The second okay with that.

COMMISSIONER SULLIVAN: Mr. Chairman, I don't understand the motion now.

CHAIRMAN MONTOYA: The motion is for approval of the request for the permit for a four-year period for the weigh station and the stockpile.

MR. ROSS: Mr. Chairman, the weigh station and guard trailer have already been approved by the CDRC for four years. I guess the suggestion is that you could also tie the stockpiling to that very same period.

CHAIRMAN MONTOYA: To the four-year period.

MR. ROSS: To the four-year period.

COMMISSIONER ANAYA: I don't have a problem with that.

COMMISSIONER SULLIVAN: So it's the same motion then but putting a four-year limit on it. It still doesn't control the volume of traffic that might occur or the hour of that traffic. If you stockpile three times as much and the Highway Department needs it all at once, you're going to have trucks there every 3 ½ minutes instead of every seven minutes, depending on the size of the project. I think that hour issue, school buses as so forth, that the neighbors are concerned about.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, I think that the issue of the stockpile is to move that stockpile out from where they're working at. They're still going to, for example, if the Department of Transportation needs material, they're stockpiling it where they're working right now. They're going to move that amount of material out anyway. All they're asking for is instead of stockpiling it where they're working is move it over here. The same amount of traffic is going to be produced. It's just going to make it a much safer place for them to work. We're not talking about - just because we're stockpiling here doesn't mean that there's going to be more traffic, but they can stockpile it right now where they're at, but if it's in five acres there's not much room and it's very difficult. They just need to move it over and the same amount of trucks are going to be

moving that material in and out. Thank you, Mr. Chairman.

COMMISSIONER SULLIVAN: Mr. Chairman. I would agree with the motion if that's exactly what's going to happen. But what Mr. Siebert testified and what Mr. Parker testified was that the operation is going to expand, possibly to 30,000 tons, whereas they're only stockpiling only 10,000 tons now. So that's indicative that there will be more mining and more mining means more trucks and more deliveries. And what Mr. Ross has said is we can't - it's unwise to attach a condition that says we can only let them stockpile 10,000 tons or we can only have so many trucks. So without the applicant's agreement to some method of reaching what you're saying there, which is that the operation is going to be the same, what you're they're just moving it over, and I'd be okay if that's what they were doing. But it's not. We've got a blank check here. It can go up to any level of mining and transportation that the applicant wants. And any level of stockpiling the applicant wants. So there is no permit control at all. All we're doing is saying you can stockpile as much as you want over here for four years.

So I don't think we have a mechanism to do what you just said there, and that's my problem with the motion.

COMMISSIONER ANAYA: Mr. Chairman, one more comment.

CHAIRMAN MONTTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: What we can't control, what the attorney just said is we can't control that anyway. We can control the dust, and we can control what happens in terms of air quality, but we cannot control how many trucks come out of that area. Thank you, Mr. Chairman.

CHAIRMAN MONTTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, we can continue with status quo that no material shall be stockpiled period. I think that's true, is it not. We can leave the status quo alone and that would be fine.

COMMISSIONER ANAYA: What was that?

COMMISSIONER CAMPOS: There's no stockpiling at all right now on that lot. That's what the condition is now. They're asking us to change it. We don't have to change it. If we leave it as is we're not violating any federal law or any pre-emption.

MR. ROSS: Mr. Chairman, Commissioner Campos, unless by doing so you make the mine uneconomic or unfeasible, what have you.

COMMISSIONER CAMPOS: It's operational. It's apparently doing pretty well. It's running a lot of trucks. Maybe it's not going to be making maximum amount of profit but it seems to be a very profitable operation. I don't know. I think we should table this for further analysis. I think it's complex and I think the only way to protect the neighborhood is to allow the status quo to remain which means no stockpiling at all on this lot. I think that's what I would do.

CHAIRMAN MONTTOYA: Okay, we have a motion and a second to put a four-year period on the permit on the stockpiling.

The motion to approve CDRC Case #V 06-5140, amended as above, passed by majority 3-2 voice vote with Commissioners Sullivan and Campos voting against.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: I'm going to be leaving now. I apologize but it's late and I don't think I'm going to be very effective if I stay here any longer.

CHAIRMAN MONTOYA: Okay.

[Commissioner Campos left the meeting.]

XII. A. 5. Reconsideration of CDRC Case No. V-06-5110 Barbara Stevens Variance. Barbara Stevens, Applicant, Requests a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code in Order to Allow a Land Division of .703 Acres into Two Lots. The Property is Located at No. 8 Edward Ortiz Dr. within Section 9, Township 19 North, Range 9 East (Commission District 1)

MR. SALAZAR: Barbara Stevens, Applicant, Requests a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code in Order to Allow a Land Division of .703 Acres into Two Lots. The Property is Located at No. 8 Edward Ortiz Dr. within Section 9, Township 19 North, Range 9 East, Commission District 1.

On April 20, 2006, the CDRC met and acted on this case. The decision of the CDRC was to recommend approval of a variance of Article III, Section 10 of the Land Development Code to allow a land division of .703 acres into two lots.

The applicant is requesting a variance of Article III, Section 10 of the Land Development Code in order to allow a land division of .703 acres into two lots. The property is located in the Traditional Community of Pojoaque where the minimum lot size is .75 acres per dwelling unit. There are currently two permitted homes, one well and one septic system on the property. The applicant is requesting to return the property to its original two-lot configuration after consolidating the property into one lot in February 1993.

Staff recommends denial of the request for a variance, based on Article III, Section 10 (lot size requirements) of the Land Development Code, which states that the minimum lot size in this area is .75 acres per dwelling unit.

On June 13, 2006 the BCC met and acted on this case. The decision of the BCC was to approve a variance of Article III, Section 10 to allow the land division of .703 acres into two lots subject to the following conditions. Mr. Chairman, may I enter those conditions into the record?

[The conditions are as follows:]

1. Water use shall be restricted to 0.25 acre-feet per lot. A water meter shall be installed on both lots. Annual water meter readings shall be submitted to the Land Use Administrator by January 31st of each year. Water restrictions shall be recorded in the Santa Fe County Clerk's office.
2. No additional dwellings will be allowed on the property.
3. The existing driveway will serve both homes.
4. The applicant shall submit an updated Environmental Department liquid waste permit showing correct lot size and correct number of homes.
5. No further division of this land shall be permitted; this shall be noted on the plat.
6. Failure to comply with all conditions shall result in administrative revocation of the appeal.

CHAIRMAN MONTOYA: Okay, this is a reconsideration, which my understanding it's not a public hearing but a reconsideration. Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chairman, my rationale for bringing this case forth for a reconsideration, in particular at the time was I did not have sufficient information nor did I have the opportunity to consult with Legal. It seems to me that the permit that was issued to the applicant allowed for two homes in this small plat of .703 acres and apparently this permit was issued in error and I think at the time, there were three Commissioners who were hearing this case and I think Commissioner Anaya and myself were concerned about a permit being issued in error.

I had not consulted with Legal with regard to that to learn that, I don't know that there's a legal remedy here and I'm not sure where Steve is. I don't think it holds the County accountable whether or not a permit was issued in error and my understanding also is that one of the homes here, and I guess maybe I need further testimony is a manufactured home, is that correct? That's a yes, a nod.

And I guess another concern I had, Mr. Chairman, was I believe that this case is in District 1 and we didn't really have any input from you as a representative of you from that district. It seems to me that when we're dealing with density issues that this would be one of the densest decisions we've made with .703, minimum lot size being .75 acres. We're creating a lot more density out there, Mr. Chairman. So that is why I was reconsidering, hoping we could reconsider this.

CHAIRMAN MONTOYA: Any other discussion?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Commissioner Vigil, refresh my memory. There were three Commissioners and the vote was three in favor? Is that correct?

COMMISSIONER VIGIL: Do you recall, Jonathan?

MR. SALAZAR: Mr. Chairman, Commissioner Vigil, we went back and we got the minutes and it was 2-1. It was you and Commissioner Anaya, I believe voted

for and Commissioner Sullivan voted against.

COMMISSIONER VIGIL: Okay. I'm not sure we're going to get any further tonight with us missing one Commissioner, which creates a problem.

COMMISSIONER SULLIVAN: Your purpose in bringing it back, I recall it was a question of did the staff make an error or did they not have the right documents provided to them by the applicant, indicating it was a pre-Code lot when in fact it wasn't a pre-Code lot. Has something changed in your discussions? What have you learned that's different now?

COMMISSIONER VIGIL: Well, I think a lot of clarification with regard to that. Were we given information in error with regard to this case when the permit was initially issued?

MR. SALAZAR: Mr. Chairman, Commissioner Vigil, the submittal for the second home on the property, that submittal - at that time when the applicant came to submit - I'm not sure if it was the applicant herself or an agent, they had submitted two pre-Code deeds, or a pre-Code deed for the lot which in actuality in 1993, the two lots, including the lot that had the pre-Code deed, the two lots were consolidated into one lot. So when they brought in the pre-Code deed, the front desk doesn't require you to bring in a plat. So the front desk was under the impression that the lot belonging to the pre-Code deed was a vacant lot that stood alone when in fact it was one big lot that had been consolidated from two lots that had a home on it already. So the permit was basically issued in error.

COMMISSIONER VIGIL: So are there actually two permits issued to this applicant?

MR. SALAZAR: Yes, ma'am.

COMMISSIONER VIGIL: And they were issued at the time that they brought in the consolidation of the plats?

MR. SALAZAR: The first home was placed on the property I believe in the 1980s. Then the property was purchased. Then last year they came in to place the second home on the property. That was the permit that was issued in error.

COMMISSIONER VIGIL: That's when the transaction occurred that the applicant brought forth both plats.

MR. SALAZAR: Yes, ma'am.

COMMISSIONER VIGIL: And that wasn't required by our permitting desk?

MR. SALAZAR: Mr. Chairman, Commissioner Vigil, at the front desk, if you have a deed that is pre-Code, pre 1981 then the front desk doesn't require you to bring in a plat showing the property. And at the time the applicant purchased the property she was given - she purchased it as two pieces of property that had their own pre-Code deed and when she came in for the second home on the property, a pre-Code deed was presented to the front desk as if it was still two pieces of property and that property was vacant, when in fact they had been consolidated already and platted, and our office recognized the

property as one piece of property, but the front desk –

COMMISSIONER VIGIL: And so she is now requesting a density variance.

MR. SALAZAR: To basically put the two homes on separate pieces of property, which when she purchased the property it was two. Through some mix-up or oversight she has two permitted homes and she wished to put them back to their own tract of land.

CHAIRMAN MONTOYA: As you can tell, Mr. Chairman, it's very confusing.

MR. SALAZAR: Especially at 10:00.

CHAIRMAN MONTOYA: Any other questions? Okay, what are the wishes of the Commission?

COMMISSIONER VIGIL: Mr. Chairman, I do believe based on the density request in this case that the reconsideration does need to bring forth a motion that denies the request for a variance of Article III, Section 10. With that, that is the motion I will make, Mr. Chairman.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN MONTOYA: Motion and a second to follow staff recommendation.

COMMISSIONER VIGIL: Staff recommendation actually is denial. Yes, Mr. Chairman, I will agree with that.

The motion to deny CDRC Case #V 06-5110 tied by voice vote with Commissioners Vigil and Sullivan voting with the motion and Commissioners Anaya and Montoya voting against. [Commissioner Campos was not present for this action.]

COMMISSIONER VIGIL: The applicant has a tie vote. Correct?

CHAIRMAN MONTOYA: That's correct. So with that do we have to go back through the process?

MR. ROSS: Mr. Chairman, our rules say that in the event of a tie vote when one member is absent it goes on to the next agenda for deliberation only. That will be July 25h.

COMMISSIONER SULLIVAN: It goes on the next land use agenda, which is August 1st.

MR. ROSS: Mr. Chairman, I believe the rules of order, I don't have them with me, but I believe they bump it to the very next meeting.

CHAIRMAN MONTOYA: That's right.

MR. ROSS: Not to the very next meeting of the same type. But I'll check on that and make sure we put it on the right agenda.

CHAIRMAN MONTOYA: Okay. We're looking at July 25th. Thank you, Jonathan.

[The Commission recessed for ten minutes.]

- XII. A. 8. EZ Case No. V 04-4711 Mondo Sector Variance – Jim Siebert, Agent for Mondo Sector, Applicant, Requests a Variance of the Extraterritorial Subdivision Regulation (Section 3.4.2 Environmental Requirements), to Permit Disturbance of Slope Over 30% for a Driveway and Building Envelope on 10.4 – Acres. The Property is Located Along Vista Redonda Road in the Vista Redonda Subdivision North of Tesuque within the Five Mile Extraterritorial District, Section 6, Township 18 North, Range 10 East (Commission District 1) Joe Catanach, Case Planner [Exhibit 5: Hagedorn Letter; Exhibit 6: Stupin Presentation]**

JOE CATANACH (Technical Review): Thank you, Chairman Montoya, Commissioners, Mondo Sector requests a variance of Extraterritorial Subdivision regulations to permit disturbance of a slope over 30 percent for a driveway and building envelope on 10.4 acres. The property is located along Vista Redonda Road in the Vista Redonda Subdivision north of Tesuque.

On April 13, 2006 the EZC recommended approval subject to conditions. The April 13th EZC minutes are attached in your packet. The EZC tabled the proposal in May and June at the request of the applicant. You'll note that this is a submittal of a modified proposal for a previous request that was denied by the BCC on January 7, 2005. I have those January 2005 minutes in your packet. The applicant was granted approval for an alternative area as recommended by staff. The Vista Redonda Homeowners Association did not support the applicant's request and submitted a petition opposing this new proposal.

The driveway disturbs 3,618 square feet of slope over 30 percent which includes a turn-around for emergency vehicles. The finished grade of the driveway that would be used by emergency vehicles would not exceed 11 percent. The proposed building envelope is 8,910 square feet that would disturb 1,695 square feet of slope over 30 percent. The building site and all grading disturbance must remain within the defined building envelope.

The Extraterritorial Subdivision Regulations incorporate by reference the County Land Development Code which says that natural slopes of 30 percent or greater shall not be disturbed. Exceptions may be approved by staff for access and utility corridors that disturb no more than 1,000 square feet per disturbance.

The applicant has responded to the variance criteria and the BCC must determine if the applicant has justified the variance criteria.

Recommendation: Staff did not support the previous variance request on the basis of a proposed driveway disturbing substantially more slope over 30 percent compared to a short driveway and a 2,000 square foot building site close to the existing road as recommended by staff. The new proposal demonstrates disturbance of slope over 30 percent consisting of 5,315 square feet for the driveway and building envelope. Staff does

consider this new proposal to be better than the previous proposal based on decreasing the size of the building envelope and decreasing the length of the driveway.

The overall buildable area is more suitable for building construction and installation of a septic system with slope primarily ranging from zero to twenty percent within the proposed building envelope compared to the previously approved site closer to the existing road that has substantially more slopes ranging from 20 to 30 percent and over 30 percent. Staff's objective is to maintain a compact, low-profile residential unit in order to minimize environmental and visual impacts. Staff recommends approval subject to the following conditions:

1. Compliance with the Land Development Code for ridgetop standards. The building envelope will have a minimum setback of 30 feet from the ridgetop and building height shall not exceed 14 feet in order that the structure will not dominate the skyline
2. Compliance with review from County Fire.
3. Submit driveway permit for access off County Road (Vista Redonda Road) as approved by County Public Works.
4. All grading disturbance, building construction and septic system must remain within the defined building envelope. The building print for the house shall not exceed 3,000 square feet and the building print for the garage shall not exceed 500 square feet.

Mr. Chairman, Commissioners there is an additional condition that was actually not presented to the EZC and was not part of their recommendation.

5. The building envelope shall be staked and flagged by the applicant and inspected by the County prior to issuing a building permit. The applicant shall trench the footing for the building foundation and notify the County for an inspection prior to pouring the concrete.

Again, this is all with the intent and objective of keeping the grade [inaudible] building envelope of approximately 8,910 square feet. Thank you, Mr. Chairman, Commissioners.

CHAIRMAN MONTOYA: Okay. Thank you, Joe. Questions for Joe?

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Joe, I've actually done a site visit. Is this the least intrusive means of putting up a home in this area?

MR. CATANACH: The lower site was a difficult site.

COMMISSIONER VIGIL: Which was what you recommended initially, right?

MR. CATANACH: What we recommended initially compared to the first proposal. This second proposal has a smaller building on the top site and a shorter driveway, so it is a better proposal than what first came in. So now we're talking about this new proposal compared to the lower site. The lower site is a difficult site. The lower site,

there would be substantial cut and fill grading that would occur. The lower site as I mentioned is – the slope map that’s in your packet, as I mentioned the lower site does have slope over 30 percent and substantial slope between 20 and 30 and when I say between 20 and 30, it seems closer to 30 as a range than 20 as a range. [inaudible]

There would be substantial cut and fill draining on the lower site. [inaudible] There is a slope right along the road front on this lower site meaning that – I’m looking at the lower site from the road right over here and I’m taking a picture from the lower site down to where I parked the County vehicle. So you can see that there is a slope right along the road frontage. A lot of that slope is probably within County easement, meaning that they wouldn’t be able to cut any slope within the easement portion. So you could potentially have a building on the lower site that would be an 18-foot high building on the lower site because this site is substantially higher than the grade of the road. You could potentially have an 18-foot building that may have the aspect of being a lot higher when you’re looking at it from the road.

So I guess the point I’m making is it seems to me that if the lower site is difficult with a lot of cut and fill grading, there is substantial slope of 20 to 30 and over 30 and would probably have a substantial visual impact, even if you had an 18-foot building on this lower site because it’s so much higher than the grade of the road, you could effectively have a building that looks ten feet higher than the 18 feet as you looked from the road. I show you those pictures because again, the point I’m making is that the slope [inaudible] you have an existing slope right along the road frontage. Part of that slope is probably County easement and they wouldn’t be able to cut into it.

So you’re looking at having to place a house, including any kind of setback that might be required from the edge of the easement, you’re looking at the type of house on this lower site that’s so much higher than the grade of the road that it’s going to have the effect of being a lot taller than 18 feet, as compared to putting a building up on this higher site, and because it would have to cut in followed by the ridgetop, the building height could not exceed 14 feet, so now with the distance as well as the low profile house up on the other site that I think would make less of a visual impact. Our objective is that we don’t have a building protruding above the ridgeline.

COMMISSIONER VIGIL: Right.

MR. CATANACH: That’s the intent of condition number 1. So the point I’m making is that the upper site is more suitable for grading, construction – and I believe that because of the local building height that would be required on that upper building site it would have less of a visual impact than an 18-foot high building that close to the road and with that kind of a slope right up along road frontage.

COMMISSIONER VIGIL: Thank you, Joe. I really appreciate your perspective and your analysis on this. Mr. Chairman, that’s it for me.

CHAIRMAN MONTROYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Joe, do we have a recommendation from the Fire Marshal?

MR. CATANACH: The applicant has worked with the Fire Marshal regarding the site plan. That would be the turnaround plan you see on the site plan. That would allow an emergency vehicle to get up on to this 11 percent grade driveway they're proposing and be able to park at that turnaround to provide emergency services from that point. So to answer your question, yes, they have met with Fire.

COMMISSIONER SULLIVAN: What about the grade of the driveway?

MR. CATANACH: The grade of the driveway is acceptable to Fire at 11 percent. A portion of the driveway up to the garage would have to be greater than 11 percent, but the portion of the driveway that would be accessed by emergency vehicles is 11 percent.

COMMISSIONER VIGIL: On that subject, has Public Works reviewed this and made a recommendation?

MR. CATANACH: Commissioner Vigil, Chairman Montoya, Public Works doesn't generally review these types of variance requests. The condition we have regarding Public Works review was at the earlier stage about the proposed driveway coming off a County road.

COMMISSIONER VIGIL: And do we know that, that they are okay with this?

MR. CATANACH: I do not know that for sure, but I would think that's there's really - I don't think that they would want the driveway any further south - I'm looking at this site plan, straight up north. I don't think they would want that driveway further south towards the curve in the road. I think they would want the driveway as far away as possible to get away from that curve in the road. So I think they would not have a problem with that proposed driveway coming off there.

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

CHAIRMAN MONTOYA: Is the applicant here?

MR. SIEBERT: Mr. Chairman, Commissioners, my name is Jim Siebert. I was previously sworn. Mr. Chairman, Commissioners, let me just walk you through this. Some of the changes that have occurred since this case was previously before you, one thing we've done is we've asked a licensed surveyor to go out and actually do a survey of the property, a field survey. The last one you had was from the County GIS and we feel that this is considerably more accurate than your previous one.

The other thing we've been doing is working with the Fire Marshal's office to come up with a solution that provides for fire access while at the same time kind of protecting the visual aspect of this particular site. We've done that in two ways. One thing is that the Fire Marshal's has asked us to widen this area out here that's coming onto the roadway that allows for a staging area, and the other one is to have an area here that they actually back into, and it has a three percent grade across the site so they can pump water up to the site.

So the grade from here to here is one percent and then it's closer to 15 percent to the garage. What we've done with the garage is we've actually forced it into the ground.

So the garage is on the order of six feet into the ground. The other thing, this black line is the top of the ridge. One of the conditions is that it be 30 feet off the ridge, which automatically kind of pushed it down the slope. The other condition was that the height of the building be no greater than 14 feet, which also kind of keeps it down at the same level or just slightly below the ridgeline.

The area in yellow, by the way is the total area of the grading with cut and fill slopes. The other thing, I'm going to have Karl hand out a couple of items here. What the photos indicate are two things. One is there's an existing driveway that was cut back in the 1980s that was intended to serve as the access to the site. I'm going to read a brief letter from Mondo Sector regarding that. But the other thing we've tried to do is this is the existing cut that you can see on the ground. So we've tried to keep this alignment as much as we can within that existing cut while maintaining an 11 percent grade. So the idea is that we have approximately 3,000 square feet of disturbance of 30 percent slope, approximately half of that is already within an area that's already been disturbed.

The other thing we did compared to the last time which you didn't have the benefit of was -

CHAIRMAN MONTOYA: Hold on a second. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Jim, could you go back - is the orange thing, is that the building? Is that the house or is that the garage?

MR. SIEBERT: The orange thing is the garage.

COMMISSIONER SULLIVAN: Where's the house?

MR. SIEBERT: The house, we don't have a specific site for the house. What we have is the limits of the house site and that's the black line right here.

COMMISSIONER SULLIVAN: And where's the ridge?

MR. SIEBERT: The ridgeline is back here.

COMMISSIONER SULLIVAN: So how far below the ridge will the top of the house be? Or will it be below the ridge?

MR. SIEBERT: The top of the house - this contour line is 6900, so this is 6890 right here. We're down two, so we're down four, we're down nine, we're down eight feet below this contour here.

COMMISSIONER SULLIVAN: That's the ridge that you're pointing to?

MR. SIEBERT: This is the ridge, yes. The 6890.

COMMISSIONER SULLIVAN: You're eight feet below the ridge so you would be six feet above the ridge then in terms of the top of the house.

MR. SIEBERT: Depending on what elevation they would set the finished floor of the house.

COMMISSIONER SULLIVAN: Well, you just said you were eight feet below right? To the flat area?

MR. SIEBERT: You actually read what the contour elevations are. I'm saying if they would cut down below the grade then they'd even be below that.

COMMISSIONER SULLIVAN: Okay.

MR. SIEBERT: I can't guarantee what the finish floor of the house would be.

COMMISSIONER SULLIVAN: But the way it stands now -

MR. SIEBERT: On a pure topography standpoint.

COMMISSIONER SULLIVAN: It would be about six feet above the ridge.

MR. SIEBERT: Correct. Assuming they build at the highest point of the grade and maintain that level all the way across. And this is an evaluation of the lower site. One of the issues that this is representing is the fact that there is a drainage down here. I think what will be presented to you as well. The applicant's got plenty of room, let's just have him build right here. Well, there's two issues with that. One is the covenants require a 50-foot setback. This is the limit of the setback. And the second is that there's drainage. You can see from those photos that the drainage, there is a considerable amount of drainage just because of the amount of the erosion that's occurred in that particular area. The other thing that's happened recently is there's a well that's just recently been drilled at this site, so the septic tank and the leach field can't be within 100 feet of that well. So you've really limited your ability, by placing that well, to have any kind of a leach field in this area.

As you can see, the single hatched line, this area is 30 percent and greater slope. If you were to build on this site you would be disturbing, at least within this building area you'd be disturbing about 7,500 square feet of slopes greater than 30 percent. I have a letter from Mondo that I'd like to read, Mondo Sector who is the applicant.

It has been out intention to attend the hearing this evening. However, several factors have made this problematic, not the least of which is the considerable financial burden this matter has placed on us. As you know, our Vista Redonda property was purchased in early 1981. Soon after the County approved a lot split that created the subject property. Lot #4, which is this tract, and soon after that we created the driveways that took a few weeks to build and which are the subject of contention. These driveways were constructed to the approved sites with the full cooperation of the Vista Redonda Homeowners Association Architectural Review Committee in exchange for me agreeing to not build a gated access across the last portion of the Vista Redonda Road.

This was all collegially done and done on a handshake. The portion of the road was our private property until 1992 when after we improved the road the Santa Fe County took it over for County maintenance. The building site in question for this lot, as with our other lots and driveway access to the sites were designed and defined in 1981. As I recall, built not later than 1982. I left in 1983 to do my MA in Hawaii and returned in 1984 with my wife who distinctly recalls walking up the driveways to see the building sites. That was 22 years ago. If you notice that the letter from Mark Hagedorn who used to reside in Vista Redonda and used to be part of the architectural committee says that he also recalls that the driveways were cut back in the early 1980s. The proof that we did not contravene Vista Redonda regulations and bylaws can be found in the fact that there is nothing in the Vista Redonda records complaining about the driveways or demanding that we stop the work.

It is the absence of a negative record that speaks loudest. The association has a history of strict compliance and vigilance in this matter. We have always been stewards of the land and conscious of building in harmony with the land as can be seen from the house and landscaping we built on Lot A where Ms. Jennifer Jones lives. We also wish to mention I am now 65. Our Vista Redonda is our only asset aside from our residence and our only retirement equity. Thank you for considering all of this.

The other thing I pointed out, on the photos we've shown examples of rock plating. We also propose to do, as part of the grading of the driveway that the steeper cut slopes would be rock plated in similar fashion to what you see in the photos. And with that, I'll answer any questions you may have.

CHAIRMAN MONTROYA: Any questions for Jim? Okay, this is a public hearing. We'll open up that portion now for anyone who wishes to speak for or against this application.

EARL POTTER: Mr. Chairman, members of the Commission, my name is Earl Potter and I'm representing David Davis and Julie Kavner who own the lot immediately adjacent to this lot. I have with me tonight architect Richard Martinez, who you may know, one of our distinguished local architects. It was clear that this matter was going to come down from the very beginning to these two sites, analyzing these two sites. And I figured that rather than listening to a lawyer on that matter you would rather hear from an architect who's analyzed the site and looked at it carefully.

You may not recognize the name Julie Kavner but I think all of you have heard her voice because she's the voice of Marge on the Simpson. She and David hope to build their retirement home next to this property.

I'm going to take you through very briefly, recognizing the hour, a brief power point analysis of comparing these two sites. On this view here you can see what appears to be an arroyo on the property. If you've been on this property or looked on any of the photos, that's what's been referred to as the driveway and the road. And we all know what happens when you rough-cut a road and nothing happens to it for 25 years. It's not a road, it's now a very steep arroyo running down the property. And what was not mentioned in the previous presentation is what's it's going to take to build the driveway along that arroyo and not the slope that it's going to disturb.

The next slide shows the portion of the property that's greater than 30 percent. I think you'll see that along that arroyo there's a lot of property that's over 30 percent that's going to have to be disturbed. In fact this new proposal will disturb substantially more 30 percent slope than the County's original recommendation. Now I understand that the County has reanalyzed it and is now rethinking its position that it presented to the Commission over a year ago that the lower site is a better place to build.

The numbers I'm showing you on here are from Richard Martinez' material and he'll speak to those in a minute in terms of how he got them. But according to his figures, the approved site, the site that's currently approved, disturbs 4,282 square feet of slopes greater than 30 percent. Now let's look at what will happen under the new proposal. The

new proposal will disturb almost 60 percent more. And what was not again emphasized in the presentation, a big chunk of that is going to occur along the arroyo because it's not just of course the road itself, it's what you have to do to create that 11 percent slope on a slope that's substantially more than that.

So, looking at the two sites visually, I'm showing you that the County's original take on this proposal was correct. I think also there's a legal problem with this proposal in that there has to be a showing of unnecessary hardship here. The applicant already has a building site, which is adequate to build a very nice house and get a very nice return. He's before you tonight saying he has a better idea. I submit to you that the County is going to set itself up for a very bad precedent if every applicant that comes in for a variance and is denied can come back in again and say, I've got a better idea.

With that, let Richard Martinez talk to you about the details of his analysis.

[Duly sworn, Richard Martinez testified as follows:]

RICHARD MARTINEZ: My name is Richard Martinez and I'm an architect with Martinez Architecture Studio and I was asked to evaluate the lower site on this property. The lower site has never been fully delineated, so the drawing that you had seen on Jim's drawing is an arbitrary drawing. The site as I indicated it on my drawing, the line in green, shows the area on the lower site that's suitable for building and this site in this area has space for a house and in this area up here has space for a septic system that would be outside of the 100-foot limit from the well across the street. So there is no problem. Also the big slope that's against the street I show again outside of that building area.

So it is possible to put a building on the lower site. I did a little drawing of a 3,000 square foot house that's possible that has a garage at a lower level with a stairway up, which is very similar to what the upper site is proposing because that 14-foot height limit requires that the garage at the upper site be a separate building. Because not only do you have to travel at 11 percent slope up to a landing area for the fire truck, but from then you have to go up a 15 percent slope to the garage, which is buried - I think the floor level of the garage is at something 62 feet. The building is up at 85. So there's like a 12-foot climb from the garage to the actual house site on the upper site.

And so even if that height limit is limited to 14 feet, given that the garage is down at a lower level than the house, it has a much larger presence on the upper site. The house on the lower site would be above the street, above the slope, so it is not as visible from the street as it might otherwise be if it were right down on the street. Thank you.

CHAIRMAN MONTROYA: Questions? Commissioner Vigil.

COMMISSIONER VIGIL: And actually this question would probably be better answered by staff. Is there any site, any location in this property that would not require a variance?

MR. CATANACH: No.

COMMISSIONER VIGIL: So no matter what proposal that is brought before us we're going to have to consider a variance. That was my question. Thank you.

KARL SOMMER: Mr. Chairman, just a quick question of Mr. Martinez.

Could I ask a question about the drawings in the green here?

CHAIRMAN MONTOYA: Yes.

[An exchange occurred between Mr. Sommer and Mr. Martinez away from the microphone.]

CHAIRMAN MONTOYA: Okay. Commissioner Sullivan.

COMMISSIONER SULLIVAN: A question I had and I guess this could be answered by the applicant. When you go up that 15 percent slope, what are you using for a backslope or are you using a retaining wall?

MR. SIEBERT: That, as I discussed earlier, there will have to be a cut slope and the cut slope would have the greatest height to it, and that would be rock plated.

COMMISSIONER SULLIVAN: I don't think that's a very good solution. That's okay for a foot or two or so but it looks from the topo that you're going to have backslopes there of at least 10 feet.

MR. SIEBERT: Well, I think you heard the testimony from Mr. Martinez that no matter where you go, the garage is going to be in the ground and you're going to have a cut slope associated with it either here at the bottom site or the top site.

COMMISSIONER SULLIVAN: Yes. Regardless of which site is decided on I'm concerned about that rock plating. I think that you - and I don't know whether the Code, Joe, permits that, but I believe that you either have to have a one-to-one backslope or a retaining wall, or a combination of a retaining wall and a backslope. That rock plating is very easily undermined by drainage coming underneath it and you end up with a bunch of rocks in your driveway. Joe, is that a retaining wall solution that the staff is recommending?

MR. CATANACH: Mr. Chairman, Commissioner Sullivan, we have a condition for a terrain management plan acceptable to staff. The engineer for this applicant, Jorge Gonzales, is going to have to certify that [inaudible] regarding slope stabilization.

COMMISSIONER SULLIVAN: My memory of the Code is that it says you either have a retaining wall or you have a backslope of x, whatever it is, 2:1, 1:1. I don't recall the Code even permitting that.

MR. CATANACH: Have you worked with various methods of slope stabilization, Commissioner Sullivan?

COMMISSIONER SULLIVAN: I don't like that one at all. I think that's an accident waiting to happen and then you have your fire trucks trying to get up that road with these rocks strewn along the road. I think that's unsafe. That's my opinion.

MR. SIEBERT: Commissioner Sullivan, I guess two issues. One, actually it is specifically referenced in the Code, rock plating is permissible. The second thing is that the photos I showed you, that's rock plating that's been out there for years, so it's already been established on those slopes and those types of soils that it holds up.

COMMISSIONER SULLIVAN: And in the Code, you can rock plate regardless of what the height of the cut is? Twenty feet?

MR. SIEBERT: Your limitation is 15 feet. You can't exceed 15 feet. None of these cut slopes do.

COMMISSIONER SULLIVAN: Okay. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Any other questions? Anyone else who wishes to speak on behalf of or against this application, please come forward.

[Duly sworn, Rob Habbersett testified as follows:]

ROB HABBERSETT: My name is Rob Habbersett. I live at 103 Vista Redonda Road. My wife and I as well as numerous other people from the neighborhood. Only a few of them are left tonight since we've been going at this for more than a year, but we've consistently attended all these meetings regarding the Sectar variances for the upper site. We do have a petition signed by 18 neighbors and nearby residents of Vista Redonda who oppose these variance requests for the upper site. You should have that in your packet.

Mr. Sectar for his part has also consistently pushed for what he wants, even though the lower site and its variances, as already stated, have been approved. But he has also consistently ignored the Vista Redonda Homeowners Association requirements for approval prior to any excavation, such as cutting drives through his lot. I do not speak for the homeowners association but I was told by their representative that they have no record of any application. And I would remind you that from the very first meeting, there is no record in the County Land Use office to document his claim of having applied for and received approvals for cutting driveways.

I also want to contest a point that was made earlier. This is a short letter that was signed by Vern and Bonnie Cline who built the house that we live in, that we bought in 1997. They built the house in 1982. A very short letter. Verne and Bonnie Cline sold the house and property now known as 103 Vista Redonda, Santa Fe, New Mexico to Kate Palmer and Rob Habbersett in the year 1997. Mondo Sectar owns some of the adjoining acreage to this land. To the best of our knowledge that's right across the street. Mondo Sectar started to develop his acreage in the early 90s. He did not build any roads or driveways to his driveways till the early 90s. So, that's signed by them.

So he did this cutting of driveways in the early 90s according to them, for Lot 4. He also flaunted [sic] the Vista Redonda guidelines about a year ago when he hired a backhoe that cut a road to another one of his lots. That was not submitted to Vista Redonda at all. My wife stood in front of the backhoe operator and made him quit but unfortunately the damage was already done. So why would this consistent pattern of disregard for the Vista Redonda Homeowner guidelines at the very least, why should we expect him now to follow the proposed restrictions on the upper site when he won't even stake out what is currently being proposed. There have been three or four conflicting proposals for this upper site and they stated at the last meeting that what was staked out now is not correct. So we're not exactly sure what [inaudible]

[Audio difficulties]

David Stupin, duly sworn, testimony continues: Mondo Sectar's lower

building site will preserve a fragile area by reducing erosion. I'm asking that you please deny the Sector variance of the upper building site. I'd like you to reapprove the lower building site approved on January 11, 2005. As Rob pointed out there are 18 Vista Redonda residents who object to the use of the upper site. There's about 70 built lots in Vista Redonda so the 18 objectors are about on fourth of the population of the subdivision.

The lower site eliminates about 4300 square feet of driveway and will reduce erosion. It provides better access for fire and emergency vehicles. It does require more variances than the upper site but it does preserve the environment better than the upper site. On page there's a photograph that shows Sector's two building sites. The upper site is shown by the red arrow, the lower site is shown by the blue arrow and Vista Redonda road is shown by either the red or the white arrow.

I'd like to just point out, I'd like you to notice that this area is very sparsely vegetated. There are very few - okay it's sparsely vegetated. You have a better view of this, a closer view on page 4. This lot is steep with sparse vegetation. It's primarily a 30 percent slope. I know you've seen the power point presentation but you'll notice these slopes by the upper site. Well the upper site is shown in red, with the red arrow. I point out two steep slopes with the blue arrow. I know they're typically 30 percent or greater. And then the lower site is off the page on the right side. This is a view looking north.

You can actually see the sparse vegetation from satellite views. The vegetation here is sparse compared to the rest of Vista Redonda. This is a satellite view from Google Earth. As you look at the lower part of this it's largely brown and that's Mr. Sector's lot. As you move to the top of the page you can see that there are more and more trees. Vista Redonda is shown on the left by the red arrow, the driveway or the arroyo is shown by the blue arrow and the upper site is shown by the red arrow on the right. And there's one little splotch down there that looks like a forest from the satellite. And the next page it shows a close-up of this forest. It's primarily mahogany bushes. There's a few juniper and a lot of dead trees.

If you compare it to the next page, 7, on the left side is sort of a typical view of Vista Redonda and the main part of the subdivision. Actually it's from my backyard but mostly it's a pinon and juniper forest, and the right side is a typical area on Mondo Sector's property. And you can see how barren it is and you'd expect from this area a lot of run off from rain and a lot of sediment. And Mr. Sector's proposed a pond. On page 8, Mr. Sector's proposed a pond to prevent the erosion in the existing driveway. On the left side there's a picture of me standing in this arroyo, which they call a driveway. You can see it's about three, three and a half feet deep. And on the right is a typical wall alongside this driveway.

I have a problem with this proposed pond because there's a similar pond in Vista Redonda already. And on page 9, the sediment fills this pond on Paseo Encantado with about 90 cubic yards of sediment in five years. And this usually happens during one storm. About every five years we get a heavy thundershower and this pond fills up. There are two pictures of it down below. The one on the left our neighbor June Frank is standing in it

and there's a similar picture on the right. You can see a trench in these two pictures. This trench has been dug out from the silt which is deposited in the pond. And you can see the silt is typically, if you look at the scale of my neighbor, Mr. Frank, you can see the silt is typically four feet deep, and he's standing next to the exit, which is a vertical culvert which goes into the ground, and the top of his head is the entrance where the water flows in and the water floats come down and flow into the - are we having a nuclear attack? And the water's supposed to exit off this vertical culvert at the bottom.

Now the Sector driveway drains about one fourth the area that this pond does, so I would expect that once every five years this driveway would move about 20 cubic yards of sediment onto the County road. That's about two dump truck loads. I really apologize. I took this close up to show you how the water came in and how the drainage out, these culverts, and I didn't put a picture in this packet of what this pond looks like, but it's about as big as the area here from your chairs to the first row and to the chairs on either side. This pond fills with about four feet of sediment from one storm about every five years. I'm not sure if it's clear - I'll just let that go. Maybe it's not clear.

Now the upper site requires 4300 square feet of driveway for access. Oh, by the way, Vista Redonda keeps close tabs on this pond because when it fills up the sediment flows along side the road and covers up one of our water wells, so we're very careful to keep this pond clear and we keep track of it very closely.

Now on page 10, the upper site requires 4300 square feet of driveway for access. The grade is steep. It's been cut out of about 3600 square feet, carved from 3600 square feet of ground that's got a 30 percent slope. The scar on the landscape requires extensive retaining walls. Now, the lower site is private from the road. It's about ten or twelve feet above the road. In this picture Rob Habbersett is standing on the building site and I'm standing on the road, and I'm holding an eight-foot 2 X 4. You can see from the top of the 2 X 4 that the top of this site is about 10 or 12 feet above the road. On page 12, the road has sparse traffic. There's only four lots beyond this lot. It's a dead-end street and you'd expect maybe 60 cars a day, 64 cars a day. I did a little calculation here which I'm going to skip. But the point is this road does not have I-25 traffic density.

On page 13 I have a little diagram showing that on this lower site, a short wall or hedge would provide additional privacy from the road. I've shown a house in green and a window in blue, and I drew in a little wall or hedge. You can see the field of view from that window would not include a car on the road or anything else on the road. Also people in the house wouldn't see the road or the cars on it and people in cars on the road wouldn't be able to look into windows in the house.

This lower is reasonable. It's private from the road. It's sparse traffic. It will extend over 3,000 square feet with variances. The size compares favorably with other building sites on similar terrain in Vista Redonda. You don't need 4200 square feet of driveway and the associated retaining walls and controls.

So your approval again of Sector's lower site will preserve a fragile area and reduce erosion. The lower site is reasonable and private. It eliminates 4300 square feet of

driveway. It eliminates massive retaining walls, has better access for emergency vehicles and it requires – it does require more variances, but it also preserves the environment better than the upper site. Now, the whole reason about the Extraterritorial Zoning Ordinance was to preserve the environment. So I think that's – I think this feature that it does preserve the environment is important. I appreciate your time listening. It's late and night and I thank you very much.

CHAIRMAN MONTOYA: Any questions? Okay. Would anyone else like to speak?

[Duly sworn, Kate Palmer testified as follows:]

KATE PALMER: I live at 103 Vista Redonda and I represent many of the petitioners who couldn't be here today who are opposing the variance to the upper site. Along with Commissioner Sullivan, we believe that this is going to be an engineering nightmare. There are about 3000 square foot of retaining walls just on the drive that would be required. We feel that this would be a danger. Fire trucks, vehicles are going to have a hard time. If there is a real disaster they're not going to be able to – there's going to be a collapse. There's going to be all kinds of trouble.

The other thing is that the site itself has very steep slopes going down 40 feet to a gully. There are going to be huge retaining walls there as well. We just believe it's going to be an engineering nightmare. There's a reason that all these residents prefer the lower site. We think that it will visually, environmentally and in every way be better. Thank you.

CHAIRMAN MONTOYA: Thank you. Any questions? Okay, anyone else want to speak?

MR. SOMMER: Mr. Chairman, my name is Karl Sommer. My mailing address is P.O. Box 2476 Santa Fe, New Mexico and I'm here on behalf of Mr. Secter and I'll be very brief. I think that from a legal standpoint what you have in front of you is a case that is submitted to your discretion. Mr. Secter is not here tonight and has never been here saying he has the absolute right to do any particular thing on this property. And I don't think that this case sets the bad precedent that you were warned about. In fact I think it encourages and sets a good precedent, which is if you come up with an idea that is not successful, not favored and has problems with it, coming up with a better idea is always a good thing, not a bad thing. And the idea that this is somehow going to set a precedent for everybody who got a variance to come back and seek another variance I don't think holds much water.

I said this case is submitted to your discretion and I think that your packets are full of information and the record here tonight is full of information about this particular variance. On this property, in order to be developed in any fashion, a variance is going to be required. Because Mr. Secter was approved for another site that according to staff and according to Mr. Secter's consultants does more harm environmentally, has a greater visual impact than the new proposed site, and is evidence enough to support the idea that the variance could be legally granted, legally sustained. I think the record is replete with that kind of evidence.

I think the important things that have been stated to you tonight relate to the idea that you have lower visual impact, less disturbance of 30 percent. You have a more accurate survey done now with this request, and you have the safety issues with respect to fire and emergency vehicles taken care of. I think in short, members of the Commission. This case meets all the criteria of a variance. It is based on the topography of this property as you've seen in the slides and the survey. It's covered with 30 percent grade. That is the perfect case for a variance and that's what a variance was thought up in the law for, to avoid a hardship when a literal interpretation of the Code would prevent a party from using his property in reasonable fashion. We request on behalf of Mr. Secter, I request that you grant the request with the conditions, all of which Mr. Secter agrees to.

CHAIRMAN MONTROYA: Okay. Thank you, Karl. Any questions for Karl? Okay. Questions from the Commission. Commissioner Vigil.

COMMISSIONER VIGIL: I have a question for Ms. Palmer or anyone from the neighborhood. What I heard, Ms. Palmer, staff testify to earlier was the fact that this alternative would be the least intrusive, was the language I asked with my question. And probably because the terrain and the proposed design and the setback that would be required, it is more favored as a recommendation by staff. Did you have a clear understanding of that, and despite that testimony you're still taking the position that the lower elevation is the least intrusive? Because I'm hearing a conflicting statement there, and I'm not sure you heard the same.

MS. PALMER: Commissioner Vigil, Commissioners, I believe that the lower site is the least intrusive site. I think that having a 6,000 square foot drive going up to an 8,600 square foot building site that is going to require probably 4,000 square foot of retaining walls if not more, is going to be visually – have a huge impact on that whole area. That ridgeline is the focus for miles around and I cannot see that putting a house with all of these fortifications on it is going to be visually desirable at all. In answer to your question, the neighbors, myself, all of us disagree with County on that and feel that the ridgeline property would be much more intrusive and that the lower site with the short drive is by far the best choice.

COMMISSIONER VIGIL: And I think one reason why staff was recommending that is one of the problems is that the building would actually – the way it was originally proposed need to be built partially on County easement, which wouldn't be possible. Or at least that would be part of the consideration for that placement.

MS. PALMER: My understanding is that it was the Vista Redonda easement that was a problem, and that the Vista Redonda homeowners have agreed that a 25-foot setback from that middle of the road would be more than adequate, and that this would make the lower building site quite okay.

COMMISSIONER VIGIL: Joe, can you speak to that easement problem. Maybe I misunderstood the testimony.

MR. CATANACH: Mr. Chairman, Commissioner Vigil, what I'd mentioned is that it seemed to be that that slope that runs along the road, some of that is

County road easement. So this building would have to be set back from that slope. And I guess really the point I was making in the pictures is that because you have this existing slope along the road frontage, you have a substantially higher building site than the road, so we might potentially have a building that will be 18 feet in height and is going to look higher because the building height is substantially higher than that.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, I'd like to move for approval of this case with conditions. I think I've heard enough and I stand behind staff.

COMMISSIONER VIGIL: So the motion is to go with staff recommendations with conditions?

COMMISSIONER ANAYA: Yes.

CHAIRMAN MONTOYA: I'll second for discussion. Question, and I don't know who would answer this in terms of the opposition. How long has the Vista Redonda Homeowners Association been in effect?

MR. STUPIN: At least 15 year, maybe 20.

CHAIRMAN MONTOYA: So that would be about 1986 to 1991, more or less.

MR. STUPIN: There are two issues here. There was an architectural committee that was established when the subdivision was formed. That was before 1975, probably maybe even before. Yes, that's when I moved in and it existed. And then there was the water association which existed when the subdivision was established, at the same time. Before 1975. The homeowners was established about 15 or 20 years ago.

CHAIRMAN MONTOYA: So whose regulations or whose policies are being enacted here or wanting to be enacted? The architectural design -

MR. STUPIN: The architectural committee is now part of the homeowners association. When the homeowners association was formed the architectural committee became part of them. So after the homeowners association was established, they took up the responsibility for enforcing the regulations, the covenants.

CHAIRMAN MONTOYA: Okay.

MR. STUPIN: Have I answered your question?

CHAIRMAN MONTOYA: Yes, but I'm still a little unclear I guess as to whose policies are trying to be enforced here in terms of the homeowners association, architectural design, which is not part of the homeowners association.

MR. STUPIN: Well, the architectural committee is now part of the homeowners association. The homeowners association only started existing 15 or 20 years ago.

CHAIRMAN MONTOYA: Okay.

MR. STUPIN: Before that the architectural committee was a stand-alone committee.

CHAIRMAN MONTOYA: Okay. And was Mark Hagedorn, was he part of the architectural committee?

MR. STUPIN: I recall that Mark was on the architectural committee, yes. Because I remember he was on the committee when they approved my house.

CHAIRMAN MONTOYA: So the assumption that probably Mr. Sexter having – this is a comment, not a question, is that he was operating I guess under the architectural design committee whatever they were having to do at that time, I think that probably subsequent to his moving back and forth wherever he's moved from, differs, the policies' different philosophies that have come into effect since that time. So that was [inaudible]

MR. STUPIN: May I say something about this?

CHAIRMAN MONTOYA: I have some other questions. Regarding the EZC meeting that was held where they approved this variance request also, this is for the applicant, Mr. Sommer, it was suggested that the square footage be 3,000 square feet of heated area. Is that your understanding what we're approving tonight as well?

MR. SOMMER: I think there was a little discrepancy. My understanding was that the recommendation from staff at the EZC was 3,000 square feet heated for the house, and then Joe said something a little different today and I didn't know if he was meaning to make a distinction. He said the footprint of the house, which might include exterior portales. I didn't know if he meant a distinction but the way I understood it was 3,000 square foot heated on the house and then the square footage that Joe mentioned on the garage as being the limitations that we're agreeing to. And I defer to Joe to talk about footprint versus heated square footage. I just didn't know the distinction if there was a distinction being made.

CHAIRMAN MONTOYA: I'm a little unclear on that also.

MR. CATANACH: Condition number 4, when I refer to building print, I'm referring to the building structure, not any attached portales. [inaudible] the building print of the actual house having 3,000 square feet of heated area with the garage being an additional 500 square feet.

MR. SOMMER: That's what we understood and we're in agreement with that.

COMMISSIONER VIGIL: Is that included in the motion? The 3,000 square feet?

CHAIRMAN MONTOYA: Well, it's staff conditions which is part of the recommendation.

COMMISSIONER VIGIL: Thank you.

CHAIRMAN MONTOYA: Any other discussion? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, I bring up the issue again of the retaining walls. This site, either one, is going to require extensive retaining walls. I think that's true. Now, that doesn't mean it can't be approved, but I would suggest a condition as well that where necessary, that rock plating not be permissible in lieu of, for slope stabilization, other than where it meets the slope setback requirements, which are very difficult to meet on this site. I think these slopes are so steep and this site is so

unbuildable, marginally buildable, that that's probably one of the things I'm most nervous about seeing tonight is that being proposed as a slope retention. So, that would be my suggestion if the maker of the motion is in agreement that we add a condition that slope, simply to say that rock plating shall not be used. I think it's bad design.

COMMISSIONER ANAYA: Mr. Chairman, I think it's in County Code right now that that's fine, right?

COMMISSIONER SULLIVAN: It's an alternative, in certain circumstances.

MR. CATANACH: County Code does probably specify a certain type of not-to-exceed, a certain type for a retaining wall. Mr. Siebert said 15 feet. I think that's too high. I think the Code says the maximum height of a retaining wall - I'm not talking about for a house, I'm talking about slope stabilization for the driveway is probably five feet. But without actually looking into the Code, that's what I believe. I believe, what I expect to see is kind of a terracing effect where you have no more than flat slope of five feet and then you terrace it and stabilize the slope that way. [inaudible]

COMMISSIONER ANAYA: Commissioner, could you explain what you mean?

COMMISSIONER SULLIVAN: Well, what I'm concerned - by rock plating? What I'm concerned about is rock plating is a cheap way to - they just take flagstones and slap them against the side of a hill and just plate the hill with flagstones as far up as you can go. Like laying tile, except laying it on a slope.

COMMISSIONER ANAYA: I've never seen that.

COMMISSIONER SULLIVAN: It's not too common.

COMMISSIONER ANAYA: Oh, yes. I've seen it.

COMMISSIONER SULLIVAN: You see it around. But what happens is the water gets right underneath it behind the back of it and undermines it and then you've got a rock pile down at the bottom of your slope. And that, I don't feel an appropriate solution to this site. If the Commission feels that that upper site is acceptable, that's a steep road. Eleven percent transitioning into 15 percent and you better put some retaining walls and as Joe says, then you have a flat slope in between. Then you do another wall. Then you backslope it to the top. Otherwise -

COMMISSIONER ANAYA: So what are you asking?

COMMISSIONER SULLIVAN: I'm just asking that your motion include a condition, a second additional condition, that rock plating shall not be permissible for slope stabilization.

COMMISSIONER ANAYA: I'll agree to that.

CHAIRMAN MONTROYA: I'm not sure that I do. I think if there's the potential that this is an appropriate method for retention, that they should be allowed to do that. If we're eliminating a potential method for doing it.

COMMISSIONER ANAYA: I'm just trying to cooperate here.

COMMISSIONER SULLIVAN: I understand. Well, if you want we can say

for slopes exceeding five feet in height. If you have lower slopes you can do that, but if you get into serious slopes like this, this is not for rookies. You've got to do it right. Visually, you can do it and plant some plants around it, but when you're trying to do one-to-one slopes, that's not a solution.

CHAIRMAN MONTOYA: Limit it to five feet?

COMMISSIONER SULLIVAN: Yes. Anything beyond five feet you've got to do - I would say a condition that rock plating is not acceptable for slope stabilization for any slopes in excess of five feet.

CHAIRMAN MONTOYA: I'm comfortable with it that way.

COMMISSIONER SULLIVAN: Add it that way. Okay. I'll second.

COMMISSIONER VIGIL: Mr. Chairman, is that acceptable, Mr. Ross? As a condition?

MR. ROSS: Mr. Chairman, Commissioner Vigil, the Code says 10 feet, that you have take these precautions when you cut and fill slopes that exceed ten vertical feet. I suppose the applicant could agree to -

COMMISSIONER VIGIL: Okay. But we would have to get that agreement from the applicant, because in other words we'd be imposing a more restrictive requirement than the Code allows? Would the applicant agree to that?

MR. SIEBERT: The way I understand it is if the slopes exceed 10 feet in height there would have to be an alternative measure to rock plating.

COMMISSIONER VIGIL: That's what the Code allows. What we're proposing is that if they exceed five feet you agree to an alternative means to the rock plating.

MR. SIEBERT: We'll accept that condition.

COMMISSIONER VIGIL: Okay.

CHAIRMAN MONTOYA: Any other discussion?

The motion to approve EZ Case #V 04-4711, with the condition concerning rock plating passed by unanimous [4-0] voice vote. [Commissioner Campos was not present for this action.]

CHAIRMAN MONTOYA: Thank you all for your patience.

XII. A. 10. EZ Case No. DL 06-4220 Carlos Ciddio Family Transfer - Carlos Ciddio, Applicant, Request a Plat Approval for a Family

Transfer to Divide 2.59 –Acres into Two Lots. The Lots will be known as Lot 24-A (1.254-Acres More or Less) and Lot 24-B (1.332 –Acres More or Less). The Property is Located at 31 Hondo Lane, via Santa Fe County Road 69, within Section 15, Township 16 North, Range 9 East, (2 Mile EZ-District 4) Jose E. Larrañaga, Case Planner

JOSE LARRANAGA (Review Specialist): Thank you, Mr. Chairman. On May 11, 2006 the Extraterritorial Zoning Commission met and acted on this case. The decision of the EZC was to recommend plat approval for the purpose of a family transfer to divide 2.59 acres into two lots with all staff conditions.

There is currently one residence and a horse stable on the 2.59-acre property and is located within the Basin Hydrologic Zone. The minimum lot size within the Basin Zone is 2.5 acres with water restrictions. Under the EZO Family Transfers of half the minimum lot size (1.25 acres), are allowed. Therefore creation of these lots can be approved with .25-acre feet per year water restrictions.

Mr. Ciddio shares a well which is on his property with Pete and Mary Martinez, the adjoining property owners. The shared well currently has recorded water right of three acre-feet. A shared well agreement between Mr. Ciddio and the Martinezes would be recorded to restrict the proposed lots to .25 acre-feet and 1.5 acre-feet to the Martinez property.

The following lots are proposed: Lot 24-A, 1.254 acres, more or less, residence on lot, and Lot 24-B, 1.332 acres, more or less, horse stable on lot.

This application was reviewed for the following: access, water supply, liquid waste, solid waste, fire protection, terrain management, archeological review, environmental review.

It is staff's review that the application conforms to applicable provisions of the Extraterritorial Subdivision Regulations, Section 3.3.6. Therefore staff recommends approval of the request with the following conditions. Mr. Chairman, may I enter the conditions into the record?

[The conditions are as follows:]

1. On site road shall be in compliance with minimum road standards prior to recording plat or submit a financial surety. Access roads shall have a minimum 38-foot road easement. Turn around at entrance shall have a 50- foot radius.
2. The applicant must record water restrictive covenants simultaneously with the plat of survey imposing 0.25 acre-feet per year per lot. Water meters must be installed to each lot at the time of development and meter readings must be submitted to the Land Use Administrator annually by January 31st of each year.
3. Water supply to these lots are governed by The Extraterritorial Zoning Ordinance Section 10.1.A
 - a) Only one well shall be permitted to serve these lots. This well shall be subject

- to a shared well agreement, to be approved by the County and recorded with the plat. The plat must indicate shared well easements.
- b) Drilling of any new domestic well is prohibited if regional water is available within 200 feet of these lots.
 - c) If regional water becomes available, domestic well use shall cease within 90 days and these lots shall connect to the regional water system.
 - d) All wells drilled on these lots post January 1, 2000 must be constructed per EZO standards listed in Section 10.1.A.3. Proof of proper construction must be submitted at the time of development permit request or upon demand by the County Land Use Administrator.
4. A 10-foot wide utility easement along all property lines must be dedicated and shown on the plat for future potential water lines.
 5. As per ESR regulations, a solid waste fee is assessed for all newly created parcels. The fee for this subdivision is \$35.86 per lot.
 6. Approval from the New Mexico Environment Department for the proposed liquid waste disposal system must be obtained prior to building permit.
 7. Applicant must contact Rural Addressing for the assignment of addresses for the proposed lots.
 8. Applicant shall sign Fire Department Affidavit
 9. A retention pond in accordance with the Santa Fe County Regulations will be required for both lots.
 10. 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 Jose E. Larrañaga, Development Review Specialist with the Land Use Dept. These plans **must** be resubmitted with the Mylar prior to recordation.
 11. City of Santa Fe conditions:
 1. Prior to filing the final plat, the plat and this subdivision of land shall meet all provisions of the Extraterritorial Subdivision Regulations. Some of the areas of concern are as follows:
 - a. Provide easements for all natural drainages (Section 3.6.6 of the ESR) if applicable.
 - b. Access roads, whether public or private, shall be developed in compliance with Section 3.5.3 of the ESR.
 - c. City staff signature lines shall be provided. The survey shall be tied to a Santa Fe County Control Monument.
 - d. The surveyor shall be provided a copy of the county approval letter so that the city's conditions can be addressed on the plat.
 - e. Surveyor shall address all other issues on redline comments and return these comments with mylar. Redline drawings can be obtained from Reyes

Aragon in the City's Development Review Division of the Planning Dept.

CHAIRMAN MONTOYA: Are there any questions of staff?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Could you explain or summarize the City of Santa Fe conditions? Are they included in the County conditions?

MR. LARRANAGA: Mr. Chairman, Commissioner Sullivan, the City memo should be right at that back of this, attached to it.

CHAIRMAN MONTOYA: So those are part of the conditions for the County also?

MR. LARRANAGA: Yes, Mr. Chairman. Attachment H.

COMMISSIONER SULLIVAN: So there's nothing there that - sometimes the City conditions conflict with the County conditions. So those are complementary of the County conditions?

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

COMMISSIONER SULLIVAN: And this comes to the County Commission because why? It's in the EZ, right?

MR. LARRANAGA: It's in the EZ but, Mr. Chairman, Commissioner Sullivan, it was a pre-approved subdivision.

COMMISSIONER SULLIVAN: So it's a prior approved subdivision and it's a family transfer request. Because a family transfer not in a subdivision in the EZ doesn't come to us, right?

MR. LARRANAGA: That's correct.

COMMISSIONER SULLIVAN: It just gets approved by the EZA.

MR. LARRANAGA: That's correct.

COMMISSIONER SULLIVAN: Okay. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. Any other questions for staff? Is the applicant here?

[Duly sworn, Carlos Ciddio testified as follows:]

CARLOS CIDDIO: My name's Carlos Ciddio. I live at 31 Hondo Lane. And to answer the question on that subdivision, when it was, when the covenants were done, it was 20 lots. The subdivision was I think established in 1986. Twenty lots were recommended for split only with County approval at a later date, which brings me to this area right now.

CHAIRMAN MONTOYA: Okay. Do you agree with all the conditions that have been brought forth by staff?

MR. CIDDIO: Sure.

CHAIRMAN MONTOYA: Okay. Any questions for the applicant? Okay. Thank you, Mr. Ciddio. Is there anyone here left who would like to say anything about this application, for or against? Okay, seeing none, this public hearing is closed.

Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chairman, happy to make a motion to approve and go with staff recommendations and all conditions as stated on this case.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN MONTOYA: Motion by Commissioner Vigil, second by Commissioner Sullivan. Any further discussion?

The motion to approve EZ Case #DL 06-4220 passed by unanimous [5-0] voice vote.

CHAIRMAN MONTOYA: Thank you again for being patient and being awake.

COMMISSIONER SULLIVAN: Well, we can't go after 12:00 because the meeting is noticed for the 11th of July. So if we go after 12:00 we violate our notice.

- XII. A. 11. CCDRC Case No. MIS/DP 06-5200 Mesa Vista Business Park Master Plan Amendment and Preliminary/Final Development Plan and Plat Phase 1 – Mesa Vista LLC (Steve Dennis), Applicant, James Siebert, Agent Request a Master Plan Amendment to the Previously Approved Master Plan for the Mesa Vista Business Park to Allow the Relocation of the Site Access from State Route 14 to Fireplace Drive (I-25 Frontage Road), this Application Includes a Request for Preliminary and Final Development Plan and Plat Approval of Phase I, Containing Tract B-4B with an Area of 0.44 Acres, and a Total Building Area of 4,711 Square Feet; and Tract B-4A with an Area of 0.69-Acres, and a Total Building Area of 8,3.47 Square Feet. The Property is Located West of SR 14, North of the US 599/SR 14 Intersection, within Sections 25 and 26, Township 16 North, Range 8 East, (Commission District 5) Shelly Cobau, Case Planner [Exhibit 7: County Hydrologist Memo]**

SHELLEY COBAU (Review Specialist): Mr. Chairman, members of the Commission, Mesa Vista LLC, applicant, James Siebert, agent request a master plan amendment to the previously approved master plan for the Mesa Vista Business Park to allow the relocation of the site access from State Route 14 to Fireplace Drive (I-25 Frontage Road). This application includes a request for preliminary and final development plan and plat approval of Phase I, containing Tract B-4B with an area of 0.44 Acres, and a total building area of 4,711 square feet; and Tract B-4A with an area of 0.69 acres, and a total building area of 8,3.47 square feet. The property is located west of SR 14, north of

the US 599/SR 14 intersection, within Sections 25 and 26, Township 16 North, Range 8 East, Commission District 5.

On June 1, 2006, the CCDRC met and acted on this case. The decision of the CCDRC was to recommend approval of the master plan amendment and preliminary and final development plan and plat approval of phase 1 of the Mesa Vista Business Park.

The applicant is requesting a Master Plan Amendment, Preliminary and Final Development Plan and Plat approval for Phase I of the Mesa Vista Business Park. The master plan amendment addresses the relocation of the point of access for the employment center from SR 14 to Fireplace Drive, the I-25 frontage road. The previously approved Master Plan included ten commercial lots with a total building area of 58,338 square feet. The master plan amendment includes a total of nine commercial lots with a total building area of 60,869 square feet on the 8.07-acre site. Included in the site is a half-acre park area with a walking trail and benches adjacent to the Arroyo Hondo.

Track B-4B is 0.44-acre lot with a building area of 4,711 square feet and Tract B-4A is a 0.69-acre lot with a building area of 8,347 square feet.

The applicant is requesting a master plan amendment, preliminary and final development plan and plat approval of Phase 1 of the Mesa Vista Business Park. The property is located within a designated employment center zone of the Community College District.

The plan and plat were reviewed for the following: existing conditions and zoning, lot coverage, phasing, access and parking, terrain management, water, fire protection, liquid and solid waste, signage and lighting, archeology, landscaping and open space.

The proposed master plan is in conformance with the Santa Fe County Land Development Code and the Community College District Ordinance. Staff recommends master plan amendment approval to relocate the site access on State Route 14 to Fireplace Drive (I-25 frontage road) and to permit nine commercial lots with a total building area of 60,869 square feet on 8.07-acres, and to approve Preliminary and Final Development Plan and Plat for Phase I of the Mesa Vista Business Park, subject to the following conditions. Mr. Chairman, may I enter the conditions into the record?

[The conditions are as follows:]

1. Compliance with applicable review comments from the following:
 - a. State Engineer's Office
 - b. Environment Department
 - c. New Mexico Department of Transportation
 - d. County Hydrologist
 - e. Santa Fe County Public Works
 - f. County Technical Review Division
 - g. Santa Fe County Fire Marshal
 - h. County Utilities
2. The master plan amendment will be recorded with the County Clerk's office.
3. Prior to final development plan approval of Phases II and III, federal and local

- regulations pertaining to Federal Emergency Management Agency (FEMA) regulatory floodplain encroachments and floodplain development shall be addressed.
4. All Staff redlines will be addressed, original redlines will be returned with final plans.
 5. The total development shall not exceed the 3.86 acre feet per year of water usage as appropriated by the City and the Sangre de Cristo Water Division. Water restrictive covenants must be recorded with the Final Development Plan for Phase I and with the Final Development Plans for subsequent phases.
 6. The applicant shall comply with the water harvesting requirements set forth in Ordinance #2003-6. A water-harvesting plan shall be submitted with the Final Development Plan application(s) for each subsequent phase of development.
 7. The applicant shall comply with all Fire Marshal requirements. The applicant will request a final fire inspection prior to occupancy of any building.
 8. The maximum uninterrupted length of proposed building facades shall be 50 feet for buildings in excess of 15,000 square feet.
 9. Access permits from NMDOT must be submitted prior to Final Development Plan Approval.
 10. The applicant shall participate in a CCD wide infrastructure extension policy for infrastructure improvements, operation, and maintenance.
 11. Submit cost estimate and financial surety for completion of required improvements as approved by staff.
 12. The applicant shall participate in the construction of the Fireplace Drive and NMSR 14 intersection improvements.
 13. The developer shall revise the southerly elevation of the building on Lot 2 to add more distinction architecturally.

CHAIRMAN MONTOYA: Okay, any questions for staff?

COMMISSIONER SULLIVAN: Mr. Chairman,

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Two questions. One is Fireplace Drive, I'm not locating that in my mind and I can't see it on the map. Is that the access ramp to the interstate?

MS. COBAU: No. Fireplace Drive is the two-way frontage road that runs in front of the former Wolf Canyon Brewing Company, which I believe is now the Santa Fe Brewing Company.

COMMISSIONER SULLIVAN: That dead-ends there, right?

MS. COBAU: It dead-ends and they're proposing a 550 lineal foot improvement from where the pavement ends to their site. They have approval from the State Department of Transportation [inaudible]

COMMISSIONER SULLIVAN: So that would come through the highway

right-of-way, this Fireplace Drive?

MS. COBAU: Beyond that.

COMMISSIONER SULLIVAN: Okay. Then what does that do? Are improvements needed at the intersection of Route 14 and where you turn into Santa Fe Brewing Company now as a result of this extension.

MS. COBAU: One of the conditions listed in the staff report is that they participate in the construction and the improvements required at that four-way intersection between Fireplace Drive and State Route 14.

COMMISSIONER SULLIVAN: When you say help, who else is there to -

MS. COBAU: Richard Thornburg Group is also participating in the construction costs.

COMMISSIONER SULLIVAN: By Santa Fe Brewing?

MS. COBAU: At the intersection of Fireplace Drive and State Route 14.

COMMISSIONER SULLIVAN: Okay, but what you're calling Fireplace Drive is the way you get into Santa Fe Brewing now.

MS. COBAU: Exactly.

COMMISSIONER SULLIVAN: Okay. And then I guess the other thing, when the applicant comes up, I just want to see if the applicant's agreeable to agreeing with Santa Fe County's ordinance on hot water recirculation or other design devices to conserve water. I can hear from the applicant on that when they come forward.

CHAIRMAN MONTOYA: Any other questions from staff? Jim, do you want to answer that question?

MR. SIEBERT: Mr. Chairman, Commissioners, we have no problem with that condition whatsoever.

CHAIRMAN MONTOYA: What about any of the other conditions?

MR. SIEBERT: We agree to all conditions as stated by staff.

CHAIRMAN MONTOYA: Any other questions of the applicant?

COMMISSIONER VIGIL: Jim, what kind of businesses are being proposed or being marketed towards here?

MR. SIEBERT: Well, let me have Steve Dennis talk to that. He's actually the developer of the site.

COMMISSIONER VIGIL: And how close are you to the brewery? How far away are you from there? As I was looking at the map I thought you were just north of the outlet malls but as I heard Shelley describe it you're closer to that brewery place, whatever it is.

MR. SIEBERT: Wolf Canyon.

COMMISSIONER VIGIL: Wolf Canyon.

MR. SIEBERT: Let me speak to the issue of location. If you go past Wolf Canyon, next there's a block of buildings. There's Sonny Otero's buildings. There's a viga yard out there in the front.

COMMISSIONER VIGIL: Are you off of the frontage road, so you're going towards that television station? Or are you on Highway 14?

MR. SIEBERT: We're on this side. We're on the -

COMMISSIONER VIGIL: On the opposite side of Highway 14.

MR. SIEBERT: It would be like you'd go past Santa Fe Brewing and just keep going. In fact that road was the original roadway and we're just going to reconstruct what was the original roadway.

COMMISSIONER VIGIL: Okay. Thanks. So you're closer to our Valle Vista housing project?

MR. SIEBERT: Yes.

COMMISSIONER VIGIL: Okay.

[Duly sworn, Steve Dennis testified as follows:]

STEVE DENNIS: Mr. Chairman, Commissioner Vigil, we're going to do mainly office/warehouse. Some of it's going to be just office buildings, we think, because we're still marketing that. But primarily it would be office/warehouse space.

COMMISSIONER VIGIL: Okay. Thank you. That's all I wanted.

CHAIRMAN MONTOYA: Are there any other questions for the applicant. I have one regarding an exhibit, on the second page. I believe a wastewater system is being proposed. Is that correct?

MR. DENNIS: Yes, Mr. Chairman. There's a wastewater treatment plant that we're participating in that's also Thornburg, so we're connecting into that. That's stubbed out on my property now.

CHAIRMAN MONTOYA: Okay. Now, is there any potential for any other developments from any adjoining property that could possibly tap into that wastewater system?

MR. DENNIS: Yes, Mr. Chairman. It's going to be the Montford Homes will be tapped into that, as well as Thornburg Properties. Their industrial park which is adjacent to mine will also tap in there.

CHAIRMAN MONTOYA: Okay. And any other properties that could potentially tap in in the future?

MR. DENNIS: I'm not sure. Maybe Jim might know. The capacity is there. I'm not sure if there's anything proposed for anybody else to tap in.

MR. SIEBERT: Mr. Chairman, that's correct. There is a possibility of other connections to that line. It would have to - this is actually a line that's taking over to the City wastewater treatment plant so the City would have to grant approval for connection to that line.

CHAIRMAN MONTOYA: Okay. Would you be opposed to a condition that would allow other potential developments to tap into that line? [inaudible] if someone else could tap into that.

MR. SIEBERT: Mr. Chairman, the issue really is that the line is owned by the Thornburg LLC and we really have no control over who hooks to it. Thornburg LLC had a commitment to Steve Dennis to allow him to connect before the line was built. But Mr. Dennis has no control over who can connect to the line. It's only the Thornburg

family and the City of Santa Fe that would have control over that.

CHAIRMAN MONTOYA: So anyone who may want to connect to it in the future would need to request -

MR. SIEBERT: They'd request approval from Thornburg and from the City. Correct.

CHAIRMAN MONTOYA: Okay. All right. This is a public meeting. Anyone like to speak for or against this application? The public hearing is closed. Okay, what are the wishes of the Commission?

COMMISSIONER SULLIVAN: Mr. Chairman, move for approval with staff conditions and with the additional condition regarding compliance with the recently approved Santa Fe County ordinance pertaining to water conservation, hot water recycling or other design measures for water conservation.

COMMISSIONER VIGIL: Second.

CHAIRMAN MONTOYA: Motion and second. Discussion?

The motion to approve CCDRC Case #MIS/DP 06-5200 passed by unanimous [4-0] voice vote. [Commissioner Campos was not present for this action.]

COMMISSIONER SULLIVAN: Mr. Chairman, we have one item we didn't cover. I just wanted to ask the staff a question about it. We put aside the ordinance regarding the membership and the term limits for the CDRC and the LDRC and in our discussion of that previously, I think the intent was to also consider the EZC. Now, I know the EZC has both City and County members on it, but it seems to me that that proposed ordinance should have the same applicability to the County members of the EZC as it does to the CDRC. Does that pose any problems, Steve, that you know of right off hand?

MR. ROSS: Mr. Chairman, Commissioner Sullivan, the composition of the EZC is set by a joint powers agreement. So it would probably require an amendment to the joint powers agreement.

COMMISSIONER SULLIVAN: The terms do also?

MR. ROSS: Yes. It would include the term limits.

COMMISSIONER SULLIVAN: Okay, well, may be we could look into it.

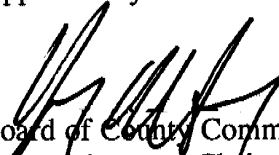
MR. ROSS: We can certainly bring that forward as well.

COMMISSIONER SULLIVAN: Okay.

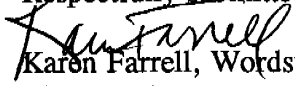
XIII. ADJOURNMENT

Chairman Montoya declared this meeting adjourned at approximately 12:00 midnight.


Approved by:

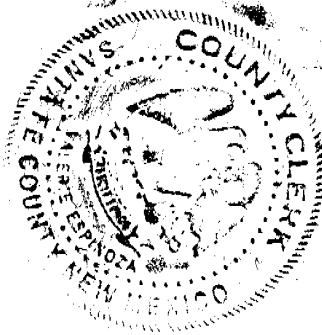

Board of County Commissioners
Harry Montoya, Chairman

Respectfully submitted:


Karen Farrell, Wordsworth
227 E. Palace Avenue
Santa Fe, NM 87501

ATTEST TO:


VALERIE ESPINOZA
SANTA FE COUNTY CLERK





REC
CLERK RECORDING 11/14/2006

**PLANT SCHOOL TRANSPORTATION, INC.
P.O. BOX 1096
MORIARTY, NM 87035
(505) 832-6323 FAX (505) 832-0476**

June 5, 2006

To Whom It May Concern:

Plant School Transportation, Inc. is responsible for transportation of Moriarty School students that reside in the Puertocito, Golden and North 344 area. In order to service that particular area we travel Hwy. 344 that includes San Pedro Hill.

During the course of the 2006/2007 school year our three buses have transported those students without any problems with San Pedro Rock Co., who are in the process of working on Hwy. 344 in that area. Their truck drivers have been polite and courteous to all our drivers.

If this company had experienced any concerns with the construction area (other than a minimal amount of wait times) we would have expressed our concern to Mr. Eddie Mauzy or Santa Fe County.

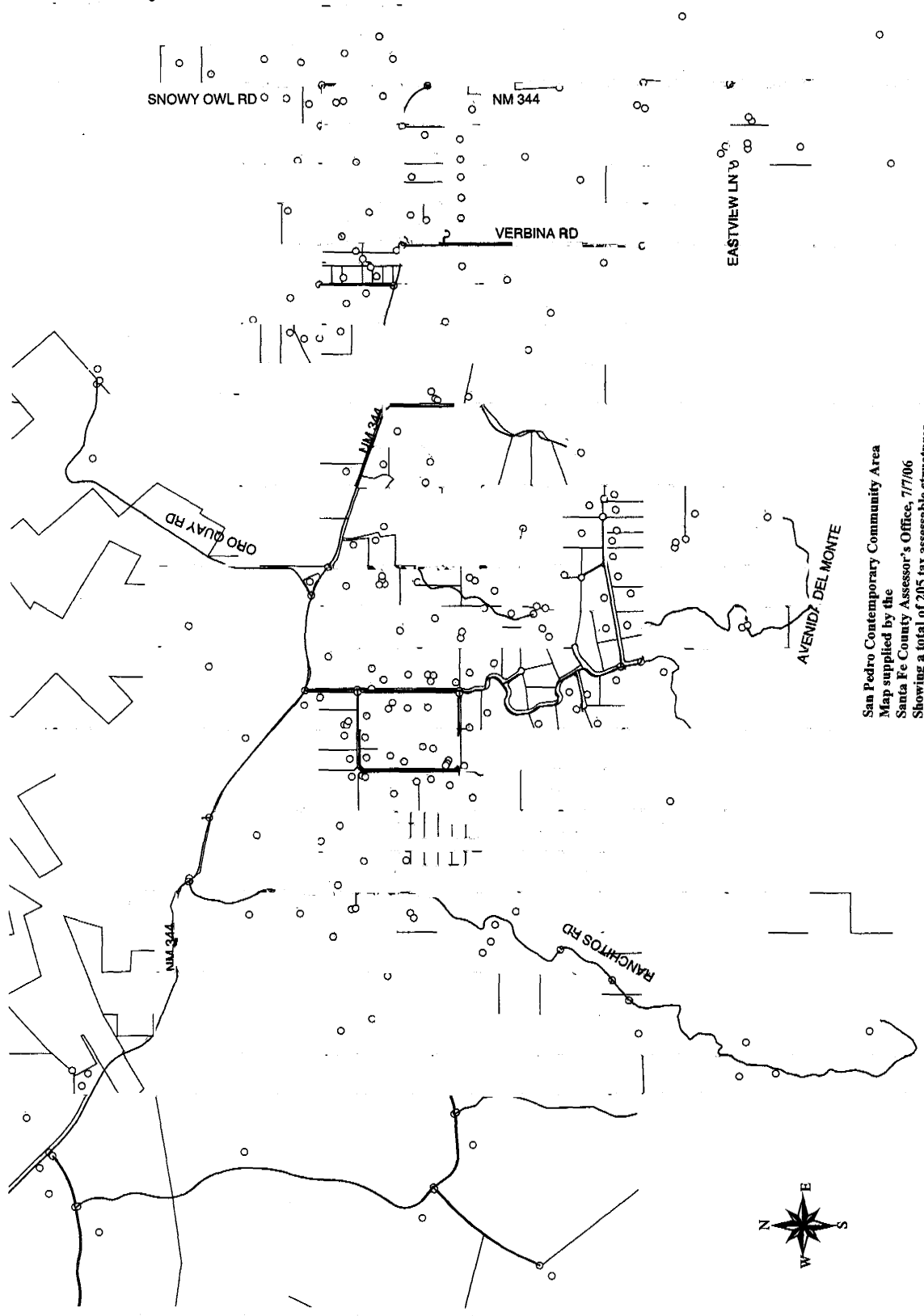
If we can provide additional information please feel free to contact us.

Sincerely,

Shirley White
General Manager

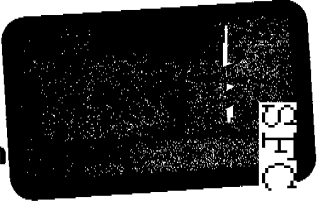


SFC CLERK RECORDING 1/14/2006



San Pedro Contemporary Community Area
Map supplied by the
Santa Fe County Assessor's Office, 7/7/06
Showing a total of 205 tax assessable structures
including 183 houses and 22 large out-buildings

**Petition in Opposition to Amendment of and Renewal of Paul Parker Perm
Pedro Neighborhood**



SFC CLERK RECORDING 1/4/2006

I am a resident of San Pedro Neighborhood. Santa Fe County passed Ordinance No.2002-2 Section 5 including San Pedro Contemporary Community Zoning District in the Santa Fe County Land Development Code on Jan. 30, 2002. Section 5.6 Mining Restrictions states: No mining of any type shall be allowed, including but not limited to gravel mining and other types of mining. Section 5.7.1 Commercial Uses states: No commercial districts shall be allowed in the Planning Area. All commercial uses must meet the requirements for home occupations and home business as stated in Section 5.9 of this Ordinance. I believe renewing Paul Parker's Temporary Permit Renewal is in violation of Sections 5.6 and 5.7.1 and thus 5.9 of Santa Fe County Ordinance 2002-2. Further, the amendment to the permit also violates the above referenced provisions and I ask that the Commission DENY any request allowing the operator to amend temporary permit to allowing stockpiling or to allow any other commercial or mining related activity in our neighborhood.

DATE	SIGNATURE	PRINTED NAME	ADDRESS
6/1/06	<i>Elisa Nelson</i>	ELISA NELSON	1530 S.R. 344 SAN PEDRO
6/1/06	<i>Richard Prosapio</i>	Richard Prosapio	66 SNOWY OWL SAN PEDRO
6-1-06	<i>Neal T. Drago</i>	NEAL T. DRAGO	47 CAMINO DEL CORAZON SAN PEDRO 87047
6-1-06	<i>Martha Anspach</i>	MARTHA ANSPACH	47 CAMINO DEL CORAZON SAN PEDRO
6-7-06	<i>Sam Nelson</i>	SAM NELSON	1530 SH. 344 SAN PEDRO
6-22-06	<i>Kristin Klossner</i>	KRISTIN KLOSSNER	741 SNOWY OWL STANLEY
6-22-06	<i>Elizabeth Prosapio</i>	ELIZABETH PROSAPIO	66 SNOWY OWL STANLEY
6-22-06	<i>David Armstrong</i>	David Armstrong	1689 State Rd 344
6-22-06	<i>Helen K. Crotty</i>	Helen K. Crotty	1366 State Rd 344
6-29-06	<i>Tilga</i>	TILGA	47 CAMINO DEL CORAZON SAN PEDRO NM
6-29-06	<i>Sally Douglas</i>	Sally Douglas	51 Camino del Corazon S, P. NM
6-29-06	<i>Robert Clancy</i>	Robert Clancy	11 B Blue Crow SANDIA PARK
6-29-06	<i>Kristin C. Thacher</i>	KRISTIN C. THACHER	PO Box 310 SANDIA PARK NM 87047
6/29/06	<i>Carla Danahey</i>	CARLA DANAHAY	P.O. Box 3643, Edgemoor 87015
6/29/06	<i>Robert Regli</i>	Robert Regli	13 Calle del Pionero PO Box 36 Sandia Park nm 87047 5 Calle del Monte
7/11/06	<i>Julie Hunze</i>	JULIE HUNZE	12 Blue Crow SP, NM 87047
7/11/06	<i>Robert Petrowski</i>	ROBERT PETROWSKI	1218 ST. ED. 344 SANDIA PARK, NM 8647

Petition in Opposition to Amendment of and Renewal of Paul Parker Permit in San Pedro Neighborhood

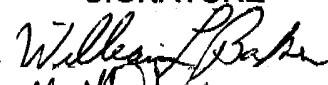
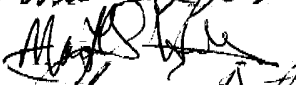

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DATE	SIGNATURE	PRINTED NAME	ADDRESS
6/4/06	<i>Caitlin Brody</i>	Caitlin Brody	11A Blue Crow Ln Sandia Park 87117
6/4/06	<i>Jean Brody</i>	JEAN BRODY	15 BLUE CROW LANE 87047 SANDIA PARK
6/4/06	<i>Linda Brony</i>	LINDA BRONY	11A Blue Crow Ln. Sandia Park 87047
4/4/06	<i>Jeff Brody</i>	Jeff Brody	11A Blue Crow Ln Sandia Park 87047
6/4/06	<i>J.J. Brody</i>	J.J. BRODY	15 BLUE CROW LANE Sandia Park NM 87047
6/4/06	<i>Jane Clancy</i>	Jane Clancy	11-B Blue Crow Ln 87047
4/4/06	<i>S.L. Lindsey</i>	S.L. LINDSEY	1567 State Road 344 87047
	<i>Mary Lindsey</i>	MARY LINDSEY	1567 SR 344 87047
7/10/06	<i>Toni Olson</i>	Toni Olson	1365 SR 344 Sandia Park 87047
7/10/06	<i>Elizabeth German</i>	Elizabeth German	1368 SR 344 Sandia Park 87047

117
114
2006

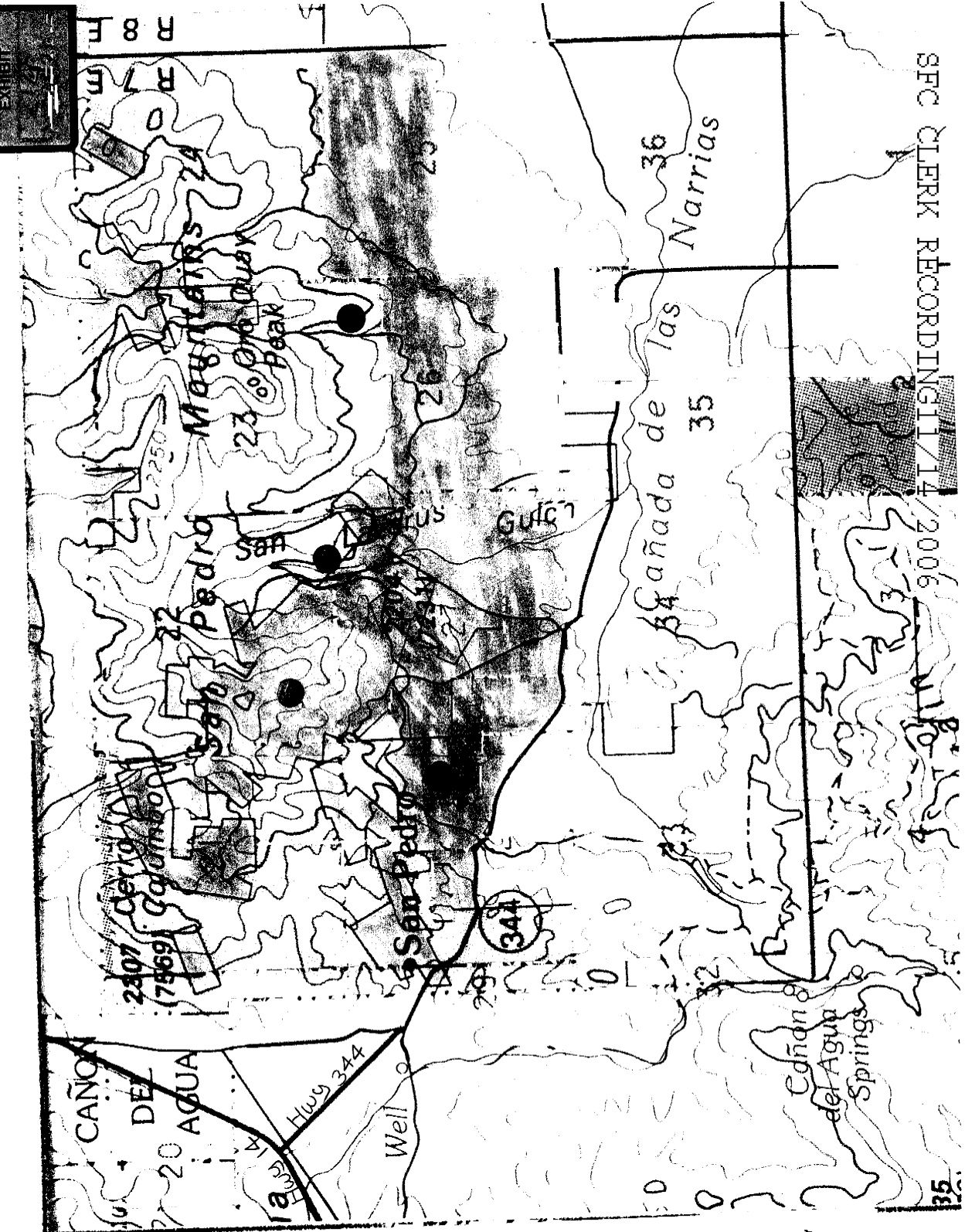
Petition in Opposition to Amendment of and Renewal of Paul Parker Permit in San Pedro Neighborhood

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DATE	SIGNATURE	PRINTED NAME	ADDRESS
6/4/2006		William L Baker	68 Camino Del Corazon Sanola Park, NM 87047
6/4/06		Martha L Hill	68 Cam. del Corazon Sandia Park NM 87047
6-4-6		Patricia Delany	BB0X16153 SF NM 87592



R 7 E
R 8 E



SFC CLERK RECORDING 11/14/2006

Legend

- Proposed stockpile area
- (This area is situated on patented mining claims at the site of the historic San Lazarus Mine which had extensive underground workings, shaft house, mill, blacksmith shop, barn, stables, two houses, assay office, windmill, etc. The Patent was granted by the U. S. Government on August 8, 1913, signed by President Woodrow Wilson.
- This area and adjacent BLM lands were the site of a large placer mine and sand and gravel operation by Tom Freeman in the 1980's, and the site of large sand, gravel and rock stockpiles maintained by bankruptcy Trustee Bill Sholer into the late 1990's.)
- San Lazarus Pit (active)
- Silica Mine (active)
- Historic San Pedro Mine
- Historic Carnahan Mine
- BLM Lands
- Large landholdings owned by mine owners, others who are not opposed to mining

CAÑON DEL AGUA

Hwy 344

Well

San Pedro

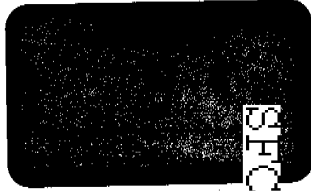
344

36
Nariias

Cañada de las
35

Cañon del Agua
Springs

35



SEC
CLERK RECORDING 11/14/2006

MARK E. HAGEDORN AND ASSOCIATES

July 10, 2006

Santa Fe County Board of Commissioners
102 Grant Avenue
Santa Fe, New Mexico 87501

Dear Commissioners:

I'm writing in reference to EZ Case VO4 4711.
Approval of a building site in Vista Redonda Subdivision for
Mondo and Ari Sector.

I am an Architect practicing in Santa Fe and until recently
a long term resident in the Vista Redonda Subdivision where
I built my house. I served on the architectural committee in
Vista Redonda for many years and am familiar with Mr. Sectors
property and the access driveways which were created in the
early to mid 1980's.

It was always my understanding that a house (and probably a
guesthouse) would be built on the best view site of the lot
in question, just like the other lots in Vista Redonda.

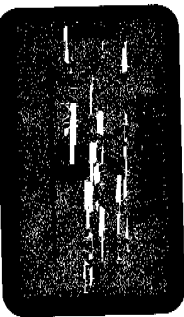
I support Mr. Sectors request for the building site in question.

The closest neighbor is about 1/4 mile away and any house in
this location will have minimal impact on every ones views.
I understand that Mr. Sector has agreed to strict height
restrictions which is beneficial to the neighbors. I also support
a maximum size restriction but feel that something on the order
of 4800 sq. ft. max. is more in keeping with the subdivision
average.

With best regards,

Mark Hagedorn

Mark Hagedorn, Architect.



Sector's Lower Building Site Preserves a Fragile Site by Reducing Erosion

David Stupin

51 Vista Redonda

to

Board of Commissioners

Santa Fe County

July 11 ~~June 13~~, 2006

MS

Please Deny the Sector Variances on the Upper Building Site

- Re-Approve the lower building site approved on January 11, 2005 (BCC)
- ~~Abbot~~ 18 Vista Redonda residents objected to the upper site (1/4 the lots)
- Eliminates 4300 sq ft of driveway to reduce erosion
- Better access for fire and emergency vehicles
- Requires more variances but preserves environment

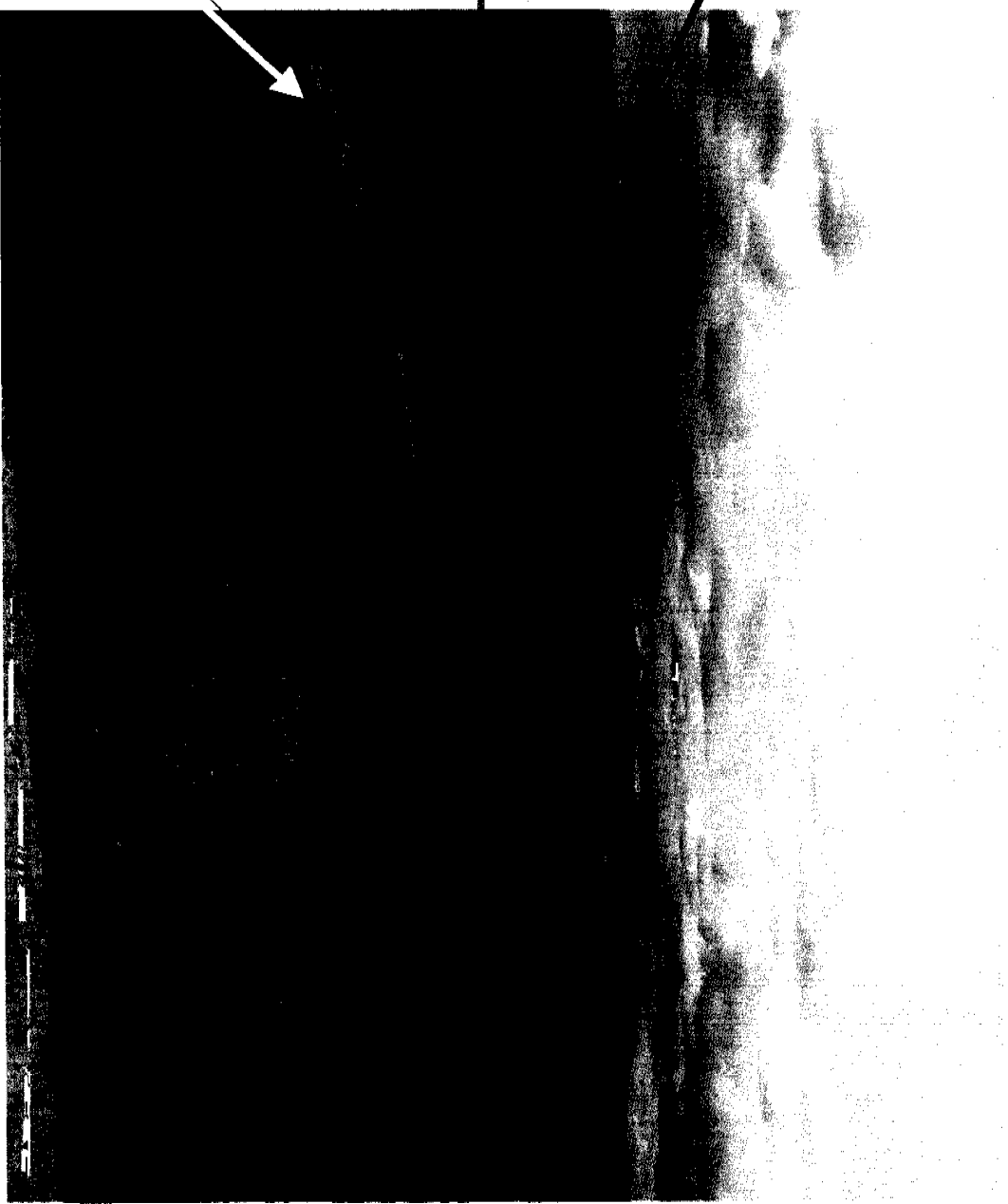
Sector's Lot Has 2 Building Sites

Upper site
8,000 sq ft

Lower Site
3,000 sq ft

(previously
approved)

Vista Redonda
Road



NOTE THE SPARSE VEGETATION

This lot is steep with sparse vegetation

- Primarily 30 % slope



Upper site

Steep slopes

Lower
site (off
page)

View from the south looking north

Scarce Vegetation on Sector Lot, Compared to rest of Vista Redonda



Vista

Redonda

Road

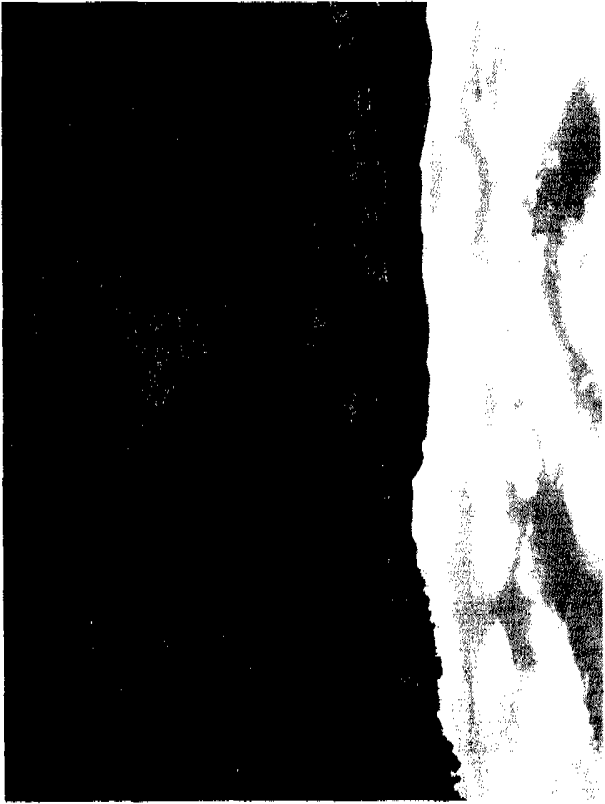
Driveway

Satellite view looking south

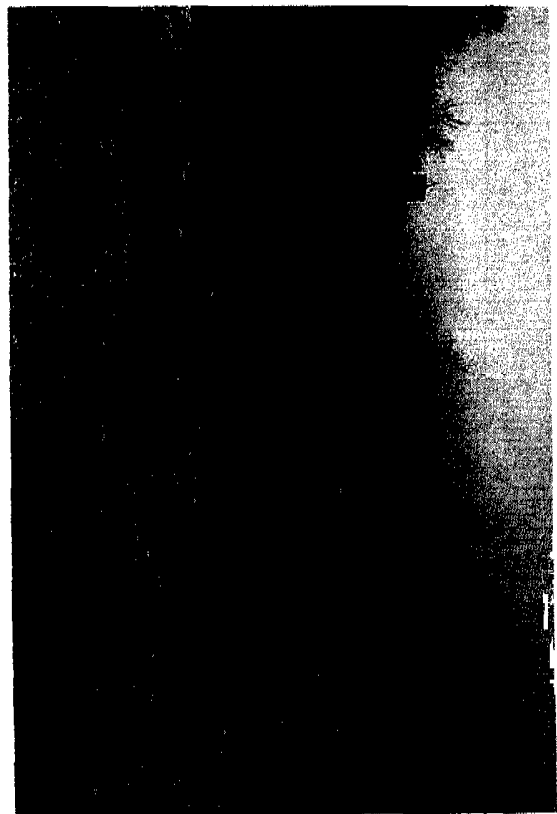
“Forrest”

Upper Site

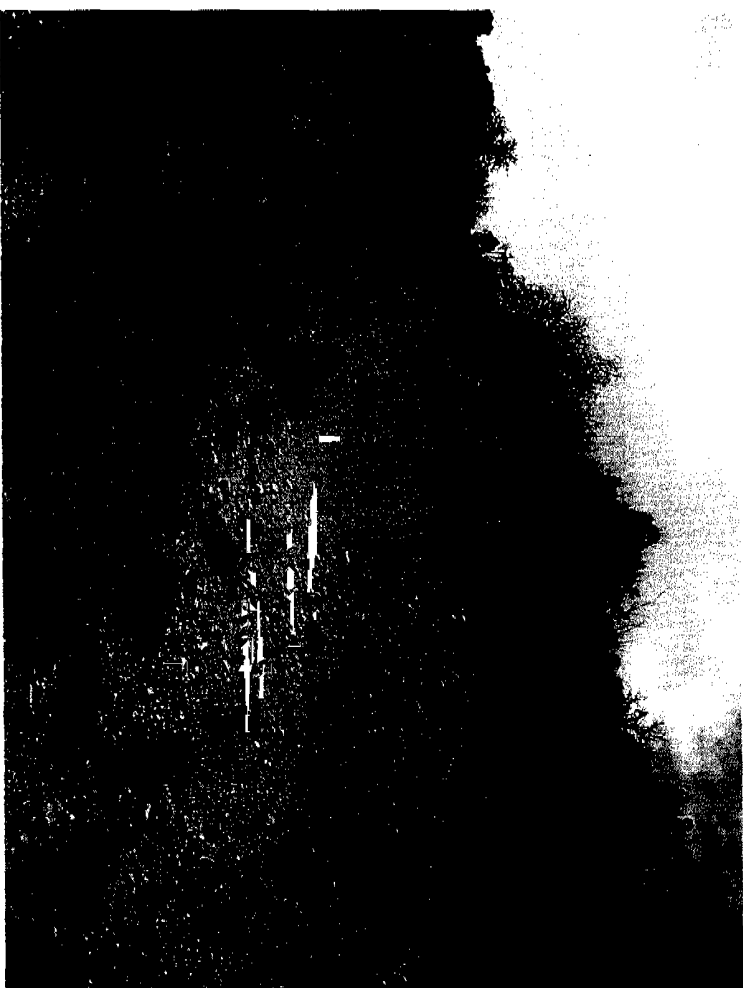
Typical Vista Redonda Vegetation



Sparse Vegetation on Sector Lot



Pond Proposed to Prevent Erosion in Existing Drive Way



Sediment fills “pond” on Paseo

Encantado: 90 Cubic Yards in 5 yrs (One storm)

Entrance



Exit

Expect about 20 cubic yards/5 years at Sector's
(about 2 dump truck loads)

Upper Site Requires 4,300 sq. ft. of Driveway for Access

- **Grade is steep**
- **3618 sq. ft. over 30% grade**
- **Scar on landscape**
- **Requires extensive retaining walls**

Lower Site is Private from the Road

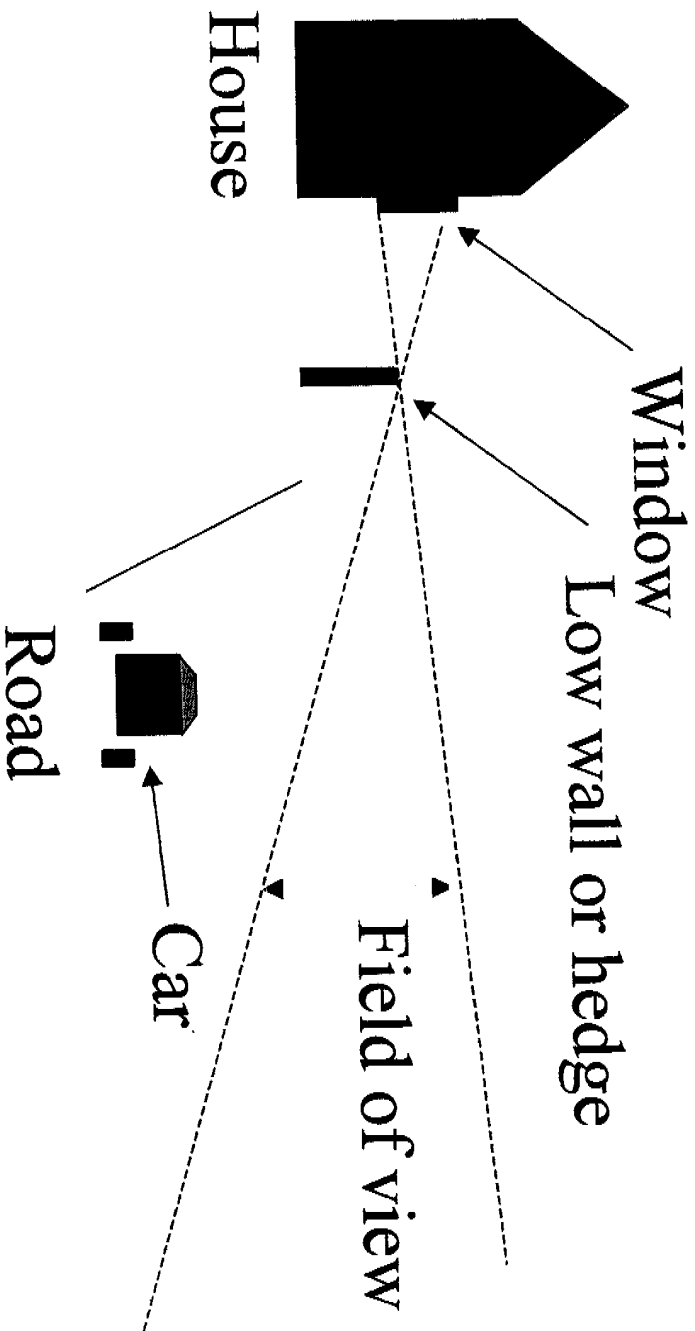


10-12 feet above the road

Sparse Traffic

- Only 4 lots beyond Rector's Lot on this road
- Dead-End Street
- Expect 64 cars per day
- (2 cars per house) * (4 houses) * (4 trips per day per house) (2 passes per trip)= 64 cars per day (in 12 hours, 5 cars per hour)
- Not I-25 traffic density

Short Wall or Hedge Provides Additional Privacy from Road



Lower Site is Reasonable

- Private from the road
- Sparse traffic
- Expandable to 3000 sq ft with variance
- Size compares favorable with building sites on similar terrain in Vista Redonda
- Does not need 4,300 sq. ft. of driveway and associated drainage and soil retainment controls

Your Approval (Again) of Sector's Lower Site Will Preserve a Fragile Area and Reduce Erosion

- **Lower Site is Reasonable and Private**
- **Eliminates 4300 sq. ft. of driveway**
- **Eliminates massive retaining walls**
- **Better access for emergency vehicles**
- **Requires more variances but preserves the environment**



WATER RESOURCES DEPARTMENT

TO: Shelley Cobau, Development Review Specialist II

FROM: Karen Torres, County Hydrologist (P)

RE: CCDRC Case # 06-5200 Mesa Vista Business Park Amended Master Plan, Preliminary and Final Development Plan, T16N R8E Secs. 25 & 26

DATE: July 11, 2006

Nature of Project

Applicant is proposing an 8,347 square foot commercial development on 0.44 acre of land. The source of water for this development is the Sangre de Cristo Water Company.

History of Review

This project was reviewed in May 2006 with the recommendation that the water budget reflect potable water for outdoor irrigation in conjunction with harvested water.

Considerations

I have reviewed the revised water budget and rainwater harvesting plan within the Amended Master Plan, Preliminary and Final Development Plan submitted for the Mesa Vista Business Park. The applicant has added 0.35 acre-foot per annum to the water budget to account for landscaping for a total water budget of 0.92 acre-feet per annum for the project. **This revised water budget is appropriate for this proposed development.**

If you have any questions, please feel free to call me at 992-9871 or email at ktorres@co.santa-fe.nm.us.

SFC CLERK RECORDING 1/14/2006